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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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# RESTREINT UE



COUNCIL OF  
THE EUROPEAN UNION

Brussels, 26 September 2002

11449/02

RESTREINT UE

SCH-EVAL 19  
COMIX 482

## NOTE

from :	the Belgian delegation
to :	the Working Party on Schengen Evaluation
Subject :	Replies from Belgium to the questionnaire put forward to the Benelux countries with a view to the evaluation of the application of the Schengen acquis

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## I. Control and surveillance of external borders

### **1. Which are the authorities charged with protecting/controlling borders in your country?**

**Which Ministry do they come under and how are the authorities structured?**

**How is the coordination taking place between the different bodies?**

1.1. Authorities and bodies in charge of the control and surveillance of external borders, and their specific competencies.

**A** Ministry of the Interior-Aliens Office:

Competence: decisions based on the law dd. 15/12/1980 on the access to the territory, the residence, the establishment and the removal of foreigners (aliens).

e.g.:

- Visa delivery;
- Visa delivery at the border;
- Entrance;
- Residence (short stay – long stay);
- Establishment;
- Refusal at the border;
- Removal;
- Deportation and expulsion;
- Temporarily confinement in closed centres;
- Repatriation;
- Asylum (first phase);
- Readmission.

**B** Ministry of the Interior – Integrated Police:

Competence: the Integrated Police is entrusted with all the police tasks regarding border control and surveillance.

e.g.:

- Border control and surveillance;

- Visa delivery at the border (after decision Aliens Office);
- Surveillance in the transit area to detect criminal activity;
- Surveillance on the territory to detect illegal foreigners;
- Control of aliens during procedures mentioned in the immigration regulations;
- Transportation of illegal migrants to the border, to closed centres, ...;
- Assistance to force the execution of an repulsion or removal decision;
- Carry out an escort during the forced execution of a repulsion or removal decision.
- Organise the transfer of an alien in the execution of a readmission decision.

Important remark:

In Belgium only one police service remains since the latest (and still on-going) reform. This unique and so-called “Integrated Police” – competent in all police matters - is organised on two levels; on one hand there is a “Federal Police” and, on the other hand, there is the “Local Police”. As a general rule it is the directorate of mobility, part of the Federal Police, that is entrusted with all missions in relation to border control and surveillance.

## 1.2. Leading ministry / ministries ( if any ).

Ministry of the Interior

## 1.3. Structure: general outlines

The Integrated Police is a body with a civilian character.

As a general rule, it can be said that in all border-crossing points at external borders, units of the Federal Police are in charge of border control.

Within the Federal Police, it is the directorate of mobility, which is entrusted with all missions in relation to border control. This directorate is devised in different specialised services:

- Airport police;
- Maritime and River Police;
- Railway Police;
- Highway police.



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Staff of the enumerated services receives a specialised training regarding the particularities of each type of environment (including the type of border).

Within each service, staff is in this way specialised in all aspects regarding the border control aspects of its specialisation (Highway Police on highways, Railway Police on trains, Maritime and River Police on ships and Airport police on planes and in airports).

## 1.4. Co-ordination procedures among the various ministries, authorities and bodies.

In a general way, it must be emphasised that only one body is involved in Border Control and Border Surveillance (Integrated Police – Federal Police). This body is working in the context of the missions mentioned in the question, under the authority of the Aliens Office, what makes it far easy to coordinate all procedures.

- A** Bilateral meetings between the Aliens Office and the different police units in charge of border control (airport – seaport – land-border)

The purpose of these meetings is to discuss the organisation of the control at a specific border.

- B** Schengen-Control-Commission (Ministry of the Interior)

This commission consists of all authorities and bodies that are involved in the organisation of the control of the different extra-Schengen borders:

- Aliens Office;
- Federal Police;
- Authority competent for the infrastructure where the control is done;
- Authority competent for all aspects of security within the infrastructure where the control is performed.

This commission is an advice organ, it advises the Minister of the Interior about all the aspects of the organisation of the border control and surveillance (practical organisation, management of the personnel, existing problems, ...).

## C Exceptional situations

In exceptional situations (Art. 2.2 Schengen ) other Federal Police units or even units of the Local Police can be involved in these missions. Within the Police at the level of the “arrondissement” (in Belgium there are 26 administrative subdivisions of this kind) a Director Co-ordinator will assure the necessarily operational coordination between different Local Police Units or between Local Police and Federal Police Units.

Further, it must be emphasised that the Immigration and Border Control Department (a service within the Directorate of Mobility) must provide the police authorities, the federal police services and the local police with non-operational support for (amongst other types of support) the co-ordination of the border control missions. The department is also responsible for preparing and co-ordinating global and integrated actions.

## 2. What strategy is followed with regard to the handling of information concerning illegal immigration, cross-border crime and organised crime?

In a general way, both the Police and the Aliens Office deal with information regarding illegal immigration. Statistics are managed in centralised in both a.m. services.

Within the police, the information flow runs from the operational level of the police to the so-called AIK (information centre) that is localised at the level of the a.m. “arrondissement”. From the AIK, the information is forwarded to the centralised services. All police services have access to that information.

Regarding illegal immigration, within the Police two special departments are concerned:

### 1. The Department Immigration and Border Control of the Federal Police

The new Belgium police structure has created a department “Immigration and Border Control. This unit is a part of the General Directorate of the Administrative Police, Directorate of Mobility (all units entrusted with missions regarding border control are also located within this directorate). It gathers information concerning illegal immigration on a national level (on the bases of activity reports and/or statistics of the BCP, police reports, information gathered by the Aliens Office, other sources).

## 2. The Unit Trafficking in Human Beings (THB)

Within the General Directorate of the Judiciary Police, a unit “Traffic in Human Beings and Human Smuggling” exists at a central level.

According the mandates of 1995 and of the COL 12/99 (i.e. regulation from judicial authority), this unit deals with the following topics:

- Illegal Immigration and human smuggling networks;
- Traffic in Human Beings for sexual purposes, for labour purposes, for criminal purposes;
- (Internet) Child pornography networks;
- Traffic in human tissues, organs and blood...

The mission of 1995 was the logical outcome of the law on combating THB. The COL 12/99 aims at a better co-ordinated fight against THB with all the services dealing with it e.g. labour inspection, police services,

For each topic this unit develops expertise. E.g. western African prostitution, sham marriages, about prevention tips for truckers (How to avoid illegal migrants in the back of your lorry).

This Unit informs the Belgian authorities of a new phenomenon, new evolutions, etc. Therefore, this unit is collaborating with Home office, the unit Immigration and Border Control and Foreign affairs.

This unit has to improve police co-operation at the local, national and international level, a co-ordinated information exchange,.. We are gathering operational and strategic information about the criminal networks, active in Belgium and the European Union.

Last, but not least, this unit advises the use of special police techniques in the field of illegal migration and THB.

### Conceptual – strategic aspects

By analysing cases, we try to understand the modus operandi and learn about our weaknesses. The aim is to improve the fight against illegal migration, human smuggling and THB.

Our strategy is build on the three P's:

- **Prevention:** By detecting modi operandi, the Unit THB advise authorities about the opportunities criminals have due to our system of border control. Measures to improve can be taken. Further, it informs authorities about weak points in marriages legislation, student system,... Unit THB participates at the evaluation of measures in countries of origin. For example: the IOM-campaign in Kazakhstan
- **Prosecution:** By putting together all the available information about criminals, victims, modi operandi, and making this available for investigation units, UnitTHB enforces the public action against this type of criminality.
- **Protection:** The crucial role of victims can't be underestimated. With their declarations, Unit THB has clear testimonies about the criminals. But if the bureau wants to obtain their participation, it must "reassure" the victims: they have to believe that they are safe, as well as their relatives. Unlikely, this can not always be obtained.

Belgium is putting in place a "THB analysis centre" where all relevant actors participate: NGO's, Police services, Ministry of foreign affairs, Ministry of Interior. All these offices will be obliged to put the available information in reports. These reports have to produce a risk-assessment and all the services should undertake the necessary actions to control the risks.

**Do the authorities responsible for the control and surveillance of borders have information concerning suspicious vessels, vehicles and persons, and if so, which procedure is followed or mechanism employed to allow them to obtain and use this information?**

The police uses several IT systems to collect and distribute all kinds of operational information. (see also a.m. AIK).

### **3. Which kind of legislation (or administrative practice or instructions) is foreseen to fight against illegal immigration, and in particular on controls on persons inside the territory?**

**Does this legislation (or administrative practice or instructions) provide differences between internal border zones and the rest of the territory, especially as far as the reasons for carrying out checks on identity, their frequency, their intensity or eventual sanctions are concerned?**

#### **a) Administrative sanctions:**

The Belgian Immigration Law demands from aliens who stay less than 3 months in Belgium a duty to report themselves. The aliens have to report within three days after their arrival in the country.

Article 5 (of the Law of 15 December 1980 on the entry, residence, establishment and deportation of aliens) prescribes that an alien who doesn't stay in a hotel, but who stays with a private person, has to be registered at the local government of the place where he stays. The local government is responsible for the verification of the validity of the entry documents of the alien. When these documents are valid, he will receive a 'declaration of arrival' (annex 3), which mentions the alien's date of arrival in Belgium (mostly on the basis of the entry stamp in the passport). The alien receives a copy of this declaration of arrival, and it allows the authorities to check whether the alien hasn't overstayed his granted period of stay (of maximum 3 months).

Certain categories of aliens are exempt from this obligation, for example the alien who's in hospital or who is detained in a penitentiary.

The alien who stays in a hotel, is registered in the hotel registers. The regulation on the filling-in of the hotel registers is laid down in the law of 14 December 1963.

Aliens who have a right or a authorisation to stay longer than 3 months in Belgium, have to report at the local government within eight days after their arrival in the country, so that they can be registered in the alien's register and receive their residence permit. Equally as in the case above, the local government has to verify the validity of the entry documents.

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The alien who does not fulfil this duty to report, is punishable by fine, amounting 26 to 500 Euro (Multiply by 5) (article 79 of the Immigration Law)

## b) Punitive sanctions:

Art. 74/7 of the Immigration Law: the police force can arrest aliens who do not hold the required identity or residence documents. The alien is under administrative arrest in anticipation of a decision of the Federal Immigration Dept (part of the aliens office. The deprivation of liberty can not last longer than 24 hours.

Art. 75 of the Immigration Law: the alien who enters or stays in the country illegally, is punishable with a prison sentence from a month to one year and/or with a fine amounting from 26 Euro to 200 Euro (Multiply by 5).

A further offence within three years will lead to a prison sentence from a month to one year and /or to a fine amounting from 100 EURO to 1000 Euro (Multiply by 5).

Art. 77 of the Immigration Law: makes it possible to punish persons who assist an alien to enter illegally in Belgium. An exception is made however if the assistance was given mainly for humanitarian reasons.

The penalty consists of a prison sentence from 8 days up to three months and/or a fine amounting from 1.700 to 6.000 Euro (Multiply by 5).

A further offence within three years will lead to a prison sentence from a month to one year and /or to a fine amounting 6.000 to 30.000 Euro (Multiply by 5).

Art. 77bis of the Immigration Law:

Punishes the persons who are involved in the trafficking of human beings.

The penalty consists of a prison sentence of one to five years and a fine amounting from 500 to 25.000 Euro (Multiply by 5).

The person repeating his involvement in the trafficking of humans, is punishable with a prison sentence and a fine amounting from 500 to 25.000 Euro (Multiply by 5), and may lose certain civil and political rights.

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When this concerns the participation in the main or additional activity of an association, the penalty amounts to forced labour from ten to fifteen years and a fine amounting from 1.000 to 100.000 Euro(Multiply by 5), and the loss of certain civil and political rights.

Belgian jurisprudence shows that article 77 bis is being interpreted broadly, and applies to the trafficking of human beings as well as to alien's smuggling. The courts of law do however inflict stronger punishments when the committed crime concerns the trafficking of human beings.

Art. 81 of the Immigration Law:

Officials of the Federal Immigration Dept., Legal Section, can trace and report the crimes committed against the Immigration Law. They collect the evidence of the committed crimes and hand the offenders over to the judiciary authority consistent with the definitions of the criminal code.

According to the law on the Police Functions the Local and Federal Police have an overall and nation-wide competence towards the surveillance of the aliens, thus much wider than border control only. Those bodies can perform checks on the entire territory. Close co-operation with other bodies, such as the Aliens Office, the Ministry of Foreign Affairs, the Customs, enhances the quality of the police work in the fight against illegal immigration.

#### **4. What is the number of staff present at border crossing-points? At green borders, blue borders and air borders? What is the number of total staff posted at the green borders and blue borders?**

Within the Federal Police, it is the directorate of mobility (2.226 police officers), which is entrusted with all missions in relation to border control. This directorate is devised in different specialised services:

- Airport police (473 police officers);
- Maritime and River Police (396 police officers);
- Railway Police (330 police officers);
- High way police (1.018 police officers).



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On special occasions (punctual operations, high number of incidents,...) and/or when circumstances request so, the units can receive more staff (as well as equipment) coming from the so-called national directorate “general reserve”.

*In the annexes you can find a more detailed overview and organisation charts.*

*These annexes will be provided to the delegates during the meeting on July 19.*

## **How many border crossing-points are there? Distribute these statistics over land borders, sea borders and airports?**

As of March 26, 1995, and due to the Schengen agreement, Belgium has 13 border control points : It surveys a coastline of 65 km and has border crossing points at the seaports in Antwerp, Ostend, Zeebrugge, Nieuwpoort, Gent, and Blankenberge.

Further, within Belgium, border controls are carried out at the airports of Zaventem (Brussels), Antwerp (Deurne), Ostend, Bierset (Liege), Gosselies (Charleroi) and Wevelgem. Finally, the train station at Brussels South Station (the so-called HST terminal (Channel Tunnel to the UK), can be considered as a border crossing point since all travellers leaving Schengen to the UK / coming from the UK, are submitted to border control.

## **In the sense of combating illegal entry and exit, what is the principle of controlling the green border? Statistics on all known cases of illegal border crossing?**

Belgium has no green border.

## **What is the estimated level of detecting and apprehending a person crossing the border illegally? How is this estimate justified?**

Estimations on the illegal border crossings would be based on :

- Number of interceptions of illegal migrants.
- The declarations of the intercepted individuals (modi operandi).



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- The circumstances of the interceptions (e.g. Near by a border crossing point, in possession of a flight or train ticket).

Due to the possible defaults and the fact that lots of aliens declare coming from an other Schengen state (what cannot always be verified) , no estimations are made.

## 5. What training and continuing training measures have been undertaken to maintain the level of control required by Schengen?

### Overview of general training

Rank positions		Conditions of access	Duration of training
Police Inspector		<ul style="list-style-type: none"> <li>o Higher Secondary School Degree (cf. France baccalauréat)</li> <li>o Medical, Physical and Psychotechnical requirements</li> <li>o Contest</li> </ul>	12 months (After at least 6 years of activity in the rank and a positive evaluation, one can participate in a contest for the higher rank)
Chief Police Inspector		<ul style="list-style-type: none"> <li>o Higher degree (cf. BTS in France)</li> <li>o Medical, Physical and Psychotechnical requirements</li> <li>o Contest</li> </ul>	Police Inspector's training plus 6 months (After at least 6 years of activity in the rank and a positive evaluation, one can participate in a contest for the higher rank)
Senior Officer	Commissioner	<ul style="list-style-type: none"> <li>o University degree (cf. Maîtrise in France)</li> <li>o Medical, Physical and Psychotechnical requirements</li> <li>o Contest</li> </ul>	18 months (After at least 6 years of activity in the rank and a positive evaluation, one can participate in a contest for the higher rank)
	Chief Commissioner	<ul style="list-style-type: none"> <li>o University degree</li> <li>o Supplementary Mgt training</li> <li>o Contest</li> </ul>	Training spread over 24 months (all Chief Commissioners were first commissioners)

## Remark on supplementary training on border control:

After the basic training one must follow the “functional training programme on border control” before performing border control. The Federal Police recently developed and implement at present a 172Hr lasting theoretical programme - including mainly: legal framework, control methods and on the spot risk analysis, training on false and/or falsified travel documents - combined with a 136 Hrs training on the spot (during the training on the spot the “candidates” are assisted by special trained “mentors”).

The program is organised in 5 modules:

- Module 1 : « place et fonction of the border guard officer »(including a link to the Schengen context).
- Module 2 : « border control and immigration legislation » (the content of the the Schengen agreement and the common manual are reflected in this part)
- Module 3 « Risk assessment + forgeries »
- Module 4 « Multi-culturalisme »
- Module A « how to deal with violence + how to manage a conflict » (How to inform a passenger that he is refused at the border...?)

## **6. Have the new officials responsible for border controls been briefed on the Common Manual and prepared for applying it?**

The Common Manual is included in the aforementioned functional training program.

## **7. New intervention concepts introduced or planned, such as:**

- **organisational units with competence at regional level, operating in different zones (border crossing points and green/blue borders) and equipped with mobile units capable of rapid deployment in the context of organised interventions;**
- **what is the operational activity of the organisational units at local level and of the special investigation groups?**
- **formation of special investigation groups with a view to combating international organised crime;**

- **surveillance of blue/green borders at the border line itself and in border regions with the participation of general police services.**

In Belgium only one police service remains since the latest reform. This unique and so-called “Integrated Police” is competent in all police matters and it is organised on two levels; on one hand there is a “Federal Police (FedPol)” and, on the other hand, there is the “Local Police”. Both have an overall competence. Including the fight against trans-borders criminality, illegal immigration and trafficking in human beings. Co-ordination mechanisms and rules (e.g. delimitation of tasks are well described in directives of Judicial Authorities, a director-co-ordinator manages the co-operation between local and federal police ) are foreseen in order to streamline the organisation of. big-scale interventions.

Within the Federal Police, regarding issues related to the items mentioned in the question, some specialised bodies were created:

- 1 Central Unit Trafficking in Human Beings) (see also Question two),  
in the same directorate a central Unit for Organised Crime
- 2 At the local level decentralised criminal investigation units are set up in order to tackle supra-local and/or organised crime
- 3 Central Office for the Fight Against Fraud – Identity documents  
The Central Office for the Fight Against Fraud - Identity Documents, which is entrusted with an expert function regarding false and falsified documents, compels on a permanent base a so-called expert database. In this high-level database travel and identity documents are both stored and described. Descriptions on recently intercepted forgeries are as well included  
The Central Office for the Fight Against Fraud - Identity Documents provides support and advise using following methods:
  - Descriptions (including security features) and colour copies of all new travel and identity documents are send to all border control units;

- During important operations experts of this bureau can either join the officers on the field, or, perform authenticity checks on the documents that are send to bureau after seizure;
- When doubts exist any border control officer can contact directly the bureau in order to clear out the situation;
- It is important to add that the bureau also provides support towards visa sections in the diplomatic representations by participating in the training of the staff involved in issuing of visa or travel documents abroad. It is obvious that the co-operation with the Foreign Affairs also includes that whenever an employee has doubts, he can immediately contact the bureau located in Brussels;
- Finally, a co-operation with the city councils was established. Yearly up to 20.000 resident documents are send to the bureau in order to perform the necessarily verifications.

## 8. What technical equipment is available at the border crossing-points?

**What equipment has recently been introduced, for instance:**

- **terminals for consulting SIS (fixed or mobile),**

All units working at border crossing points are equipped with terminals linked with a national system permitting the consulting of SIS.

- ***Schengen entry and exit stamps,***

Since the beginning, those stamps are in use.

- ***equipment for checking documents***

In function of the local situation and needs, the units are equipped with the necessary equipment:

At border crossing points:

- First line

Every booth is equipped with:

- ❑ (portable or fixed:) UV, White light, spot, 3M retroreflective light, magnifier 8;
- ❑ SIS-linked terminals;
- ❑ Individual phones.

- Second line

Back office:

- ❑ UV, White light, spot, 3M retroreflective light, magnifier 8;

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- ❑ Waldman, VSC 1 up to 2000 and or Docu-centres ;
- ❑ SIS-linked terminals;
- ❑ Photophone;
- ❑ Document-scanners;
- ❑ Internet access;
- ❑ Individual phones and faxes.

At the sea border crossing points (external borders!), other specialised equipment (RIB's, CO equipment, bio-radar,...) have been put into place. At the time being additional material is being purchased (see also answer 9).

At present an evaluation is going on in order to plan to equip all Border Crossing Points with Document Scanners (Machine Readable Passports).

**9. What technical equipment has been made available to the forces responsible for controlling green and blue borders, for instance:**

- **helicopters/aeroplanes,**
- **ships/boats; how many patrol boats are available for monitoring sea borders [by category according to length and maximum speed in knots],**
- **night vision/infrared detection equipment?**

At the sea borders, it is the Belgian Maritime and River Police (so-called Scheepvaartpolitie - Police Navale or further on SPN, part of the Federal Police) that is entrusted with all the tasks regarding both border control and surveillance at the blue borders. The SPN units have the following technical equipment:

- Use is being made of the aeroplanes and/or helicopters of the federal police, *BMM (Beheerseenheid Mathematisch Model Noordzee)* and if the need arises even possibly air support by/from the army.
- Our own fleet presently consists of 3 RIBS (Rigid Inflatable Boats) and 3 Conventional Patrol Boats;

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- The SPN also uses (hires...) 5 patrol/surveillance vessels from the Waterways and Maritime Affairs Administration.
- Use is being made of a RIB belonging to the Forestry Department
- As technical back-up is concerned, the SPN presently has the use of :
  - DKL Scanners (2 to be precise – not owned by SPN but by the Aliens Office who puts them at disposal of police)
  - Bioradar BR402 (On order and expected shortly)
    - Endoscopic camera (Snake Eye)
  - Nightvision appliances:
    - 1 Thermal camera “thales-sophie”
    - 6 “thales-lucie” restlite (6 basic version lenses, 6 extra lenses 4x4 and 1 extra lense x6)
  - 1 Drugdetector “sabre 2000”
  - Use is being made of the Customs and Excise mobile X-ray scanner (...jointly)

A budget has been approved and set aside ( for the year 2003) for the acquisition of a moveable X-Ray Scanner.

The UK Immigration Service has taken up the short term engagement to invest in

- Heartbeat detector(s)
- Passive mm wave camera(s)

in the Belgian seaports.

## 10. What is the number, broken down by type, of the monitoring facilities at sea and land borders?

Since Belgium has no real landborders (except one railwaystation having a trainlink with the UK via France), the description below is limited to the situation at the sea borders.

- All SPN-equipment is being “shared” between the different SPN sections, taking into account major necessities as to the “blue” border characteristic(s)
- Apart from the own (SPN) technical monitoring facilities, (outer-) sea border traffic is being monitored (radar, videocamera, ...) by the port Vessel Traffic Service(s) and different radar observation stations of the Navy.

The SPN has a legal right (Law provision 03.05.1999 on the integration of the former Maritime Police, depending from the Ministry of Transport, into the Gendarmerie) to use the VTS-information, request certain images (tape) for analysis, ...etc.

**11. What are the means of communication between the operational units assigned to monitor sea borders and their operational centre?**

- Each SPN section has its own dispatching.
- Use is being made of portable radio equipment (walkie-talkies) that monitors not only a variety of *landborne* channels but also the major maritime frequencies.
- The operational teams not only have direct connection via walkie talkie with their own SPN dispatching but can also monitor and plug into the frequencies used by the Local Police dispatching”.
- Each patrol car carries an on-board VHF radio (Motorolla, Philips, ...).
- The SPN patrol/surveillance vessels all carry on board VHF-equipment that plugs in to the major maritime frequencies and a number of landborne channels.
- A number of mobile phones has also been made available be it on board the patrol/surveillance vessels or for use by the (outer) seaborder patrolling teams (car/jeep/VAP/...)
- Each SPN section has a number of sema-digit appliances at its disposal.
- Reference must also be made to the new ASTRID (ALL-ROUND Semi-cellular Trunking Radio Communication Network with Integrated Dispatching) –system (national coverage !) that will shortly be implemented and will supply the SPN dispatching with international roaming, enable the dispatch to have an “on screen” follow up of all border controlling teams, and the use of individual and general calls.

**12. In the sense of combating illegal entry and exit, what is the principle of controlling vessel movements outside the official border crossing points?**

**Approximately, how many hours a day are external sea borders monitored by resources available (broken down by the different areas)?**

**Number of physical controls conducted onboard vessels that approach the coast in other locations than official BCPs? Results of these controls? How are decisions on such controls made?**



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- As previously mentioned (q.10) the movement of “VESSELS” is permanently monitored by the different VTS and / or navy radar (s).
- All SPN sections are manned on a 24h/24h basis.
- Each SPN section has a permanent log-in via PC (...internet or call-in) into the different Ports’ “automated systems” (ENIGMA, ENSOR, APICS, ZEDIS, ...) and as such has a permanent follow-up of the arriving and departing vessels + the vessels in port (and their movements in port);
- Not only are all BCP’s permanently available for the treatment of cross-border movement of ship’s crews and passengers but different border control teams monitor the “blue” outer border.
- Regular patrols (be it by patrol car or surveillance vessel) are carried out at “irregular” intervals and oriented towards the known “black” (...weak) spots, result of RISK- ANALYSIS !

→ EXACT NUMBERS OF PHYSICAL CONTROLS CONDUCTED ON BOARD VESSELS APPROACHING THE BELGIAN COAST + RESULTS OF THESE CONTROLS (2001)

Pleasure craft : 20 --- No irregularities

Merchant ships : 3 --- 1 HIT (art.96 Schengen)

## 13. Are further reinforcements planned in terms of technical equipment or staff? When?

All units are permanently upgraded following the outcomes of an overall assessment based on both, the needs laid down in the so-called National Security Plan and the local situation at each border crossing point. As an example, it can be mentioned that following the particular situation at our sea borders, x-ray scanners will be deployed in the future. And also two Bio-radar BR402 have been ordered recently for the units of the Federal Police.

During the following weeks the traffic and high-way police (which is a part of the Directorate of Mobility) and is entrusted with surveillance tasks on the Belgian high-ways, will receive 70 police officers in order to enhance its capacity. The detachment of the staff is a result of a recent monitoring that has shown that there was a need due to, amongst other reasons, an increase of the use of the Belgian high ways as a transit route through the Schengen area for immigrants on route to the UK.



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- 14. Do customs services also take part in border controls? What is their role? What is the availability of staff? How does the cooperation and the coordination of actions with border control authorities work?**

Customs do not take part in border controls as such.

Only in violation of customs law they use their police competence.

- 15. How many refusal-of-entry decisions have been taken ? (total number, breakdown by main nationalities concerned, breakdown by border post and by distance between border posts).**

The top 10 of nationalities 2001 in case of refoulements.

Nationality	2001	Reason of refoulement
Kosovo	238	No Identity papers
Macedonia	120	No Identity papers
Turkey	113	No Identity papers
Albania	91	No Identity papers
France	67	No Identity papers
Iran	66	No Identity papers
Algeria	62	No Identity papers
Iraq	58	No Identity papers
Congo Democratic Republic	49	No Visa
Yugoslavia	43	No Identity papers
Morocco	43	No Identity papers

**Border crossing points refoulments 2001.**

*Statistics will be provided to all Member States delegates at the meeting on July 19*

**17. Are the cargo boats controlled by the authorities when they enter territorial waters?  
Under which conditions and procedures does the control take place?**

Systematic controls by the SPN of “cargo boats” entering territorial waters are NOT carried out systematically.

**18. What is the procedure concerning the control of pleasure craft when they are in port of call within territorial waters?**

- All EXTRA- Schengen movements of pleasure craft ( or movements of third-country pleasure crafts) going to or coming from a marina that is located land-inward of a lock are registered by the personnel operating the lock(s).
- The same personnel distributes and collects the “ CONTROLEFORMULIER SCHENGEN PLEZIERHAVENS BELGIE”
- All EXTRA- Schengen movements of pleasure craft ( or movements of third-country pleasure crafts) going to or coming from an “open” marina are registered by the local “harbormaster” who distributes and collects the “CONTROLEFORMULIER SCHENGEN PLEZIERHAVENS BELGIE”;
- For those marinas where a “harbormaster” is not permanently available, the blanc “Controleformulier Schengen Plezierhavens België” is put at the disposal of the aforementioned pleasure craft, in a central and well indicated location (e.g. local marina service station, local marina shop,...).

Once the form(s) are completed, it can be deposited in the, as such indicated, SCHENGEN MAILBOX;

- The SPN collects (and exploits) all formula's on a day to day basis.
- All marinas put their registers at the disposal of the SPN (monitoring, copying, analyses,...)
- Additionally, all marinas are submitted to physical controls carried out by the SPN border control teams. These controls automatically give rise to the drafting of a “Controleformulier Schengen Plezierhavens België”.

## A. Airports

### 19. What measures have been taken in terms of infrastructure to separate passengers on Schengen flights from those on extra Schengen flights (physically, administratively, equipment)?

#### 19.1 ZAVENTEM – BRUSSELS NATIONAL AIRPORT

The air terminal of BRUSSELS – NATIONAL AIRPORT is constructed to avoid any mingling of passengers of intra Schengen flights with passengers of extra Schengen flights before the latter have gone through the border control upon their arrival or after this border control in case of departure.

The A terminal is exclusively aimed at intra Schengen traffic, the B-terminal solely at extra Schengen flights. A physical separation in the airport divides it in an intra Schengen area and an extra Schengen area.

#### 19.2 GOSSELIES - CHARLEROI

The infrastructure of the airport of GOSSELIES was adapted to separate the intra- and extra Schengen passengers. In fact, the areas of arrival and departure are split in two. In this manner, the passengers travelling within the Schengen area are physically separated from the passengers crossing the Schengen border (for both arrival and departure).

All passengers crossing the Schengen border are put through a border control, including a check of the SIS database if needed.

#### 19.3 DEURNE – ANTWERP

- ARRIVAL

Intra Schengen flights:

Physically: separation by means of a glass partition.

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Administration: ground crew accompanies to the intra Schengen entrance. Should an intra Schengen flight land together with an extra Schengen flight, the agreement is the second plane lets the PAX disembark as soon as the other PAX have entered the building.

Extra Schengen flights:

Physically: separation by means of a glass partition.

Administration: The passengers are guided to the air terminal, up to the "Extra – Schengen Entrance". Given that the extra Schengen flights should normally never land simultaneously with the intra Schengen flights as a result of the flight planning in Deurne, these passengers do not come in contact.

- DEPARTURE

Intra Schengen flights:

Physical separation only after security control and passport check. Separation by means of a glass partition.

Extra Schengen flights:

Physical separation: after security control and passport check. Separation by means of a glass partition.

## 19.4 OOSTENDe

- ARRIVAL

Intra Schengen flights:

- There is a physical separation: passengers are picked up by bus at the aeroplane, they are dropped off at the INTRA SCHENGEN Arrival corridor. From there, they go directly to the luggage recovery and to the landside ("one way exit").

# RESTREINT UE

- Equipment: fulltime available bus to pick up PAX at the plane. No mingling with EXTRA SCHENGEN PAX due to the direct passage to the luggage recovery room.

## Extra Schengen flights:

- Physical separation: passengers are picked up by bus at the aeroplane, they are dropped off at the EXTRA SCHENGEN Arrival corridor. The PAX are physically accompanied in this area. Through this corridor, they go directly to the luggage recovery and to the landside ("one way exit").
- Equipment: fulltime available bus to pick up PAX at the plane. Passage to the luggage room through doors. Border control with 4 border control posts with PC terminals for Polis check (including SIS).

- DEPARTURE

## Intra Schengen flights:

- Physical separation: channelling embarking PAX to the security area. Separate room for intra Schengen passengers without possibility to mingle with extra Schengen passengers.
- Administration: the boarding card of the passenger is checked simultaneously with the security control
- Equipment: secured room for security control. Security control within the security area (carried out by aviation inspection).

## Extra Schengen flights:

- Physical separation: channelling embarking PAX to the security area. Separate room for extra Schengen passengers without possibility to mingle with intra Schengen passengers.
- Administration: border control
- Equipment: secured room for security control. Security control within the security area (carried out by aviation inspection).
- Two border control posts equipped with PC terminals for Polis check (including SIS).

## 19.5 BIERSET – LIEGE

### Arrival circuit

- Administrative separation on the tarmac: the *MET* staff (Ministry of Equipment and Transport) guides the passengers when disembarking.
- Physical separation within the air terminal: two separate corridors.

### Departure circuit

- Physical separation: separate rooms for intra Schengen and extra Schengen.

## **20. Are passengers on extra Schengen flights channelled in such a way as to ensure the separation between persons covered by Community law and those from third countries? On how many airports has the separation been operated by physical means?**

### 20.1 ZAVENTEM – BRUSSELS NATIONAL AIRPORT

The passengers of extra Schengen flights are channelled to ensure a separation between the "*persons covered by Community law*" and the persons coming from third countries.

This separation is obtained by the use of signs and illuminated news trailers (with the EU symbol) and through a physical guiding system (metal bars) for the border passages.

### 20.2 GOSSELIES - CHARLEROI

At the departure and arrival of passengers crossing the Schengen border, the "*persons covered by Community law*" and "*third countries*" are separated through pictograms on the corridors that are reserved for one category or another, depending on the number of passengers.

The passengers' control is adapted correspondingly.

### 20.3 DEURNE – ANTWERP

The passengers go through border control and can choose, at a double office, between "EU

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only" and "Not EU" (in four languages).

## 20.4 OOSTENDE

There is a separation between "*persons covered by Community law*" and others.

One of the four passages for border control is equipped with a sign EU citizens, the other are provided with a sign Non-EU citizens.

## 20.5 BIERSET – LIEGE

No. After all, there is only one box with two lines. This is due to the fact that the passengers data reveal that the majority of the passengers coming from extra Schengen flights are "persons covered by Community law", having the Swiss or English nationality.

## 22. Do airports have separate areas for asylum applicants and inadmissible passengers?

### 22.1 ZAVENTEM – BRUSSELS NATIONAL AIRPORT

The BRUSSELS – NATIONAL AIRPORT has separate accommodations for inadmissible passengers and for asylum applicants.

The accommodation for inadmissible passengers is situated in a separate and guarded area of the B terminal (extra Schengen) and has a capacity of 30 persons.

A separate block of buildings for asylum applicants is situated on the airside area. It has a capacity of 80 persons.

### 22.2 GOSSELIES - CHARLEROI

The airport of Gosselies is equipped with a temporary accommodation centre with a capacity of 06 persons. Current infrastructure alterations should raise this capacity to 10 persons. They are under the surveillance of the airport **authorities**.

### 22.3 DEURNE – ANTWERP

Concerning question 22, we can state that separate rooms are fit out for asylum seekers and inadmissible passengers. A capacity of two persons per room. The rooms are separated by a corridor. Federal Police surveillance.

## 22.4 OOSTENDE

The airport authorities put a room (INAD centre) at our disposal for the temporary accommodation of asylum applicants and inadmissible foreigners. The persons in this room are under the surveillance of the airport authorities.

There is no separation between asylum applicants and inadmissible foreigners (management by airport authorities).

Capacity: in principle, 4 beds for men and 4 beds for women, in separate rooms.

## 22.5 BIERSET – LIEGE

YES: a new infrastructure in which the "candidates political refugees" and the "inadmissible passengers" have clearly separated areas. The *MET* is in charge of the surveillance of these persons. The infrastructure is composed of three rooms with 4 places each and a dining and recreation room.

### B. Sea ports

#### **23. What measures have been taken in terms of infrastructure to guarantee the separation between passengers on ferries on Schengen crossings and passengers on ferries on non-Schengen crossings (physically, administratively, equipment)?**

As a general rule, it must be indicated that it's the maritime carrier and/or the operator of the (ferry-) terminal who are responsible for the organisation of the physical separation and canalisation of passenger flows to and from the official BCP's.

Additionally it must be indicated that "Schengen" ferry crossings as such, are rare to non-existent for the Belgian seaports.

- In those rare occasions where "Schengen" and "non-Schengen" ferries berth simultaneously physical separation is established through the use of
- separate terminals



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- the use of moveable control booths
- separate vehicle lanes
- separate passenger gangways, ...etc.

**24. Are passengers on extra-Schengen crossings channelled in such a way as to ensure the separation between persons covered by Community law and those from third countries?**

Yes.

**25. Statistics should be provided for the past three years as regards the number and types of vessels calling at ports from EU and third country ports (ferries, cruise ships, cargo vessels, fishing vessels and pleasure boats).**

**In the sense of combating illegal entry and exit, what is the principle of controlling vessels during their stay in ports?**

**Do your country have national administrative regulations regarding the concept of controls with reference to the different types of vessels (ferries, cruise ships, cargo vessels, fishing vessels and pleasure boats)?**

**Amounts of physical control made onboard these vessels (can be substituted with permanent monitoring)? Results of the controls? How are decisions of such controls made?**

Statistics will be provided to all Member States delegates at the meeting on July 19

Principle of controlling vessels **during their stay** in ports?

- The SPN has laid down the principles of control in the procedure “control of the maritime outer border cross-movement of persons”.
- Administratively all (100%) crew and passengers are controlled through the use of IMO FAL 5 and IMO FAL 6 documents.
- As concerns “PHYSICAL” controls the SPN makes use of “RISK ASSESSMENT” as part of a larger Crime Intelligence System.

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Based on the exploitation and analysis of gathered and/or received information, physical controls take place (...rummage if need be) not only during stay of the vessel in port but also upon arrival of the vessel in port or shortly prior departure of a vessel.

## C. Internal land borders

26. **With reference to Article 2(2) of the Schengen Convention, are border controls still carried out at the land borders with borders with other Schengen States ? If so, how and to what extend and how does your country justify temporary reintroduction of border controls under Article 2(2) of the Schengen Convention, which is designed for exceptional situations lasting for a limited period of time ?**

Since 26th of march 1995 the Belgian authorities haven't carried out land border controls within the Schengen territory, in application of the Schengen Convention.

Only in view of a current situation a possible threat to public security on a special occasion, land border controls within the Schengen Territory can be re-instated temporarily and limited to a well determined period as described by the reglementation.

- These temporarily re-installed land border controls, approved on an interim basis within the framework of article 2 (2), has already been applied by Belgium on following occasions:
  - soccer games with a risk to public security;
  - the period when aliens could apply to legalise their situation (Law of 22 December 1999 concerning the regularisation of the residence of certain categories of aliens staying on the territory of the Belgian State).

If it is decided to implement the provisions of article 2 (2), other Schengen States are informed via the Secretary-general of the European Union Council.

## II. Schengen Information System

### A. Schengen Information System

#### - Organisational conditions

#### **27. Geographical location of the N.SIS**

The N.SIS is located at the computer centre of the Federal Police. The address is the following: rue Fritz Toussaint 47, B-1050 IXELLES.

#### **28. Describe the structure, hierarchy and organisation of the N.SIS**

The N.SIS is part of the “General Directorate of Operational Support” of the Belgian Federal Police under the “Telematics Directorate”. The latter is in charge of all ICT aspects, including the management of the Belgian N.SIS.

#### **29. General presentation of the organisation of the services responsible for police functions in relation to the SIS.**

The Belgian Sirene Bureau is part of the “General Directorate of Operational Support” of the Belgian Federal Police under the “Directorate of Operational Police Co-operation”. This Directorate is in charge of all operational aspects of the international police co-operation, including all international alerts both via the SIS and via INTERPOL.

See the general presentation of July 2002.

#### **30. List of services with access to SIS data. Is this list in accordance with Article 101 of the Schengen Convention and with the latest published version of the users list?**

- SIRENE
- Police services
- Magistrates
- General Police of the Kingdom
- Customs (investigations department)
- State Security

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- Aliens Office and VISA (Art. 96 only)
- Ministry of Foreign Affairs (Art. 96 only)
- Groupe Interforce Antiterroristes – antiterrorism squad (depends on the Ministry of the Interior but is composed of policemen)
- Embassies + consulates
- DIV – Directorate in charge of the vehicles registration (Art. 100 vehicles only)

## - Technical conditions

### **31. How many terminals are made available for input and consultation of data by:**

1. (a) the police forces, including non-police forces with a control function;
2. (b) the border control authorities;
3. (c) diplomatic missions and consular posts;
4. (d) the authorities responsible for aliens and asylum;
5. (e) customs authorities?

### **32. Presentation of the computer architecture of national police systems, which are connected to the SIS.**

The computer architecture of the Federal Police system that is connected to the N.SIS consists of two mainframes S 135 which are provided by Siemens and which manage the police databases. The first one is used for the production environment. The second one is used for back-up, development and test purposes. BS2000/OSD 2 is used as operating system. The police users can access the central databases via security servers and front-end processors through a WAN police network.

### **33. Description of data flows between national systems and the N.SIS in connection with input of data according to each of the articles 95 to 100.**

See annex 1.

## **34. Description of the computer processing of an N.SIS database consultation from the remote workstation of an end-user**

A police end-user uses only one application (its name is Polis Control) to query the centralised databases (the N.SIS and the federal criminal ones) via the police network. The Federal Police system has its own technical copy of the N.SIS database that is permanently and on-line updated. Actually, the end-user gets two different answers on the screen, resulting from the query in both databases (the federal criminal and the N.SIS ones).

## **35. How do police officials on the ground have access to end-user terminals (by radio, only by telephone, via mobile terminals fitted in vehicles, only in person, only in writing)? Are there differences between the various national police?**

In general, they have a radio link to a communication centre. The phone, contacts in person and all the other means enabling to meet the identification request can be used. In Belgium, there are no more differences as a result of the police reform.

## **36. Procedure followed by a user in the field to consult the national system and the SIS database.**

The end-user questions the communication centre (see question 35). There, the operator queries the terminal which gives him a direct access to both the national database and the SIS. The query is therefore asked only once.

## **37. How many terminals are used how often (statistics on take-up rates), how often is the SIS consulted?**

See question 40 and annexes 3 and 4

## **37. How many queries are made to the national SIS database per year? – if possible please state the number of queries per category.**

See annexes 5 and 6

**39. Are the SIS and the national system consulted at one and the same time, or do both systems have to be consulted separately?**

The N.SIS is part of the national database which is named "POLIS".

**40. Accessibility of the database for end users: location and number of access points, current response times measured on national systems and response time for N.SIS consultations.**

There are 3,300 indirect accesses and 147 direct accesses to the SIS as each national monitoring terminal gives access to the SIS.

These terminals are distributed on the whole territory, including at the external borders of the country.

There is a maximum 5 seconds' delay before the answer to the questions is displayed on the screen of the requesting terminal.

As a reminder, the Belgian system enables the simultaneous query for 5 persons, a license plate, a VIN and 9 other types of objects.

**41. Volume of data to be transmitted to the SIS database and transfer procedures.**

See the C.SIS statistics made on the day of the check.

**42. How do the consular posts of your country access the SIS?**

Consular posts and embassies are still consulting a CD-ROM. If the result is positive, they have to contact the Ministry of Foreign Affairs. The latter contacts the SIRENE Bureau to obtain the confirmation or the invalidation of this result.

The updating of these data is a real problem as this CD-ROM becomes immediately obsolete.

**43. What practical arrangements have been made for updates of data to the consular posts?**

The problem raised at the previous question is under consideration at the Ministry of Foreign Affairs. A solution is about to be found to give this Ministry a direct access.

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## 44. How frequently will data be updated? By online and offline links.

For the time being, the CD-ROM is renewed every month. Its useful life is 2 months.

### - Data

## 45. What is the number of alerts loaded per category (Articles 95 to 100), per ultimo 2000 and 2001?

	2001	2002
Art 95	489	498
Art 96	42	17
Art 97	2136	2004
Art 98	212	162
Art 99.2 WP	26	24
Art 99 .2 VE	56	62
Art 100 VE	20435	
Art 100 FA	187	1817
Art 100 ID	123	125721
Art 100 DB	102	19844
Art 100 BK	93	441

## 45. Entering SIS alerts

### a. Do the competent authorities enter the alerts centrally or locally?

All data relating to persons are centrally entered by the competent authorities (including Art. 96, by the Aliens Office).

Since 2001, each request for a SCHENGEN alert coming from a Belgian competent authority (except the alerts under Art. 100 of the Convention) has had to pass through the Belgian SIRENE Bureau which enters the alert into the SIS after having validated it.

b. **If data entry is decentralised, do uniform criteria apply?**

As regards objects, the data entry is decentralised. An application is under the authority of the “Directorate for Support”(DSB) which has to ensure the circulation and the respect of the co-ordination notes.

c. **If there are uniform criteria, are checks carried out at national level to ensure proper application and do the criteria apply to all categories of alert?**

\* Regular automatic and computer checks are carried out (Databases comparisons) under the authority of either the Directorate for Support (DSB) which is in charge of selective checks, or the SIRENE Bureau which carries out selective checks in normal circumstances or after an incident.

d. **Are their national criteria governing the number of alerts entered per category with, for example, account being taken of category-related offences?**

NO

e. **If entry is decentralised (regional), is the number of alerts entered at regional level monitored to facilitate evaluation in the light of national criteria?**

NO

f. **Are the data in the national systems synchronised with those entered in the N.SIS?**

YES. There are regular and automatic comparisons.

g. **If so, are data synchronised locally or centrally?**

They are centrally synchronised by the N.SIS.

**46. Are there any plans to introduce methods for collating statistics on take-up rates? If not, why?**

BELGIUM has currently statistics relating to the queries per month and to the HITS.



## **48. Description of measures to check that data conform to the requirements of the Schengen Convention.**

The legal department has to validate the alerts under Art. 95 of the Convention Implementing the Schengen Agreement, to solve the legal problems that may arise with respect to the management of the alerts (Articles 95 to 100) and to assist the Belgian delegation of the SIRENE Working Group to the Council of the European Union in legal matters. The telephone is manned 24 hours a day. The legal department consists of two lawyers and three persons who have had a special training.

## **49. What measures does the Ministry of Justice take to increase the number of SIS alerts issued pursuant to Article 95 of the Convention (statistics on national/international arrest warrants, directives)?**

The Ministry of Justice does not interfere in this kind of matters.

## **50. Management of SIS alerts**

### **a. Are lists kept of alerts entered per region or per authority?**

NO.

### **b. How are these lists broken down (e.g. alert category, date of entry)?**

The alerts lists are analysed by the person who oversees the three “Alerts” sections, and are filed according to the date of entry and/or the category of the alert.

### **c. Are the lists drawn up by computer or manually, centrally or locally, regularly or occasionally?**

They are manually, centrally and regularly drawn up.

### **d. Are these lists compiled manually centrally or locally?**

Centrally by the SIRENE Bureau

### **e. How is deletion of the data guaranteed if action has been taken in response to an alert?**

The deletion is manually carried out by the SIRENE staff members with respect to persons and automatically with respect to objects (via the national POLIS system).

The responsibility is incumbent upon the person who oversees the “Alerts” sections.

f. **What kind of checks are carried out?**

The person who oversees the “Alerts” sections and the person responsible for the data quality have to check that these tasks are properly carried out.

g. **At what stage of implementation is an alert deleted?**

(e.g. immediately after notification of an arrest, after notification of a person's whereabouts, after the reported discovery of an object, or after all measures have been taken, e.g. actual extradition, dispatch of documents to the place of residence, retrieval of the object).

An alert is deleted after all measures have been taken.

h. **How does the authority responsible for central or local management carry out its duty of preventing the data files from becoming clogged with data (non-deletion of alerts after a HIT)?**

i. The person who oversees the “Alerts” sections and the person responsible for the data quality, supervise the SIRENE operators in charge of the alerts concerned. In case of non-deletion of an alert after a HIT, the a.m. persons address the operator who has committed the mistake. As regards objects, the Belgian system only enables an “a posteriori check”, i.e. when there is a "complaint" or within the framework of an automatic comparison of the national database with the SIS. In this case, the N.SIS manager carries out an automatic correction.

j. **What measures are taken to cope with such a situation if it is detected?**

Two possibilities:

Isolated error: appropriate intervention of the person who oversees the “Alerts” sections and of the person responsible for the data quality.

Repeated error: intervention of the SIRENE Head in close collaboration with the N.SIS manager. These persons analyse the problem and suggest a solution or solve it.

- **Data protection and other legislation**

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

In Belgium, the **SIRENE** Bureau was created based on Article 108 of the Convention which stipulates that each of the Contracting Parties shall designate an authority which shall have central responsibility for the national section of the SIS.

**52. Security measures at the N.SIS's pursuant to Article 118 of the Schengen Convention.**

Controls on:

- (a) entry; Access checking with magnetic access cards. The "visitors" are always accompanied. Monitoring 24 hours a day. Armed guards, CCTV camera.
- (b) data carriers; secured network
- (c) users; identification with a password + the administrative number
- (d) access; user profile centrally managed by a security server
- (e) transmission; private network
- (f) input. yes

**53. Control of physical access to the premises of the N.SIS, where applicable including paper archives storage rooms.**

Access checking with magnetic access cards. The "visitors" are always accompanied. Monitoring 24 hours a day. Armed guards, CCTV camera.

**54. Level of protection and protection measures applied to computerised police applications – and in connection to this which special measures are taken in relation to the SIS application?**

The system of the Federal Police has the same security level, i.e. the access is carried out via a secured server which simultaneously checks the user profile and the work station from which the query was made.

## **55. Control of computerised access to SIS data.**

All acts are logged (creation of alerts and consultation).

## **56. Measures put in place to ensure that each user has access only to the categories of data for which he or she is authorised, in accordance with Article 101.**

An access profile is given according to the different categories of users. Policemen automatically receive the “checking” access.

Both the Belgian SIRENE Bureau and N.SIS have the different profiles stored.

### **- Education and information**

## **57. Description of the specific training given to operators and to those responsible for the N.SIS.**

The N.SIS operators are policemen. They operate both systems (the N.SIS and the Federal Police system). After the basic training, they get a specialised mainframe training given by Siemens (the company which provided the mainframes). Before being considered as an operator, they are integrated as trainees in an experienced team to learn the concrete tasks to be carried out. Each month, they get an internal training to update the level of their knowledge.

## **58. Training and information for end-users. In particular:**

### **- Are newly-recruited policemen given training in the use of SIS? If so, how many hours?**

In Belgium, the computerised system automatically consults both databases (national + SIS) when a query is made. So, the training of the newly-recruited policemen can be reduced to the bare minimum as regards SCHENGEN.

The training relating to SCHENGEN is included in the judicial training. Alerts (EUROPOL, SCHENGEN., INTERPOL,...) form the subject of a special training (a 24 hours-module).

- **Does continuing training take place in the form of courses, seminars, conferences etc? If so, how many hours?**

Only for persons which will have authority to investigate or for persons which will be responsible for the local data encoding (Carrefour d'information d'arrondissement = CIA)

- **If continuing training is provided, i.e. courses, seminars, conferences, how many hours.**

See above

**59. What measures are being taken to ensure the level of competence of new users?**

The in-house training depends on the Federal Police. SIRENE staff members take sometimes part in it as specialised trainers.

Since the Police reform, this in-house training has had to be reconsidered.

**60. How are police officials on the ground informed about the SIS (by specific training, in the course of ordinary police training, multiplier effect from trainers, articles published in police journals, through specific brochures, through general public relations work)? Are they kept regularly informed, just given the information once, or not at all? Are there differences between national police forces?**

BELGIUM has currently ONE national police force. There is currently a complete restructuring of the training as the Belgian police scene has been completely reformed. In general, the basic training – for all policemen – include a judicial training tackling SIS, INTERPOL and EUROPOL matters. See question 58.

**61. Alert procedures for the prosecuting authorities and procedures following a hit:**

- (a) **How are judges and public prosecutors informed about the SIS (awareness of the SIRENE Bureaux, the role of the SIRENE Bureaux, differences between SIS and Interpol searches)? (by specific training, in the course of ordinary training, multiplier effect from trainers, publications, through specific brochures, through general public relations work)? Are they informed regularly, just once or not at all? Are there regional differences?**

The SIRENE Bureau has absolutely no authority over public prosecutor's offices in general. For the time being, the SIRENE Bureau gives no specific training to the magistrates. The "Directorate of Operational Police Co-operation" gives general information concerning its

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staff's potential during information or retraining meetings.

In June 2002, an information leaflet will be given with the SIRENE brochure to the federal magistrates and to the Collège des Procureurs Généraux (General Public Prosecutors) hoping that they will pass on the information to the Belgian public prosecutor's offices.

Because of the independence and the organisation of the public prosecutor's offices, they do not react in the same way when facing international issues but thanks to the Collège des Procureurs Généraux (national instance), this situation seems to be improving.

(b) **Do the SIRENE Bureaux have any influence (by information and training measures)?**

NO except via notes sent through police official channels or on an ad-hoc basis, during the training courses the newly-qualified magistrates have to go on.

## B. SIRENE

### - Organisational conditions

#### 62. Geographical location of the SIRENE Bureau.

The Belgian SIRENE Bureau is located Rue des Quatre Bras 13/8 in B-1000 BRUSSELS, in premises managed by the Ministry of Equipment and Transport. *This* building accommodates several services such as the Public Prosecutor's Office of BRUSSELS, the Service Judiciaire d'Arrondissement (judicial authority for the district) of the Belgian Federal Police and the "Directorate of Operational Police Co-operation" (DSO) of the Belgian Federal Police. SIRENE is one of DSO's components.

The Belgian Sirene Bureau is part of the "General Directorate of Operational Support" of the Belgian Federal Police under the "Directorate of Operational Police Co-operation". This Directorate is in charge of all operational aspects of the international police co-operation, including all international alerts both via the SIS and via INTERPOL.

**63. Administrative organisation of the SIRENE Bureau and practical organisation of the work of the SIRENE Bureau (staff, administrations represented, day and night teams, specialisation of operators...).**

The Head office of SIRENE Belgium consists of the Director SIRENE and his two assistants. These three persons are policemen. A secretary, who belongs to the civilian personnel, assists the Head office. The SIRENE Duty Desk consists exclusively of civilians (currently, 9 persons). Within the Duty Desk, 2 teams work in rotation during 24h, the first one from 08.00 till 20.00 and the second one from 20.00 till 08.00. There are 2 or 3 persons in the day team and 1 or 2 person(s) in the night team. This is the "front line" in the processing of the alerts. It dispatches all messages to the competent sections, except the messages relating to HITS that it processes itself and A forms for which it has to prepare a file before giving it to the legal department for validation. The "second line" of the SIRENE Bureau consists of 3 sections: one for the alerts regarding persons wanted for arrest for extradition purposes and persons wanted for localisation, another one for the alerts regarding objects and the third one for the alerts regarding missing minors, aliens for whom the entry to territory is refused and persons who have to be subjected to surveillance. Each section is managed by a person who belongs to the civilian or police personnel. There are 15 persons working in these sections: 13 civilians and 2 policemen. Jurists and translators also work part-time for the SIRENE Bureau.

**64. The limits of the respective spheres of competence of operators and end users.**

The end-user has - through contacts with the local public prosecutor's office if needed - to lodge a request for an international alert or to enter the alert directly into the national database via an encoding centre named "Carrefour d'information d'arrondissement (CIA)". The alerts concerning objects are automatically transferred into the SIS.

The SIRENE staff members have to enter the alerts concerning persons into the system on the basis of the forms filled in by the policemen.

Contacts are possible when there is a lack of information or when the form is not properly filled in but there is no subordination between SIRENE and the end-user.



- 65. What practical steps have been taken carry out checks within the meaning of Article 95(2) of the Convention? Do agreements exist with the judicial authorities, particularly with a view to ensuring that SIS alerts take priority over Interpol alerts?**

The Belgian authorities requesting an alert under Art. 95 of the Convention know in principle that SIS alerts take priority over Interpol alerts within the SCHENGEN area. If for some reason or other, this principle is broken, the SIRENE Bureau contacts the reporting authority and asks them to make another request for an alert under Art. 95 of the Convention.

On receipt of a foreign alert, the national databases and the national register are consulted to check whether the person concerned is known to the Belgian authorities for similar/other facts, whether he/she resides in Belgium and whether he/she is still the subject of an IP alert. If someone is subjected to an Interpol alert by a Schengen Member State, this State has to replace the IP alert by a SIS alert. Moreover, foreign alerts are validated by the legal department which checks, in case of location of the person concerned in Belgium, whether he/she can be arrested for extradition purposes in accordance with the Belgian legislation and the extradition conventions.

- 66. How are the activities related to Article 96 (non-admission) and Articles 5 and 25 of the Convention performed?**

- (a) Which authorities in your country issue the alerts referred to in Article 96 for purposes of refusing entry?**

The Aliens Office (There is only one Aliens Office for the whole Belgian territory)

- (b) Which authority performs the role of the national SIRENE Bureau with regard to the alerts referred to in Article 96? Are clearly defined channels of communication in place between the national authorities involved?**

The Aliens Office has its own "SIRENE office" which has to answer specific questions relating to alerts under Art. 96.

Our SIRENE Bureau and this specialised "SIRENE office" have regular contacts.

- (c) What measures have been taken to give the SIRENE Bureau access to background information (for example, a decision on expulsion/ban on entry) which is not recorded in the SIS?**

Personal contacts by phone, fax, post,...



(d) **Which national authority liaises with the Schengen partners for purposes of sending and receiving of requests for consultation under Article 25 of the Convention?**

The Aliens Office

**67. The Sirene Bureaux' position and margin for manoeuvre at national level**

- a. **Can the Sirene Bureau directly consult and enter data in the national police system when running SIS searches, or initiate procedures for this to be done, (such as on indications concerning an abductor in an alert on a missing minor)? If not, are steps being taken to this end?**

The SIRENE Bureau can consult the national system but it can not enter data into this base yet. Steps have been taken to have this possibility effective before end 2002.

- b. **Is the Sirene Bureau able to access and enter data into other databases (vehicle registration databases, aliens' registers, population register), is there coordinated and effective cooperation with the corresponding departments?**

NO. The SIRENE Bureau can consult all national systems it has access to but it can not modify data. Steps are currently taken to increase the number of files it has access to.

- c. **Is the Sirene Bureau well-known to and accepted by the national police? Does information mostly come through quickly and effectively? Can the Sirene Bureau give instructions or does it have any other ways of influencing co-operation? Does police training cover the Sirene Bureau?**

A part of the Belgian policemen know about the existence of the Bureau. BELGIUM is still undergoing massive changes and SIRENE endeavours to explain its role to policemen in general and to the magistrates.

As a reminder, it exists two categories of policemen (from a SIRENE point of view):

1. The policeman who carries out checks, has to follow the instructions given on the screen and who has very often to contact the local public prosecutor.
2. The policeman who must or can enter a person or an object into the SIS following a request of the public prosecutor's office or on his/her own initiative. He/She has to know the various possibilities of the SIS.

- d. **Are the Sirene Bureaux empowered to conduct investigations or act as co-ordinators? (such as in Articles 39 and 41).**

NO

## 68. Working relations between the Sirene Bureaux, basic and further training

- (a) **Is the time taken to respond in the course of processing a hit on the whole found to be good / acceptable / inadequate variable depending on the alert category concerned / unacceptable for certain alert categories (state which categories)?**

Acceptable

- (b) **Is the substance of the responses given when processing hits on the whole found to be good / acceptable / inadequate variable depending on the alert category concerned / unacceptable for certain alert categories (state which categories)?**

Acceptable

- (c) **Are the duties of the staff working in the Sirene Bureau well-defined and appear clearly structured to an outsider?**

**Is the level of staff training on the whole good / acceptable / poor (regarding knowledge of police affairs, legal affairs, language skills, acquaintance with the SIS and the Schengen Convention)**

**Are there any basic training / specialised training / exchange programmes?**

The SIRENE staff members are divided into two “lines”:

1. “front line”: duty desk
2. “second line”: 3 sections. The working load is divided according to the Articles of the Convention Implementing the Schengen Agreement.

The phone numbers of the duty desk are displayed on the consultation screens. If the second line is dealing with the case, the caller is transferred to the competent section.

The level of the operators is acceptable but it could be improved as regards the knowledge of the law enforcement environment and as regards the knowledge of languages.

## RESTREINT UE

- (d) A basic training is given to all newly-recruited operators. Then, they are trained on the job. A final test is organised at the end of the training.
- (e) **Is the staff informed of recent developments/ changes in co-operation ensuing from decisions taken at higher levels, notices etc.?**  
Yes, thanks to in-house training (two per year at minimum)
- (f) **Is such joint training desirable?**  
Vital.

### 69. Areas where the Sirene Bureaux co-operates with Interpol and where not

- (a) **Problem areas in co-operation as a result of the fact that the bodies connected to Interpol and to the Sirene Bureaux are not the same (other Ministries, other police services) in the exchange of information, clashes in areas of competence and responsibility).**

An integrated duty desk has significantly reduced the competence problem.

- (b) **Information exchange between the national Sirene Bureau and Interpol is found to be good / acceptable / unsatisfactory.**

Good.

### 70. How do the judicial authorities react in the event of a hit regarding Article 95 alerts? (INTERPOL alert requirements, awareness of role of accompanying papers, request for additional information, translation of national arrest warrants).

In general, the Belgian magistrates know the guiding lines of the Convention and of the SIS.

Although some training sessions may still be required to keep up-to-date, it may be ascertained that the link between the SIRENE Bureau, policemen in the field and magistrates is reliable.

Any question asked finds its justification in the fact that it is, in fact, asked by a Contracting Party which does not have all information required to close the case.

# RESTREINT UE

## - Technical conditions

- 71. Technical arrangements made to enable to operate the SIRENE Bureau without interruption in exceptional situations such as natural disasters, power cuts, disturbance or interruption of traditional telecommunications systems, etc.**

The whole building located Rue des Quatre Bras has a generating set which starts in case of an electrical failure. This system is managed by the representative of the Ministry of Equipment and Transport at the Ministry of Justice.

This situation generates sometimes difficulties within the framework of concrete requests.

When the X400 breaks down, a fax – reserved for SIRENE but not encrypted – is used.

## - Data

### **72. Follow-up action**

- (a) Are hits following alerts recorded manually or by computer?**

Manually on an EXCELL list

- (b) IF they are recorded by computer, how is this done?**

...

- (c) Are the consequences of a hit, e.g. the results of an investigation, recorded? If so, is this done centrally or locally?**

**How long the results of an investigation are recorded?**

Physical files on paper are hold at SIRENE, either in the sections, either in the records.

Those files are usually kept three years in the records and are then destroyed.

- (d) Is the number of SIS searches at central or local level logged?**

Those information are available at a central level (SIRENE and/or N.SIS.)

- (e) Are the results analysed and used as a basis for policy evaluation?**

NO.

- (f) Is it possible to indicate, in the context of external border control, the number of SIS searches as a percentage of the total number of persons subject to checks under Article 96 of the Schengen Convention?**

No authority has asked this kind of statistics but they could be easily drawn up.

- **Data protection and other legislation**

**73. Legislative and regulatory provisions adopted to set up the SIRENE Bureau, including subsequent legislative measures.**

The SIRENE Bureau was created on the basis of a national text pursuant to Art. 108 of the Convention Implementing the Schengen Agreement in order to exercise the central competence for the N.SIS.

**74. Security measures at the SIRENE Bureaux pursuant to Article 118 of the Schengen Convention.**

Controls on:

- |                    |                                                                |
|--------------------|----------------------------------------------------------------|
| (a) entry;         | control with a magnetic access card for staff members only     |
| (b) data carriers; | secured network (HILDE)                                        |
| (c) users;         | identification with a password and their administrative number |
| (d) access;        | user profile centrally managed by a security server            |
| (e) transmission;  | private network                                                |
| (f) input.         | yes                                                            |

**75. Control of physical access to the premises of the SIRENE Bureau, where applicable including paper archives storage rooms.**

The employees entries are controlled by the carrying of a magnetic access card.

**76. Level of authorisation of SIRENE staff, and all staff with access to SIS data.**

The SCHENGEN, INTERPOL staff members and some EUROPOL members are accredited as "SCHENGEN."

A security check has been carried out by the Belgian Secret Services concerning all DSO staff members;( there are some exceptions within the administrative staff members who are not allowed to go to operational offices).

**77. Level of protection and protection measures applied to computerised police applications – and in connection to this which special measures taken in relation to the Sirene application**

The password to enter the national application (POLIS) is the same for the international application. Except for SIRENE staff members, nobody has access to the SIRENE applications.

**78. Control of computerised access to Sirene files.**

All SIRENE members have a user profile, which gives them access to all applications, which are currently possible.

As a reminder, steps are taken to increase the number of possibilities.

**79. Measures put in place to ensure that each user has access only to the categories of data for which he or she is authorised, in accordance with Article 101.**

See question 56. A central server is responsible for the access according to the different given profiles.

**80. Who is in your country the national supervisory authority within the meaning of Article 114 of the Convention?**

COMMISSION pour la PROTECTION de la VIE PRIVEE (Office for the protection of personal data)

**81. Measures taken to ensure that SIRENE files are destroyed after withdrawal of the alerts to which they relate. Who is responsible for controlling implementation?**

It is one responsibility of the person who oversees the "Alerts" sections and of the person in charge of the data quality. They are responsible for controlling the application of this work.

- **Education and information**

**82. Description of the specific training given to operators and to those responsible for the SIRENE Bureau.**

See question n° 68c. A basic training is given to all newly-recruited operators. Then they are trained on the job. A final test is organised at the end of the training.

Concerning the team heads, the recruiting of policemen in the field is preferred because they know – or are supposed to know – the needs of their colleagues besides their basic police training.

Specific training sessions are given within the framework of in-house training sessions or even of international classes.

**83. From the point of view of your SIRENE, how well informed do you think end-users are about the SIS and the SIRENE Bureaux: good/adequate/poor?**

The head of SIRENE has taken measures in June 2002 to give a better knowledge of the SIRENE sphere of abilities and the SIS possibilities.

**84. Training and information for end-users. In particular:**

- Are newly recruited policemen given training in the use of SIS? If so, how many hours?
- Does continuing training take place in the form of courses, seminars, conferences etc? If so, how many hours?
- If continuing training is provided, i.e. courses, seminars, conferences, how many hours.

See question 58

**85. What measures are being taken to ensure the level of competence of new users?**

See question 59

**86. How are police officials on the ground informed about the SIS and the SIRENE Bureaux (by specific training, in the course of ordinary police training, multiplier effect from trainers, articles published in police journals, through specific brochures, through general public relations work)? Are they kept regularly informed, just given the information once, or not at all? Are there differences between national police forces?**

See question 60

**87. Alert procedures for the prosecuting authorities and procedures following a hit:**

- (a) How are judges and public prosecutors informed about the SIS (awareness of the SIRENE Bureaux, the role of the SIRENE Bureaux, differences between SIS and Interpol searches)? (By specific training, in the course of ordinary training, multiplier effect from trainers, publications, through specific brochures, through general public relations work)? Are they informed regularly, just once or not at all? Are there regional differences?**
- (b) Do the SIRENE Bureaux have any influence (by information and training measures)?**

See question 61

### **III. Vision network**

**88. How are other States consulted? What technical means are implemented?**

There is an ongoing computerisation process of the Belgian diplomatic posts. When it is necessary to consult a Schengen partner, the request is either sent to the central Belgian authority by means of the secured network of the Ministry of Foreign Affairs when the post is already automated or by a secured e-mail or by fax when the post is not yet computerised. Then the central authority consults the other States concerned via the Vision network and waits until the end of the regulation 7-day period prior to giving the OK to the post.



## **89. What is the estimated response time for consultation?**

When it is from the post, you sometimes have to count about 9 to 12 days before getting a reply from the central authority.

The Austrian and French central authorities answer in an automated way.

## **90. Under which circumstances do the consuls of your country consult their authorities?**

When the consultation of certain Schengen partners is essential in comparison with annex 5 B of the Common Consular Instructions.

## **91. Under which circumstances do other States consult them? (What is the number of national and international consultations).**

In compliance with the cases listed under annex 5 B.

Number of national consultations during 2001: not available.

Number of international consultations during 2001: 18.068.

## **92. What provisions have been made to ensure that permanent consular posts only issue Schengen visas?**

The Visa consultation such as it is practised by Belgium is not yet fully automated, which sometimes makes the consultation time longer. National measures have been taken to reduce these time limits to the bare minimum. The issuing of Schengen visas is thus favoured.

## **93. Is there any technical equipment for detecting false documents (travel documents, supporting documents, etc.)?**

See answer 110.

## 94. Is any specialised training given in the detection of false documents?

Training is given on different occasions:

- when there are multidisciplinary missions [consisting of agents from various Belgian federal administrations (Aliens Office, Visa Service of the Belgian Ministry of Foreign Affairs and the “OCRF-D” which is the Central Bureau for the Prevention and Suppression of Fraud – a body which comes under the Federal Police) who travel 2 to 3 times per year to sensitive countries] in the framework of which basic training is given in the detection of forged and falsified documents;
- when moving to the “OCRF-D” in the framework of the courses followed during the training period for the new consuls and new visa agents who are about to leave, and also on the occasion of any change of post for the aforementioned people;
- in the framework of the workshops organised according to various themes (among which the one about forged and falsified documents) on the occasion of the “Consular Days” organised once a year by the Ministry of Foreign Affairs.

## 95. Are there any manuals of specimen documents to check that the documents presented are genuine?

The Belgian posts abroad collect specimen documents issued by the national authority on the spot and send them through the Belgian Ministry of Foreign Affairs to the “OCRF-D.” The latter encode the data pertaining to these documents and send back in the reverse way colour photocopies of them with additional comments on their technical features in order to facilitate the observation and control of them in the posts. The thus realised cards regarding these documents are firstly sent to the Belgian post which is competent for the country (-ies) that issued the document(s) in question. It is indeed not very relevant to flood our posts with stereotyped information on documents they will hardly ever come across (an ordinary passport or a South African driver’s licence will not be shown very often to back up a visa application in a Belgian post in Islamabad for instance). So Belgium prefers targeting the transmission of these cards on the places where the corresponding documents will be mostly presented.

## IV. Judicial co-operation

### **96. Has your country received and made requests for mutual assistance on issues relating to the areas covered in Articles 49 and 50 of the Schengen Convention?**

At central authority level, there are no recorded requests pertaining specifically to administrative procedures or to civil aspects of a criminal case.

In the framework of the customs co-operation, the Naples I and II Treaties are applicable. One time, there was a conjunction between judicial co-operation in criminal cases and co-operation in (customs) financial matters. In this issue, customs officers had been summoned to testify in a foreign procedure.

### **97. What is the current situation regarding application of the rules on compliance with requests and the granting of authorisations in accordance with Article 50(3) of the Convention?**

There is no record of any application.

### **98. Has application of Article 52(2) of the Convention caused problems of any kind?**

The direct dispatch of documents relating to a case (generally subpoenas) is experiencing some problems. Magistrates are not or hardly acquainted with the procedure. The domestic procedure is supposed to be the point of reference but it does not seem or hardly seems to be applicable in the international context.

The lack of localisation of the addressee constitutes a serious hindrance from a practical point of view. Many of the notifications take place out of sheer necessity through the central authority.

As a rule, the document which is to be served is only translated into the language of the “requested State.” This is probably not the addressee’s language.

**99. As regards application of Article 53 of the Convention, are there any guidelines or directives defining the channels to be used for sending requests for mutual assistance, or is this simply left to the discretion of the judicial authorities?**

Although direct sending is more and more applied, many requests for legal aid still keep on “passing through” the central authority.

There is a Schengen circular which provides the magistrates with the necessary guidelines. The direct sending rule is stated in it. France and Italy do however constitute exceptions as these Schengen States prescribe that the sending is to take place via their Courts of Appeal.

The Atlas of the European Judicial Network (see also the Swiss [Elorge](#) website) clearly offers a practical instrument to find the address of the territorially competent judicial authority that is being approached (see also question 100). Should the inquiry measures, which are to be carried out, not be localised or if they have to be executed on several locations, then the dispatch via the central authority remains appropriate.

**100. Have the judicial authorities received the Directory of the cities of the other Member States so they can use the possibility of forwarding directly requests for mutual assistance as provided for in the Convention?**

The so-called place-name registers are just scattered in a fragmented way. The available registers are at the most spread amongst the Belgian magistrates.

But not all Schengen States have provided place-name registers. No doubt some place-name registers have become obsolete.

**101. Have any extradition requests been authorised under Article 66 of the Schengen Convention? How many have been authorised to date?**

By way of a rough guess it can be said that about one half of all incoming (passive) extraditions, approximately 150 on a yearly basis, are handled according to the simplified procedure and, at Benelux level, according to the curtailed procedure (B.U.T., article 19). For more precise figures, a time-consuming check on all passive extradition files is needed.

## **102. How are the forms for requesting the transmission of extracts from judicial records (SCH/III (97) 41 4 rev) distributed and used?**

The exchange of criminal records never takes place, at least as far as the central authority is concerned, on an individual basis.

The Criminal Records Central Registries exchange information periodically, on the basis of art. 22 of the European Convention on Mutual Assistance in Criminal Matters (Council of Europe).

## **103. Are the possibilities for mutual judicial assistance in criminal matters and extradition provided for by the Convention implementing the Schengen Agreement used satisfactorily?**

It has to be said that, on the whole, the SIC hardly ever plays a decisive part in the daily practice. As a rule, a request for legal assistance can be based on the provisions of the European Convention on Mutual Assistance in Criminal Matters. The reference to the applicable SIC provisions is in other words additional in most cases.

One exception regards the transmission of the execution of sentences in case of escape. Articles 68-69 SIC offer the only possible basis in such a situation.

The Schengen provisions actually prove to be very effective. The real surplus value is to be found in the possibility of transmitting requests directly, the simplified extradition procedure and the transmission of the execution of sentences and measures in case of escape (art. 68-69 SIC). The ne bis in idem provisions (art. 54-58 SIC) are also gaining importance in practice, i.e. in cases where the transmission of the criminal prosecution is being considered.

The “classic” legal assistance, which still prevails both quantitatively and qualitatively, remains primarily based on the European Convention on Mutual Assistance in Criminal Matters (1959) and the Protocol (1978).

## V. Legislation on firearms

**104. Have the contents of the EU Directive (91/477) on firearms been transposed into national legislation ? If so, what stage is the legal process at ? Have the model common forms been adopted for the control of firearms purchases?**

The Belgian legislation on firearms corresponds to and is, in some cases, more binding than the European directive :

- Examples: - long firearms with rimfire percussion require a permit, as well as
- long firearms with a revolving barrel (smooth bore) shorter than 60 cm (about 23.6 inches)
  - some long firearms (rifled bore), repeater rifles or with revolving barrel (calibre .30-06, 8x57IS,...),
  - etc...

A bill is currently considered by the Belgian legislative authorities. This bill makes provision for the deliverance of a permit for all firearms.

Purchase forms for firearms are accepted.

A federal police officer at the Central register of arms is in charge of the exchange of information between the member states. The federal police has a few of investigators at its disposal to control the arms. The local police deals with the enforcement of the Belgian legislation on the field. Moreover, six employees of the Ministry of Economic Affairs are in charge of the enforcement of the European directives concerning the exchange of arms between the member states.

**105. What measures have been taken in terms of organisation and personnel in order to ensure the application by the competent authorities of the contents of the EU Directive on arms or the corresponding national legislation ?**

Information about purchases or sales of arms are managed by the department of the Ministry of Economic Affairs within the context of the enforcement of the EU directives 91/477 (unknown exchange volume).

**106. How is information on firearms purchases exchanged between your country's authorities and their counterparts in other EU member States What is the volume of such exchange ?**

Information about purchases or sales is also exchanged between the Central register of arms of the federal police and the concerned police services of the member states (exchange volume of the federal police: about 2,000 importation / exportation files in 2001 concerning member states).

**107. What firearms may be brought into your country without prior permission but solely using the European pass ?**

Display firearms. For example, antique historic or folk weapons, weapons unable to fire etc.  
Sport and hunting firearms. For example, some long firearms, rifled bore, revolving barrel or repeater rifle firing particular calibre. Other example: long firearms, smooth bore(s) longer than 60 cm (about 23.6 inches), revolving barrel, one shot by barrel etc.

**108. Which firearms do not require consent within the meaning of art 11 ç4) of the Directive 91/477/EEC by your competent national authorities in order to be brought into your country ?**

All the arms imported in our country require a prior importation agreement, as foreseen in article 11/4 of the Directive.

On the other hand, any transaction of arms within the BENELUX does not require a prior agreement as foreseen in article 11/4. Nevertheless, as far as transports of arms within the Benelux are concerned, the Belgian Central register of arms has to share information with its counterparts from the Netherlands and Luxembourg (in order to control if the national legislation is enforced). Other exception: the importation of weapons of war in Belgium (for our national legislation). The importation of such weapons does not require a prior agreement, but is regulated by a system of licences.



## VI. Issuing of visas/consular co-operation

### **109. What/which authority(ies) in your country is/are competent of the issuing of visas?**

The Ministry of the Interior (Foreigners Office) as well as the Ministry of External affairs are competent in the matter.

### **110. To what extent are diplomatic missions and consular posts equipped and able to implement Schengen issue Schengen visas in terms of**

#### ***(a) availability of Schengen visa stickers***

All posts that are used to deliver Schengen visas possess a sufficient stock of visas which they are obliged to renew in time. This has to be done when it expires or to address particular situations (eg. a period in time when a post registers a growth in demands).

#### ***(b) access to SIS***

The access to the SIS is made possible through a CD Rom containing a list of spotted people. It is sent to the Ministry of Foreign Affairs and downloaded monthly on the local server that feeds the computers of each post. The visa application that runs on those computers manages the demands and automatically spots all demanders on the list at the moment of the file linked data introduction. Within maximum 2 or 3 years the SIS consultation will occur 'on line' and the sending of the CD Rom will no longer be necessary.

#### ***(c) what equipment exists to detect forged documents?***

An inspection kit (composed of an UV detector, an illuminating magnifying glass PEAK 10x, a Maglight flashlight and a plastic wire counting tool 8x, instructions included) is foreseen in every Belgian post abroad.



The detection of forged and falsified documents is above all an experts' job that requires a continuous training of at least 2 years. Therefore, certain sensible posts have been put in direct connection with the department 'documents' of the OCRF (Central Office of the Repression of Fraude, department of the Federal Police). In time, this connection should be generalised to all Belgian posts abroad. It is used through scanning the doubtful documents (sensitive to being false or falsified) at the post. This working method allows the assurance of an efficient and cost effective control in absence of specialised agents.

Also, at certain sensible posts, the visa agents are fulltime engaged in such matters by creating a database that resembles for instance specimens of stamps, seals and signatures ... used by local and communal administrations in Belgium.

**111. What security measures have been taken with regard to Schengen visa stickers?**

All visa stickers are stocked in sealed boxes (every box contains 250 specimen) and are sent to the posts by diplomatic carrier with a notice of receipt. Once arrived at the post, they are immediately locked in a safe. Only the head of post and the consul have access to it. In exceptional circumstances this restriction is lifted and other persons also have access.

**112. How are the diplomatic posts and consular missions of your country briefed on the Common Consular Instructions on Visas and prepared to apply them?**

A paper version of Schengen Instructions and BNL has been put at the disposal of our posts. This has been done aiming at a better readability at Schengen level and with a view to the application modalities of these instructions at BNL level. It is foreseen by the end of the year to proceed to the integration of the national instructions/modalities. The integration is issued in order to put it at the service of our posts and to obtain one general completely unified Instruction.

Starting from that point, every change of a paragraph, a chapter or an annex will be the object of page changes in the merged Instruction. This way, at the post, one avoids accumulating instructions. The instructions that modify the merged Instruction are addressed at our posts by means of 'circular letter' (via the diplomatic courier) and/or by 'circular telex' (via MS exchange).

A computers helpdesk is amongst others at the disposal of our posts whenever problems with the visa applications are concerned (question 113).

Finally, so-called 'pluridisciplinary missions' containing agents of different Belgian federal administrations (Foreigners Office, Ministry of Foreign Affairs, OCRF) gather 2 to 3 times a year in sensible countries. They address problems they are confronted with in their jurisdictions and correct practical divergences that aren't inscribed in the Schengen rules, BNL/national rules. They gather basic information in matters of the detection of forged and falsified documents and assure continuous field training to the management of the consular sections of our posts and our agents.

**113. How is the data transmission from your country's diplomatic and consular missions to the respective central authorities processed (with special reference to consultation)?**

A process of computerisation of the Belgian diplomatic posts abroad is going on. As from today till the end of the year (see the middle of 2003 at latest), almost all the posts will be equipped with a computer application called "Universal visa". This application allows amongst others, the coding, the handling and the transmission, through an electronic network, of the requests for visa to the central authority (Foreigner's Office). At present 26 posts are already equipped with this application, of which some of the most sensitive ones with regard to visa matters. In this way, about 70 % of the requests for visa introduced around the world at our representation is covered. This percentage should reach more than 80% by the end of the year.

All the data concerning the visa requests are encoded in the computerised system and sent through the network to Brussels, Ministry of External Affairs, and then to the Foreigners Office. The concerned services of these two departments have permanent access to the data concerning all the visa requests. The visa requests that require a decision of the central authority are transmitted with a private status. The central authority informs the competent post of his decision by means of the same network.

The non-computerised posts transfer the visa requests by fax or diplomatic suitcase.

In case of compelled consultation, the request for this will be sent via the network to the Central Authority if the visa application already exists. The Central Authority will sent via the Vision network. If the post is not computerised, the request for Vision consultation will be done by fax or by secured mail.

## 114. How would you characterise the consular co-operation between your country's diplomatic and consular missions and those of other Schengen States?

Concerning this issue, Belgium would like to refer to the conclusions of the Belgian Presidency (doc restreint: 13694/01 VISA 129 COMIX 711). These conclusions have taken stock of the local consular co-operation and have indicated the important problems in this matter.

## 115. How is your country participating in the automatic consultation process set out under Article 17(2) of the Convention (VISION network)?

As soon as a diplomatic post finds out that the nationality of a visa applicant is taken in the annex 5B, his visa request is being transmitted to the Central Authority for consultation. The Central Authority consults then all the Schengen partners through the Vision network and gives his final agreement after the regulatory delay of 7 days to the concerned post.

As soon as a diplomatic post finds out that the nationality of a visa applicant is taken in the annex 5B, his visa request is being transmitted to the Central Authority for consultation. The Central Authority consults then all the Schengen partners through the Vision network and gives his final agreement after the regulatory delay of 7 days to the concerned post.

## 116. What is the total volume of visa applications received by your country in the last three years? (by continent and/or by main regions of the world).What are the most significant developments?

	1999	2000	2001
Total number of visa requests (A, B, C)	154.653	188.037	170.553

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Total number of visa requests by geographical area (A, B, C)	1999	2000	2001
Asia	41.650	50.321	42293
Africa	43.024	58.888	55.471
Western-Europe	20.920	33.433	21.765
Eastern-Europe	42.564	36.605	38.970
Oceania	38	142	141

After an increase from 1998 to 2000, a decrease in the total number of visa request (A, B and C) in 2001 can be assessed compared to the precious year (2001). The figure for 2000 can be explained by the organisation of EURO 2000 in Belgium and by the then obligation of visa for Bulgaria. The comparison between 1999 and 2001 is perhaps more significant and reflects sufficient the general tendency of increase.

The evolution in the number of visa requests depends obviously from the jurisdiction and the historical bounds with certain countries. Belgium receives for example a great number of requests from the Magreb countries, Congo, Rwanda and Burundi, but these are not clearly reflected in this chart since there is a decline in 2001 in the global number of visa **requests** for the African continent. The figures here reflect only a general tendency without reference to the increase of requests from the above mentioned countries.

The figures for Eastern Europe are also surprising, but the slight diminution of the figures should be understood by the abolition of visa obligation for some of the Eastern European countries.

**Secondly, how many consultations did your country request from its Schengen partners? In how many cases was your country consulted by its Schengen partners?**

Figures are not available.

**117. The number of refusals of visa applications – if no statistics are available, please indicate the number in percentages or an estimated number.**

	1999	2000	2001
Total Visas refused	10.578	9.071	5.716

**118. Have the bodies responsible for the exceptional issue of visas at the border, pursuant to Article 17(3)(c) of the Schengen Convention and Part II, Section 5, and Annex 14 of the Common Manual, been briefed on the relevant Schengen arrangements and prepared to apply them? Which authorities will be responsible for this?**

The bodies responsible for the exceptional issue of visas at the border have been briefed on the relevant Schengen arrangements and are prepared to apply them. The responsible authority will be the Border Inspection of the Ministry of the Interior, Federal Immigration Departement.

## VII. Readmission

**120. What readmission agreements exist with**

**(a) other Schengen States?**

- Intra Benelux implementation of article 13 BNL Treaty
- Italy
- France
- Austria
- Germany

**(b) third countries? (the facto applied, not necessarily ratified)**

- Albania
- Bulgaria
- Croatia
- Czech Republic
- Estonia
- India

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- Latvia
- Lithuania
- Morocco
- Poland
- Romania
- Slovenia
- Switzerland

## **121. How many persons have been sent back every year since 1996 under these agreements?**

In as far as « third countries » are concerned, the available statistics do not show the difference between the individuals returned on the basis of existing readmission agreements or on any other basis.

For the Schengen States we have the numbers for 2001 :

To the Netherlands : 13 on the basis of the bilateral (BNL) agreement + 13 on the basis of the Dublin agreement.

To Germany : 10 on the basis of the bilateral agreement + 19 on the basis of the Dublin agreement.

To France : 14 on the basis of the bilateral agreement + 32 on the basis of the Dublin agreement.

Italy : 1 on the basis of the Dublin agreement.

United Kingdom : 1 on the basis of the Dublin agreement.

Greece : 1 on the basis of the Dublin agreement.

## **122. What is the percentage of foreigners readmitted (figures per State)**

See question 121.

## **123. What legal and practical measures have been taken to ensure the expulsion of illegally resident aliens? Are these measures effective?**

Legal measures:

An illegal alien can be removed in three different ways:

1. He can be given a delay to leave the country. No physical constraint or restraint is exercised on the individual. He has to remove himself within the given delay.

(If he so wishes, he can address himself to IOM for assistance).

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When the alien does not comply with this injunction, he can be arrested and detained at the disposal of the Aliens Office (Immigration Service) to ascertain and effectuate his physical removal.

2. He can be physically removed while in Police Custody. In this case the individual is physically brought to the border. This mostly means that he is brought to the airport and boarded on an airplane to his country of origin or a country of his choice (in as far as he complies with the entry regulations of that specific country).

3. He can be de detained at the disposal of the Aliens Office (Immigration Service) pending his removal. This happens when it appears to be impossible to remove the individual during the maximum duration of Police Custody or when the individual is not able to take care of his own departure or is not likely to leave on his own accord.

The maximum duration of detention is 4, 5 or even 8 months, depending on the circumstances.

## Practical measures:

When physically removed (point 2 and 3 above) the alien is:

- OR brought to the airport (or border) by the Police Unit which effectuated the arrest while still in Police Custody (in situation nr 2) . At the airport he is taken over by the Security Detachment of the Brussels National Airport. This Detachment - part of the Federal Police - has a Unit specially trained for effectuating removals.

Members of the removal unit will take care of the check in procedures and will bring him to the plane.

OR brought to one of the "Closed Centres for Illegal Aliens" (situation 3) by the arresting Unit. As from the moment the removal is legally and technically possible

(acquisition of travel documents,...) he is brought to the airport by the Transport Unit of the Aliens Office (Immigration Service). The rest of the operation evolves as described above. In principle an individual alien to be removed is not escorted until his/her final destination.

In principle these measures are reasonably effective. The effectiveness, however, is strongly dependant of several factors, acting in isolation or in concert. It is impossible to estimate in how far the "threat" of eventual detention is a deterrent to illegally remaining on the territory or in how far it is an "incentive" to depart. It is a well known fact that it is nigh impossible to acquire travel documents in time (or even at all...) for certain nationalities, even with the full cooperation of the individual to be removed.



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For the less notoriously difficult countries detention is effective, because it creates the opportunity to obtain travel documents while the individual is not given the opportunity to abscond...

In case of non-cooperation of the individual or when obtaining travel documents requires a long winded process the detention possibility is less effective.

The practical measures are quite effective. The special training of the removal officers improved the chances for a successful first removal attempt. Also the staff of the "closed centres" plays an important part in this (i.e. in making the individual accept the fact that he is going to be removed).

When the first attempt for physical removal is not successful, the individual will be removed under escort: he will be escorted on the airplane until his final destination by two or even more officers. The escorting officers are especially assessed and selected for this particular job and receive special training thereto.

## **124. What are the residence arrangements for foreigners who, for various reasons, cannot be expelled?**

Under "expelled" we understand "physically removed".

When it appears to be impossible to physically remove an individual during the legal maximum detention (see above), he will be released and an Order (injunction) to leave the territory (see 123,1) within a certain delay will be notified to the individual alien. Non compliance with this injunction can and will lead to a new detention pending further attempts to physical removal.

In theory it is possible to assign the individual to a geographically restricted area. In practice this appears to be totally ineffective.

So basically, no "residence arrangements" exist for foreigners who cannot be physically removed. In practice only a very few people were subject to this kind of measure.



**125. Is instant refoulement a legal possibility in the case of foreigners detected upon entering the country illegally or immediately after crossing the borders?**

At the border: Yes, the apprehended alien is simply returned to the country which he just left (at case of arrival the Chicago Convention is enforced).

On the territory (this includes "immediately after crossing the borders"): Normally the procedure described in question 123 applies. When the alien is in possession of (valid) travel documents, we strive to remove him while he is in police custody, which can be considered as "instant refoulement", is as far as "removal" is the same as "refoulement" (According to the Belgian Immigration Act "refoulement" has only one legal meaning: the fact that somebody is "turned away" at the border). The "direct removal" or "direct repatriation" as we refer to it means basically the physical removal to a third country (usually the country of origin) of an alien while he is still in police custody (i.e. there is no detention at the disposal of the Immigration Service).

We strive to do this for all illegal individuals apprehended while in possession of valid passports or travel documents. For some countries we can do this without their citizens being in possession of valid passports (Albania, Romania, Bulgaria and Estonia). The problem is sometimes that it is not possible to find seats on planes or that there are too many aliens of the same nationality to put on the same plane. In that case question/answer 123,3 applies.

**126. Is there some central body responsible for issuing travel documents for repatriation? What experience does it have in this field?**

Normally travel documents have to be obtained from the Consulates or Embassies. Only for the countries mentioned in the last paragraph of the answer on question 125 "EU one way travel documents" are made up by the Immigration Service (Removal Section) OR by the Removal Unit of the Federal Police at the National Airport (with consent of the Immigration Service).

Generally the experiences with it are positive. Great danger is in the "overenthusiasm" or "over zealousness" to give these documents to individuals without being sure of their citizenship...

## VIII. Entry

**127. What administrative and criminal-law penalties have been introduced under your national legislation for**

**a) persons entering the national territory illegally ?**

A person who enters or resides illegally in the national territory shall be punished by a term of imprisonment of from eight days to three months and a fine of twenty-six Euro<sup>1</sup> to two hundred Euro<sup>1</sup> or by one of these penalties alone.

The same penalties shall be applicable to an alien who has been ordered to leave certain places, to remain away from them or to reside at a specific place and who does not comply with this obligation for no valid reason.

If one of the infringements referred to in paragraphs 1 and 2 is repeated within a period of three years, these penalties shall be increased to a term of imprisonment of from one month to a year and a fine of one hundred Euro<sup>1</sup> to one thousand Euro<sup>1</sup> or one of these penalties alone.

**b) persons involved in assisting illegal immigration ?**

Anyone who knowingly helps or abets an alien in his preparations for illegal entry or illegal residence in the national territory, who facilitates these preparations, or who aids and abets him in carrying out these acts, shall be punished by a term of imprisonment of from eight days to three months and a fine of one thousand seven-hundred Euro<sup>1</sup> to six thousand Euro<sup>1</sup> or one of these penalties alone.

If the aid or assistance to an alien was out of mainly humanitarian considerations, the preceding paragraph will not be applied.

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<sup>1</sup> Have to be multiplied by 5

If one of the infringements referred to in paragraph 1 is repeated within a period of three years, these penalties shall be increased to a term of imprisonment of from one month to a year and a fine of six thousand Euro<sup>1</sup> to thirty thousand Euro<sup>1</sup> or one of these penalties alone.

The persons who, in whatever way, contributes directly or indirectly to the entry, transit or residence of an alien on the national territory, using:

- in respect to the alien, direct or indirect ruse, violence or any other means of coercion;
- the vulnerable position the alien is in following his illegal and precarious situation, his minority or due to a pregnancy, illness or physical or mental disability or deficiency;

shall be punished by a term of imprisonment of one year to five years and a fine of five hundred Euro<sup>1</sup> to twenty-five thousand Euro<sup>1</sup>.

## **c) persons using labour made up of illegally resident aliens ?**

The persons who, in whatever way, contributes directly or indirectly to the entry, transit or residence of an alien on the national territory, using:

- the vulnerable position the alien is in following his illegal and precarious situation, his minority or due to a pregnancy, illness or physical or mental disability or deficiently;

shall be punished by a term of imprisonment of one year to five years and a fine of five hundred Euro<sup>1</sup> to twenty-five thousand Euro<sup>1</sup>.

## **128. What measures are applied for the application of Article 27 of the Convention against those who assist an alien to enter the territory of one of the other Schengen States illegally ?**

Answered with question 127.

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<sup>1</sup> Have to be multiplied by 5

**129. Are criminal-law penalties envisaged against those who assist a person to leave a country allowing them to enter another one illegally ?**

Answered with question 127.

**130. In accordance with the provisions of Article 26 of the Convention, does the law oblige sea or air carriers or operators of international coach services to take all necessary measures to ensure that an alien is in possession at the point of departure of the travel documents required for entry into the Contracting Parties ?**

§1. Regarding the entry of aliens to the national territory, is punishable by a fine of 3.000 Euro<sup>1</sup> for each transported passenger:

1. The public or private air carrier which, at the occasion of one and the same trip, transports at least five passengers to Belgium who are without the travel documents as mentioned in article 2 (of the law of 15/12/1980 on entry, residence, establishment and deportation of aliens), without having taken the precautions to verify whether these passengers hold the before said documents;

2. The public or private sea carrier which, at the occasion of one and the same trip, transports at least five passengers to Belgium who are without the travel documents as mentioned in article 2 (of the law of 15/12/1980 on entry, residence, establishment and deportation of aliens), without obeying the request to take the convenient measures to make sure these passengers hold the aforesaid documents;

3. The public or private air carrier which, at the occasion of one and the same trip to a third country, transports at least five passengers to Belgium who are without the travel documents which are required to gain access to that third country, without having taken the precautions to verify whether these passengers hold the before said documents;

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<sup>1</sup> Have to be multiplied by 5

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4. The public or private sea carrier which, at the occasion of one and the same trip to a third country, transports at least five passengers to Belgium who are without the travel documents which are required to gain access to that third country, without obeying the request to take the convenient measures to make sure these passengers hold the aforesaid documents;

5. The public or private carrier which carries out international transport of persons by bus, coach or minibus -border traffic excepted- and which, at the occasion of one and the same trip, transports at least five passengers to Belgium who are without the travel documents as mentioned in article 2 (of the law of 15/12/1980 on entry, residence, establishment and deportation of aliens), without having taken the precautions to verify whether these passengers hold the aforesaid documents;

6. The public or private carrier which carries out international transport of persons by bus, coach or minibus -border traffic excepted- and which, at the occasion of one and the same trip to a third country, transports at least five passengers to Belgium who are without the travel documents which are required to gain access to that third country, without having taken the precautions to verify whether these passengers hold the aforesaid documents;

The number of passengers as referred to in the first paragraph, does not include the relatives in the first degree and the spouse who accompany those passengers.

§2. The legal persons/bodies are legally liable for the fines and costs to which their bodies or authorised agents have been sentenced for a violation of the terms of this text.

§3. In case a new violation has been ascertained within a term of one year after the date of the summons, the amount as mentioned in §1, first paragraph, will be doubled.

## **131. Have criminal-law or coercive measures been introduced in the case of non-compliance with this duty ?**

§1. The Minister or his authorised agent can impose an administrative fine of 3.750 Euro to:

1. The public or private air carrier for each passenger taken to Belgium who is without the required documents as mentioned in article 2 (of the law of 15/12/1980 on entry, residence, establishment and deportation of aliens);
2. The public or private sea carrier for each passenger taken to Belgium who is without the required documents as mentioned in article 2 (of the law of 15/12/1980 on entry, residence, establishment and deportation of aliens);
3. The public or private carrier which carries out international transport of persons by bus, coach or minibus -border traffic excepted- for each passenger taken to Belgium who is without the required documents as mentioned in article 2 (of the law of 15/12/1980 on entry, residence, establishment and deportation of aliens);
4. The public or private air carrier trip for each passenger taken to Belgium at the occasion of a trip to a third country who does not hold the documents which are required for access to that third country;
5. The public or private sea carrier trip for each passenger taken to Belgium at the occasion of a trip to a third country who does not hold the documents which are required for access to that third country;
6. The public or private carrier which carries out international transport of persons by bus, coach or minibus -border traffic excepted- for each passenger taken to Belgium at the occasion of a trip to a third country who does not hold the documents which are required for a transit through Belgium or for access to that third country;

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The administrative fine can be reduced according to the protocol agreement which was previously closed between the carrier and the Minister or his authorised agent.

The Minister or his authorised agent stipulates the amount of the administrative fine in the summons which ascertains the violation.

The ruling which imposes the administrative fine takes effect immediately notwithstanding any higher appeal.

The legal person/body is legally liable for the payment of the administrative fine which is imposed on his administrators, his management and executors staff, his agents or trustees.

§2. The amount of the administrative fine will be returned when the Minister or his authorised agent gives access to the alien who was without the required documents as mentioned in article 2 (of the law of 15/12/1980 on entry, residence, establishment and deportation of aliens) and who asked for asylum at the border.

The amount of the administrative fine will likewise be returned when Commissioner-general for the Refugees and the Stateless Persons, according to article 63/3 (of the law of 15/12/1980 on entry, residence, establishment and deportation of aliens), decides that the person in question is given provisional access in the capacity of candidate refugee.

§3. In case the carrier or his representative fails to pay the administrative fine immediately or fails to consign, the Minister or his authorised agent may decide to impound the vehicle which used for this transport or any other vehicle which the carrier owns.

The costs and risks which accompany the impoundment of the vehicle remain at the expense of the carrier.

§4. The vehicle will remain impounded until:

1. The carrier or his representative pays the administrative fine;
2. The carrier or his representative consigns the amount of the administrative fine to the Deposit and Consignment Fund;



3. The Court of First Instance rules that the administrative fine is not due;

4. The Minister or his authorised agent grants permission to release the vehicle for departure.

§5. On pain of dissolution, the carrier who challenges the ruling which was made by the Minister or his authorised agent has to file an appeal to the Court of First Instance within a term of one month from the notification of this ruling.

When the Court of First Instance rules that the appeal of the carrier is admissible and founded, the amount which was paid or given in consignment must be returned or impounded vehicle must be released for departure.

The Court of First Instance must make a ruling within a term of one month from the filing of the appeal as mentioned in paragraph one.

*The text of the first paragraph will be included in the ruling which imposes the administrative fine.*

§6. In case the carrier fails to pay the fine, the ruling of the competent official or the ruling which has been made final by the the Court of First Instance will be notified to the Administration of value-added Tax, Registration and Domains, in order that the amount of the administrative fine may be collected.

§7. In case the carrier or his representative has consigned the amount of the administrative fine to the Deposit and Consignment Fund and in case he fails to file an appeal to the Court of First Instance within the aforesaid term, the amount which has been consigned will fall to the State.

## **132. Are carriers legally obliged to return aliens who are not in possession of the required documents ?**

The public or private carrier which takes a passenger into the country who is without the required documents as mentioned in article 2 (of the law of 15/12/1980 on entry, residence, establishment and deportation of aliens), or who falls within any of the cases as mentioned in article 3 (of the

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aforesaid law), is under the obligation to have him taken back without further delay to his country of origin or to any country that will give him access. The carrier is personally liable with the passenger for the payment of the costs for the latter's return.

In case the passenger is without the required documents as mentioned in article 2 (of the aforesaid law), the public or private carrier is also legally liable with the passenger for payment of the costs of the latter's accommodation, stay and medical care.

### 133. Figures on how many penalties were imposed and how many were effectively applied?

	Imposed penalties	cancelled penalties	appeal against the penalties
2000	372 (398 persons )	98 (112 persons )	2
2001	1310 (1614 persons )	77 (108 persons )	30
2002 (01/06)	260 (315 persons )	6. 9 ( 10 persons )	5

### 134. Is a person crossing a border outside the authorised border-crossing points liable to criminal-law or administrative penalties ?

The alien who enters the country illegally is punishable with a prison sentence from a month to one year and/or with a fine amounting from 26 Euro<sup>1</sup> to 200 Euro<sup>1</sup>.

A further offence within three years will lead to a prison sentence from a month to one year and /or to a fine amounting from 100 Euro<sup>1</sup> to 1.000 Euro<sup>1</sup>.

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<sup>1</sup> Have to be multiplied by 5

**135. Which are the forces involved in combating illegal immigration inside the territory, and what are their exact powers and the legal and practical means at their disposal to carry out their tasks?**

1. Article 21 of the law of 5 August 1992 authorises the officers of the governmental police to see to the observance of the legislation on the entry in Belgium, the residence and the removal. Combating illegal immigration inside the territory (without criminal prosecution, see further) is a part of this task.

The following forces are concerned as such officers of governmental police: federal and local police officers, mayors, governors and district super-intendents (art. 4 law 5 August 1992).

To carry out their task the act of 5 August 1992 provides the following means: executing identity controls (art. 34), the use of violence (art. 37), the use of fire weapons (art. 38), executing arrests to maintain the public peace or public security (art. 31), □ Executing arrests in order to clear out the alien's residential situation is also possible (art. 74/7 law of 15 December 1980).

2. The following forces are authorised to combat illegal immigration in the territory *in view of criminal prosecution*: the officers of the judicial police, the lower officers of the federal police, the civil servants of the Alien's Office, the inspectors of the Ministry of Employment and the inspectors of the Royal Office for social security (art. 81 law of 15 December 1980).

For this matter, they can collect the evidence of crimes and inform the Public Prosecutor about the crime and the suspects.

**136. Have photocopies of the residence documents contained in Annex 13 to the Common Consular Institutions been circulated to the Passport Control Services in order to facilitate passport controls ? How often is this circulation updated ?**

If available, the specimens of the residence documents are put within no time on the official website of the Immigration Office which can be consulted by every border-crossing point. They are responsible for the distribution of this information in their section . Furthermore this information is also sent by fax and/or mail to every border-crossing point .

Whenever the updates of the residence documents are issued by the European Union, they are distributed as soon as possible by the Immigration Office, Border Control.

However, an update of documents needs sometimes more specification : the lack of clear instructions makes it sometimes difficult to know whether it replaces other residence documents or whether it has to be considered as new residence documents.

**137. What method is used for keeping uniform entry/exit stamps ?**

In most of Belgian border crossing points the Schengen uniform stamps are kept away in safes or in armoured closets at least for the ones kept in reserve. These uniform stamps placed by the Alien's Office at the border-crossing points and used in a collective way do also use this way of storage. (At less frequented border crossing points pairs of uniform stamps for each and every agent are not justified).

Certain border-crossing points are equipped with a pair of entry/exit stamps corresponding to the number of agents on duty in that border crossing point. The storage of these stamps is placed under the responsibility of each agent, the stamps are then stow away in personal closets, racks or offices.

**138. What are the methods and times for changing the numerical security codes for uniform entry/exit stamps ?**

The change of the numerical security code occurs every 3 months. The selection of the number forming this code is chosen in a random way by the Ministry of Internal Affairs, Alien's Office, Border Control. The new code is transmitted by fax to the Federal Police, Head Office of Police Administration, Border control and Immigration, who will then hand it over to the different Belgian border crossing points. This number code is also personally transmitted to the responsible of the Permanence Service at the Alien's Office who will insert it in his own documents stowed away in a closet. It is possible in this way to inform at any time the authorities in charge with residence control the genuine of a security code at a determined date.

**139. Is there a memorandum governing cooperation between the competent authorities involved in combating illegal immigration within the country?**

Several services, i.e. the Ministry of the Interior, the Ministry of Foreign Affairs and the Ministry of Justice, are working regularly together under the supervision of the Prime Minister.

Concerning the trafficking of human beings a "Centre of Information and Analysis" has been established between the departments - Employment and Labour

- Social Inspection

- Centre for Equal Rights

Each of these services make a strategic analysis, which is generalised afterwards and which leads to conclusions and proposals.

**140. How many illegal immigrants have been detected and what were their countries of origin?**

Period: 2000, 2001 and January till 1st of June 2002.

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Detected illegal immigrants in order of their country of origin.

Country	2000	2001	2002 (till 1st of May)
Afghanistan	1846	1478	161
Albania	1546	1511	196
Algeria	799	1013	115
Angola	127	98	16
Argentina	3	0	0
Armenia	314	366	33
Australia	1	4	0
Austria	4	13	0
Azerbaijan	58	64	8
Bahrain	0	1	0
Bangladesh	101	85	3
Barbados	1	0	0
Benin	31	16	1
Bhutan	6	13	2
Bolivia	0	3	0
Bosnia-Herzegovina	162	140	8
Brazil	89	120	30
Bulgaria	404	1002	350
Burkina Faso	19	16	0

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Burundi	9	40	5
Byelorussia	74	129	2
Cambodia	0	13	0
Cameroon	102	90	9
Canada	6	5	1
Cape Verde	9	6	0
Central African Republic	7	0	1
Chad	3	0	0
Chile	86	11	1
China Peoples Republic	786	447	31
Colombia	73	87	7
Congo	12	0	0
Congo DR (ex-Zaire)	668	485	36
Croatia	117	89	16
Cuba	27	19	3
Czech Republic	153	173	26
Denmark	6	1	0
Djibouti	4	11	1
Dominica	2	0	0
Dominican Republic	23	3	0
Egypt	69	47	4
El Salvador	0	2	0
Equator	404	398	66



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Eritrea	0	4	0
Estonia	43	28	4
Ethiopia	33	25	1
Fiji	2	0	0
Finland	0	2	0
France	156	135	10
Gabon	4	5	6
Gambia	33	12	1
Georgia	516	799	62
Germany	87	32	1
Ghana	131	55	5
Greece	25	36	3
Grenada	0	1	0
Guatemala	1	0	0
Guinea	154	152	19
Guyana	1	0	0
Haiti	0	1	0
Honduras	0	2	0
Hong Kong	2	1	0
Hungary	75	82	25
Iceland	1	0	0
Indefinite	112	134	13

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India	442	622	45
Indonesia	5	6	0
Iran	615	548	191
Iraq	663	548	191
Ireland	16	4	0
Israel	75	86	3
Italy	93	66	8
Ivory Coast	50	26	3
Jamaica	13	3	0
Japan	12	0	0
Jordan	21	6	2
Kazakhstan	53	122	13
Kenya	13	10	2
Kirghizistan	24	46	0
Kuwait	2	0	0
Laos	4	0	2
Latvia	58	29	3
Lebanon	101	55	4
Liberia	56	52	5
Libya	32	22	1
Lithuania	173	184	59
Luxembourg	0	0	43
Macedonia	159	810	0

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Madagascar	2	2	0
Malaysia	5	10	6
Malawi	1	0	0
Mali	37	12	2
Mauritania	42	55	3
Mauritius	7	8	0
Mexico	14	7	1
Moldavia	173	310	41
Mongolia	160	256	18
Morocco	1087	943	115
Mozambique	1	1	0
Myanmar	0	0	1
Namibia	0	1	0
Nepal	49	60	9
Netherlands	88	37	4
Niger	5	5	2
Nigeria	291	221	22
Pakistan	211	252	24
Palestine	75	111	10
Panama	0	0	2
Paraguay	2	0	0
Peru	51	8	2

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Philippines	54	25	2
Poland	1692	1899	455
Portugal	51	50	2
Romania	1924	1669	263
Russia	1204	849	104
Rwanda	75	30	3
Saudi Arabia	6	4	0
Senegal	218	68	6
Seychelles	1	0	0
Sierra Leone	195	296	51
Singapore	5	2	0
Slovakia	173	495	96
Slovenia	31	28	3
Somalia	113	101	8
South Africa	88	8	0
South Korea	18	5	0
Spain	104	64	3
Sri Lanka	591	638	12
Sudan	179	204	25
Surinam	5	2	1
Sweden	19	2	0
Switzerland	4	3	0
Syria	99	67	6

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Tadzhikistan	17	4	0
Taiwan	2	4	0
Tanzania	6	3	2
Thailand	10	20	20
Togo	61	27	2
Trinidad	1	0	0
Tunisia	129	97	7
Turkmenistan	28	0	0
Turkey	910	1491	128
Uganda	16	6	0
Ukraine	454	532	47
United Arab Emirates	1	0	0
United Kingdom	232	41	1
United States of America	22	18	2
Uruguay	0	1	0
Uzbekistan	16	46	6
Venezuela	8	1	0
Vietnam	17	14	6
Yemen	8	6	0
Yugoslavia	5479	2641	199
Zimbabwe	3	1	1
<b>Total</b>	<b>28777</b>	<b>26511</b>	<b>3580</b>

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## 141. How many aliens have sought political asylum ?

a) At the border :

Period 2000	January	100
	February	110
	march	106
	April	122
	May	105
	June	117
	July	111
	August	104
	September	141
	October	142
	November	132
	December	222
<b>total : 1512</b>		

Period 2001	January	164
	Febuary	117
	March	156
	April	143
	May	140
	June	122
	July	119
	August	118
	September	156
	October	128
	November	70
	December	57
<b>total : 1490</b>		

Period 2002	January	23
	February	22

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March	66
April	46
May	71
<b>total :</b>	<b>228</b>

b) Inside the country :

- Period 2000 :
  - Aliens office : 40.926
  - Prison and Closed centre : 267

**Total : 41.193**

- Period 2001 :
  - Aliens office : 22.719
  - Prison and Closed centre : 345

**Total : 23.064**

- Period 01.01.2002 - 31.05.2002 :
  - Aliens office : 7.246
  - Prison and Closed centre : 225

**Total : 7.471**

### **IX. Police cooperation**

**142 With which countries have agreements been concluded or are agreements being prepared in matters of police cooperation ?**

Belgium has concluded agreements on police cooperation with The Netherlands, Luxembourg, France and Germany. Agreements are in preparation with the United Kingdom.



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- 143 With which Schengen States have agreements been concluded, or are these agreements in preparation or under study in matters of police cooperation in border zones under the provisions of Article 39(4) of the Convention (see Executive Committee Decision SCH/Com-ex (98) 51 Rev. 3 of 16.12.1998)?**

**Describe the cooperation.**

Under the provisions of art. 39 (4), Belgium has concluded an agreement with France to create a common customs and police office on Belgium territory.

Similar agreements are in preparation with the Netherlands, Luxembourg and Germany.

- 144 With which other Schengen States has the exchange of liaison officers been agreed (Articles 7 and 47 of the Convention)?**

Belgium has agreements on liaison officers with France, the Netherlands, Germany, Austria, Spain (accreditation for Portugal) and Italy.

The United Kingdom, Spain, France, the Netherlands and Luxembourg have liaison officers in Brussels.

- 145 How have police officers been trained, or how are they being trained in the application of the provisions of the Convention? Have instructions, administrative provisions, etc. been prepared with a view to the entry into force of the Convention?**

Belgian police officers have been trained during their basic police training courses. The necessary instructions and administrative provisions have been prepared with a view to the entry into force of the Convention.

- 146 Have your country's police officers been briefed on the Handbook on Cross-Border Police Cooperation and prepared to implement it?**  
**Is the Handbook available and in use in all police units?**

Yes, our police officers have been briefed, trained and are prepared to implement the Handbook. The Handbook has been send to the 3 former police forces.

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However, a newer version than that from 1998 is not available. No police unit has an actualised handbook, despite the fact that the provisions of the convention are duly applied. A new version should be distributed by the Secretariat of the Council (cfr. The conclusions of Enfopol 140 Comix 752 of 28.11.2001).

**147 Within the framework of cross-border cooperation pursuant to Article 39(1-3) of the Schengen Convention, does national law empower your police services to authorise and execute, without the involvement of the judicial authorities, the measures listed in the document adopted by the Executive Committee of Schengen on 28 April 1999 (SCH/Com-ex (99) 18; SCH/I (98) 75 rev. 5) on principles for police cooperation in the prevention and detection of offences? If not, what measures are the police not authorised to take?**

Yes, national law empowers our police services to authorise and execute art. 39 – 1 and 3 without the involvement of the judicial authorities. Art. 39-2 requires the approval of the judicial authorities.

**148 What additional measures, if any, are the police authorities in your country authorised to take, without the involvement of the judicial authorities, which are not mentioned in this Executive Committee Decision?**

No additional measures, the police is authorised to exercise all measures as mentioned in the a.m. document.

**149 Where the police authorities do not have the power to deal with requests, do they forward them pursuant to Article 39(1), sentence 2 to the competent judicial authorities? Do the judicial authorities accept requests to the police for legal assistance forwarded in this way?**

Yes, the police authorities forward such request to the judicial authorities, which will accept the request for legal assistance from a judicial authority.

- 150 Do the judicial authorities accept requests for authorisation according to Article 39(2) of the Schengen Convention by fax or e-mail, as provided for in the Executive Committee's decision (SCH/Com-ex (99) 18)?**

Yes, the judicial authorities accept requests that are forwarded by fax . E-mail is rather unusual till now.

*May – according to national provisions on judicial assistance and/or data protection – information forwarded to non-Schengen countries through police channels be passed on to judicial authorities there and used as evidence in legal proceedings or does this require the explicit consent of the judicial authorities in your country, similar to Article 39(2) of the Schengen Convention?*

Yes, if such information will be used as evidence in legal proceedings, explicit consent of our judicial authorities is required.

- 151 Which clauses restricting the purposes for which data may be used are employed by your police authorities in international dealings in relation to Schengen/non-Schengen States?**

National law (COL 2/2000, circular letter from the College of General Prosecutors) restricts the purpose of use of data.

- 152 Is there an obligation to inform the national central body, if in an urgent case the direct channel pursuant to Article 39(3), sentence 2 of the Schengen Convention is used?**

Yes, all police must inform the central unit.

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- 153 How many cross-border surveillance operations pursuant to Article 40 of the Schengen Convention have the competent authorities in your country carried out over the last three years (broken down by year, by Schengen State, by normal case/urgent case and by offence giving rise to the observation).**

*No relevant information is available on the offences or cases.*

<b><i>Statistics art. 40 - 2001</i></b>	<b><i>Statistics art. 40 - 2001</i></b>
<b><i>Requests from other countries to Belgium.</i></b>	<b><i>Requests from Belgium to other countries.</i></b>
<i>Netherlands : 93</i>	<i>Netherlands : 25</i>
<i>France : 3</i>	<i>France : 5</i>
<i>Germany : 11</i>	<i>Germany : 10</i>
<i>Luxembourg : 8</i>	<i>Luxembourg : 20</i>
<i>United Kingdom : 20</i>	<i>United Kingdom : 3</i>
<i>Finland : 3</i>	<i>Finland : 0</i>
<i>Denmark : 2</i>	<i>Denmark : 0</i>
<i>Sweden : 2</i>	<i>Sweden : 2</i>
<i>Italy : 1</i>	<i>Italy : 5</i>
<i>Spain : 0</i>	<i>Spain : 2</i>

<b><i>Statistics art. 40 - 2002 – till June 30</i></b>	<b><i>Statistics art. 40 - 2002 – till June 30</i></b>
<b><i>Requests from other countries to Belgium.</i></b>	<b><i>Requests from Belgium to other countries.</i></b>
<i>Netherlands : 26</i>	<i>Netherlands : 9</i>
<i>France : 7</i>	<i>France : 1</i>
<i>Luxembourg : 2</i>	<i>Luxembourg : 1</i>
<i>United Kingdom : 11</i>	<i>United Kingdom : 1</i>
<i>Germany : 7</i>	<i>Germany : 4</i>
<i>Spain : 1</i>	<i>Spain : 1</i>
<i>Italy : 3</i>	<i>Italy : 3</i>

**154 Which measures has your country taken/which provisions must be observed regarding the use of technical means in cross-border surveillance?**

The technical means used in cross-border surveillance must be adopted by our national law.

The enclosure 2 of the Handbook does not give enough useful information to the police service that has to deal with the case, nor to the concerned magistrate who has to authorise the case.

**155 Under national law is an attempted offence sufficient for measures to be taken pursuant to Article 40(1) and (2)/Article 41(1) and (2) of the Schengen Convention?**

If an attempted offence is penalised by at least six months imprisonment, there is a legal base for executing the procedures as mentioned in art. 40 and 41 of the Schengen Convention.

**156 Except in cases of hot pursuit pursuant to Article 40(2) of the Schengen Convention, where it is obviously not possible to seek the prior authorisation of the corresponding central authority designated in Article 40(5), are the officials of the Schengen States authorised to conduct cross-border surveillance also allowed to carry their service weapons in your country for standard surveillance operations pursuant to Article 40(1) as provided for under Article 40(3)(d) of the Schengen Convention?**

Yes, the a.m. officials are authorised to carry their service weapon.

**157 Is information on the type and number of service weapons required, and if so, what?**

No, information on the service weapons is not required.

**Does your country place restrictions in this connection on observation teams from other Schengen States, and if so, what are they?**

In this connection, there are no restrictions on observation teams.

- 158** How many cross-border hot pursuits pursuant to Article 41 of the Schengen Convention have the competent authorities in your country carried out over the last three years (broken down by year, by neighbouring Schengen State(s) and by offence giving rise to the pursuit)?

*No relevant information on the offences is available.*

<b><i>Statistics art. 41 - 2002 – till June 30</i></b>
<b><i>From Belgium to other countries</i></b>
<i>Netherlands : 7</i>
<i>France : 8</i>

<b><i>Statistics art. 41 - 2001</i></b>
<b><i>From Belgium to other countries</i></b>
<i>France : 16</i>
<i>Netherlands : 32</i>
<i>Germany : 6</i>

<b><i>Statistics art. 41 - 2000</i></b>
<b><i>From Belgium to other countries</i></b>
<i>France : 2</i>
<i>Netherlands : 19</i>
<i>Germany : 3</i>

- 159 If so, which solutions are under consideration and which tactical and operational requirements from the common catalogues of requirements of the Schengen States, set out in the Executive Committee Decision of 28 April 1999 (SCH/Com-ex (99) 6), could be met?**

Together with the Netherlands, Germany and France, we share a common data communication system, EMMI (European Multi Media Information system) . Our 'Operational Units at the border' use this communication system at the border regions from the a.m. countries.

Together with the United Kingdom, we share a more or less similar communication system, LINGUANET.

## **X. Drugs**

### **160. What specific organizational measures have been adopted at the external borders?**

- a. The police services have been reorganized in Belgium. Specific units have been created for external border controls but not specifically to combat drug trafficking
- b. Staffing. p.m.
- c. Customs replies.
- g. The federal police has vessels and aircraft that are also used to detect and track illegal shipments

### **161. Technical aspects**

Specific measures at external borders: Tactical measures are intelligence driven. Controls are based on profiling, selection criteria and risk analysis.

- a. Training of the staff is specific. The technique to target controls has been refined and the access to the necessary tools and information sources has been elaborated.



- b. New methods. No specific new methods have been introduced since 1993. But there has been a consistent effort from the central office to make available all relevant information and intelligence to the border units. Also strategic analysts have been trained and are assisting in this effort.
- c. Customs reply.
- d. Ratification of conventions: all relevant UN conventions have been ratified.

## **162. Technical means deployed at external borders to detect illegal drug smuggling.**

- a. sniffer dogs: The federal police has 42 drug sniffer dogs that are widely used also at external borders.
- b. X-ray machines: The federal police has ordered an X ray machine. Customs services have a fixed x-ray machine in Antwerp and also a mobile one.
- c. Permanent equipment: different tools are at the disposal of the external border units.
- d. Mobile facilities: no
- e. endoscopes: this equipment is sometimes used
- f. urine analysis is very often used to detect the presence of drugs concealed in corpora
- g. Other: the federal police is also using an IONSCAN detector in a seaport.

## **163. Information in international framework**

- a. International agreements: some bilateral co-operation agreements have been signed that cover also the fight against drug trafficking.
- b. Participation in international working groups: UN- HONLEA, Interpol, Europol, ADEC, IDEC, STAR, POMPIDOU.
- c. Communication and information systems: The usual systems for communication with the international organizations such as Interpol and Europol are used. Also a network of liaison officers is providing essential information.
- d. Criminal tactics: special police tactics are also used to detect smuggling at external borders.

## 164. Results in terms of seizures

These figures are not available as such. They will be provided at a later date.

## XI. Data Protection

### 165. Who is in your country the national supervisory authority within the meaning of article 114 of the Convention?

The "Commission de la protection de la vie privée - Commissie voor de bescherming van de private levenssfeer".

### 166. Has the supervisory authority used its right of access to the national part of the SIS? Is access occasional or frequent?

Yes. Access is occasional; in the exercise of indirect access in name of a citizen or in the framework of an inspection.

### 167. Is this right of access used in situ? Have any supervision been organised in parallel ( one person in the Sirene bureau and the other with the final user)?

The right of access is used in situ at the N-SIS Belgium. Sometimes access has been exercised through other law enforcement agencies.

**168. When there is access on the basis of Article 109 of the Schengen Convention, does the national supervisory authority also play a supervisory role or does it simply act as the authorised representative of the applicant? What exactly does the national supervisory authority supervise over an alert relate to: the legality of the procedure or also the validity of the grounds for the alert?**

The National supervisory authority acts as the representative of the applicant, but often takes the opportunity to act as the supervisory authority as well, by trying to resolve problems on a more global scale than individual requests of access, by discussing new developments in the field, and occasionally inspecting the premises. Generally speaking, the inspections and exercise of indirect access take place in a very cooperative atmosphere, and allows the Commission to exercise its supervisory role in a very satisfactory way.

The Commission supervises both the legality of the procedure, and the grounds for the alert, provided the alert has been issued by the Belgian police. However, when the alert has been issued on a magistrate's request, the Commission has very little scope for action.

**169. How is cooperation between your national supervisory authority and other national supervisory authorities if it transpires that another Schengen country has recorded a person and your national SIRENE bureau does not have the complete file?**

Cooperation is frequently needed in the request for indirect access. There have been mostly files involving France, Germany and Italy. Cooperation is excellent with the French data protection authority. It is a bit slower with the German authority, due to the federal structure of data protection. Some discussions have arisen about the grounds for inclusion of German alerts concerning asylum seekers whose application has been turned down in Germany, but who had afterwards gained legal right of residence in Belgium. The Belgian DPA then considered that the deletion of the alert should be automatic, opinion not shared by Germany.

The cooperation with the Italian PA has been in general much slower, sometimes up to 12 months to get an answer.

**170, 171, 172 and 173.**

Questions should be asked directly to the SIRENE office or the competent authority.

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**174. How do you resolve the conflict between the transparency of public action and the protection of data entered in the SIS? How many people have asked to be informed of data concerning them? In how many cases did corrections have to be made?**

The amount of requests is moderate. Since 1995, some 70 requests of access have been made.

**175-176.**

Questions should be asked to the competent authorities.

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