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## DECLASSIFICATION

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Subject: Schengen evaluation of the new Member States

- Draft-Council conclusions on the state of preparedness of the  
REPUBLIC OF POLAND 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



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 13 November 2006 (13.11)  
(OR. en)**

**14525/1/06  
REV 1**

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**SCH-EVAL 166  
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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 POLAND 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 Poland

10. The Declaration of Readiness of Poland allowed to start the Schengen evaluation by 1 January 2006, without any reservation (doc. 5374/05 SCHEVAL 2 COMIX 30).
11. Inspections on site took place at the land, sea and air borders as well as in two Consulates. Police cooperation and Data protection have been assessed in situ, too.
12. (Poland has provided the Schengen evaluation working party with a follow up report, in which it states that it will be possible to remedy the weaknesses that have been detected without creating unnecessary delays.)

## PART II - Specific findings

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

In the field of **Border management**, Poland has been positively assessed. The organisation is streamlined and functional, including national level competency for supervision and instruction. Personnel is professional and in general, equipment is up-to-date. The **land borders** are controlled systematically both at the border crossing points and at the green borders. However, the quality of thorough checks of third country nationals, profiling as well as second-line activities need to be enhanced.

Poland has actively promoted bilateral cooperation with its neighbouring third countries, also in terms of joint patrols, contact points and common stations at border crossing points. Concerning some joint activities, some potentially serious practical problems were detected and an analysis of the legal background (international and EU legislation) is still underway.

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The infrastructure at the visited land border crossing points is, in general terms, in line with the Schengen standards. The general strategy for border management is well structured and is firmly based on the Schengen border security system. Some crossing points were under reconstruction and some others will be subject to reconstruction works in the future. Since the infrastructure and border management concept at Terespol and Medyka road border crossing points do not meet Schengen standards., they should be revisited.

Full coverage of the coast (**seaborders**) in accordance with the Schengen-acquis will materialise by completing an integrated radar surveillance network (18 stations, when completed) (). The coast is also covered by a network of coast guard stations in readiness for rapid reaction and there is an offshore element (offshore patrol crafts, helicopters and fixed wing aircraft) <sup>1</sup>.

The Polish Border Guard is providing a good level of border management at the **airports**; due to ongoing construction work, the Warsaw, Gdansk and Krakow **airports** do not fulfil the requirements at this stage, s. The airport of Warsaw should be revisited. <sup>2</sup>

Special note was taken of the high quality and sufficient number of the border management personnel.

Following the inspection of **visa issuance** at Poland's consular sections in Moscow and Kiev, it was concluded that Poland 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.

The amount and quality of information provided, security and staff training and education was appreciated.

However more attention should be paid to the submission (Kiev) and the assessment (Moscow) of individual applications, including interviews, instead of allowing for batch-authorisations of visa applications; the visa decision making process and awareness of the risk of illegal immigration.

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<sup>1</sup> A revisit to the seaborders has been envisaged. SCH-Eval should decide on 16/17 November whether this visit is indispensable.

<sup>2</sup> Revisits to Gdansk and Krakow airport have been envisaged. SCH-Eval should decide on 16/17 November whether these visits are indispensable.

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Furthermore the practice of collecting the handling fee, national legislation on the types of visas (incl. the possibility to issue visas 6 months in advance) and bilateral agreements incl. waiver of the handling fee / exemption from presenting an invitation, should be reviewed.

The practice with respect to **data protection** has been assessed positively, under the reservation that the powers of the Data Protection Authority will by no means be limited with respect to SIS.

**On police cooperation**, most of the preparatory work for the implementation of the Schengen acquis has already been realised as regards institutional and operational structures. Close cross-border cooperation is an integrated part of the day-to-day police routine.

The introduction of Handbooks containing important information for cross-border police cooperation, is recognized as good practice. Access to the Handbook on International Police Cooperation is to be provided and the European Criminal Intelligence Model (ECIM) should be introduced.

The ratification procedures for bilateral agreements should be accelerated and bilateral agreements with Slovakia, Germany, Lithuania and the Czech Republic on hot pursuit should be concluded. Border guards should be provided with direct (online) access to the relevant police databases. Furthermore, direct radio communication with the Border Guard should be established on a permanent basis, also with respect to the nationwide introduction of the TETRA system.

## **PART III- Conclusions**

In order to allow the Council to take the Decisions referred to in Article 3(2) of 2003 Act of Accession, it requests Poland to inform the Council in writing, on the follow-up it intends to give to these recommendations and those contained in the evaluation reports. Poland 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 Terespol and Medyka road border crossing points, and Warsaw airport. (as well as the blue border surveillance system, Gdansk and Krakow airports, see footnotes on page 4).