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## DECLASSIFICATION

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

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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.

# RESTREINT UE



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THE EUROPEAN UNION**

**Brussels, 13 November 2006 (13.11)  
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**14527/1/06  
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## **NOTE**

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from: the Presidency  
to: the Schengen Evaluation Working Party

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

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## **PART I**

### **a. Background applicable to all new Member States**

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

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

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## b. Background for Slovakia

10. The Declaration of Readiness of Slovakia allowed to start the Schengen evaluation by 1 January 2006, without any reservation (doc. 5425/05 SCHEVAL 3 COMIX 36).
11. Inspections on site took place at the land and air borders as well as in two Consulates. Police cooperation and Data protection have been assessed in situ, too.
12. (Slovakia has provided the Schengen evaluation working party with a follow up report, in which it states that it will be possible to remedy the weaknesses that have been detected without creating unnecessary delays.)

## PART II - Specific findings

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

In general, the responsibility towards **border management** was well understood by the Slovak authorities, although it is unfortunate that no written strategy is available.

Concerning **land borders**, the border surveillance system at the Slovak – Ukraine border still has serious technical deficiencies and the current situation does not fulfil Schengen requirements. Slovakia has presented a "plan of new border surveillance concept" which should fill the prevailing gaps in the system. This new system should be re-evaluated before lifting internal border controls in order to verify the development of the border surveillance concept.

Since the Customs is responsible for maintaining of public order in the area of land crossing points, the role of the Border Police in special and emergency cases related to border security is only supportive and its operational independency is territorially limited. In the context of the re-evaluation, particular attention should be paid to this organisational issue.

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The number of visas issued at the border is very high. Visas should in principle be issued at the appropriate consular post and only in limited cases defined in the Schengen acquis, at the border.. Cooperation between the Border Police and consular authorities to guarantee effective pre-frontier control measures and prevent the use of false documents is essential in this respect.

The infrastructure, procedures and equipment do not meet many of the Schengen requirements in the road crossing point Vysne Nemecke and the crossing point should be revisited.

The current infrastructure at the **airports** is not fully in line with the Schengen requirements. At the airports, there is also room for improvement in terms of language skills, statistics, managerial skills and border checking procedures. Bratislava airport should be revisited.

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

Access management, information and staff training were appreciated.

However particular attention should be paid to certain security issues (regarding premises in Kiev and Belgrade, regarding storage of visa stickers in Belgrade); proper assessment of individual applications including personal appearance and interviewing, particularly in light of the low current rejection rate and the risk of illegal immigration and misuse of visa; the current practice of accepting group visa applications; the traceability of visa stickers, and the reviewing of bilateral agreements including waiver of the handling fee and other differences in fees. Monitoring of accredited travel agencies should be introduced. Finally, national legislation should take account of the procedural safeguards enjoyed by EU family members (refusals, right of appeal).

The introduction of **data protection** requirements complying with the Schengen acquis faces problems of staff and budget to perform its duties with respect to the SIS, but it is equally important to establish and reinforce a real functional independence This balance of competence should be verified during an revisit.

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On **police cooperation**, important parts of the tasks indicated in the National Action Plan for the implementation of the Schengen standards have already been realised, although concrete measures to implement it are still in an early stage. The National Action Plan gives a clear time schedule for the implementation of the Schengen Acquis, and should be revised and updated on a regular basis.

Close cross-border cooperation is an integral part of day-to-day police work. Introduction of the European Criminal Intelligence Model (ECIM) is to be considered.

The ratification procedures for bilateral agreements should be accelerated and a bilateral agreement with Poland on hot pursuit should be concluded. The establishment of new Police Cooperation Centres is recommended.

The SIRENE bureau should continue recruiting and training of personnel at the earliest possible time.

Access should be provided to the Handbook on International Police Cooperation.

## **PART III**

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

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

In addition, the Council requires revisits of the airport of Bratislava, road crossing points, i.a. Vysne Nemecke, Border surveillance and Data protection.

The Council underlines the considerable challenge Slovakia will be facing to bring its land border controls at the border with the Ukraine up to the standards.