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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, 20 November 2006  
(OR. en)**

**14525/2/06  
REV 2**

**RESTREINT UE**

**SCH-EVAL 166  
COMIX 884**

## **NOTE**

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from: the Schengen Evaluation Working Party  
to: Coreper/Council - Mixed Committee

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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 to implement the Schengen Acquis. All non-SIS-related 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 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.
6. The evaluation process started with a Declaration of Readiness for all non-SIS-related evaluations by the new 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, fulfills 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 are annexed to these Council conclusions (doc. 10765/3/06 REV 3 SCHEVAL 110 COMIX 572).

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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 on site, too.

## 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's state of preparedness to implement the Schengen acquis 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, although some shortcomings exist. As regards cooperation between border guards and customs, improving cooperation at all levels is recommended.

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The **land borders** are controlled systematically both at the border crossing points and at the green borders. 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. However, the quality of thorough checks of third country nationals, profiling as well as second-line activities in a number of border crossing points need to be improved. Some border crossing points were under reconstruction and some other will be subject to reconstruction works in the future. The infrastructure and border management concept, notably at Terespol and to a lesser degree at Medyka road border crossing points, do not meet Schengen standards.

Poland has actively promoted bilateral cooperation with its neighboring third countries, also in terms of joint patrols, contact points and common stations at border crossing points. In these cases too, Poland should ensure the full applicability of the Schengen acquis, compliance with its international obligations, inter alia with respect to refugees, as well as the security of data systems. The proper implementation of these issues at such border crossing points should be verified by a re-visit.

Concerning sea borders, the coast is 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). Full coverage of the coast in accordance with the Schengen-acquis will materialise by completing an integrated radar surveillance network (18 stations, when completed).

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 fulfill the requirements at this stage. The airports of Warsaw, Gdansk and Krakow should be revisited.

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

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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 Common Consular Instructions/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.

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), as specified in the Police Cooperation Handbook, is to be considered.

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.

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## PART III- Conclusions

In order to allow the Council to take the Decisions referred to in Article 3(2) of the 2003 Act of Accession, Poland is requested to implement the recommendations listed in the evaluation reports, especially those referred to in Part II of these conclusions.

Poland is requested to inform the Council in writing on the follow-up it intends to give to the recommendations referred to in Part II as well as those contained in the evaluation reports.

In addition, the Council requires revisits of operational joint border crossing points <sup>1</sup> and the airports of Warsaw, Gdansk and Krakow.

Poland is invited to clarify to the Council the compliance of all relevant existing bilateral agreements with the Schengen acquis.

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<sup>1</sup> AT, B, F, LUX: to be specified.

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ANNEX

**COUNCIL OF  
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**Brussels, 14 November 2006**

**10765/3/06  
REV 3**

**LIMITE**

**SCH-EVAL 110  
COMIX 572**

## **NOTE**

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from : Council Secretariat  
to : Schengen Evaluation Working Party  
Subject : Schengen evaluation of the new Member States  
- Overview of reports and follow-up documents

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Delegations will find enclosed an overview of the reports which were presented in the framework of the Schengen evaluation of the new Member States and their respective follow-up.

This table will be updated on a regular basis. Additions and/or modifications will be indicated in bold.

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Country	Subject	References evaluation reports	adopted by Sch-eval	Follow-up docs	Council conclusions
<b>CYPRUS</b>	Data Protection	12748/2/06 REV 2 SCHEVAL 135	30.10.2006		
	Sea Borders (including airports)				
	Police Cooperation	<b>14828/06 SCHEVAL 178</b>	<b>16-17/11</b>		
	Visa				
	<i>Follow-up (general)</i>				
<b>CZ REPUBLIC</b>	Data Protection	8399/1/06 REV 1 SCHEVAL 63	18.5.2006		
	Air Borders	12710/1/06 REV 1 SCHEVAL 129	30.10.2006	14554/06 SCHEVAL 169	
	Police Cooperation	8394/1/06 REV 1 SCHEVAL 60	18.5.2006	9295/06 SCHEVAL 83	
	Visa I (St. Petersburg)	12666/06 SCHEVAL 126	27-28.9.2006		
	Visa II (Kiev)	<b>14097/1/06 REV 1 SCHEVAL 141</b>	<b>16-17/11</b>	<b>15301/06 SCHEVAL 184 (to be issued)</b>	
	<i>Follow-up (general)</i>			14817/06 SCHEVAL 175 (including police cooperation, data protection, visa and air borders)	
<b>ESTONIA</b>	Data Protection	14179/1/06 REV 1 SCHEVAL 154	30.10.2006		
	Air Borders	12754/2/06 REV 2 SCHEVAL 137	30.10.2006		
	Land Borders	<b>14175/1/06 REV 1 SCHEVAL 151</b>	<b>16-17/11</b>		

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	Sea Borders	12745/1/06 REV 1 SCHEVAL 132	30.10.2006		
	Police Cooperation	<b>14171/1/06 REV 1 + ADD 1 SCHEVAL 148</b>	<b>16-17/11</b>		
	Visa I (St. Petersburg)	12667/06 SCHEVAL 127	27-28.9.2006		
	Visa II ( Kiev)	14098/06 SCHEVAL 142	30.10.2006		
	<i>Follow-up (general)</i>				
<b>HUNGARY</b>					
	Data Protection	8400/1/06 REV 1 SCHEVAL 64	18.5.2006		
	Air Borders	12711/06 SCHEVAL 130	27-28.9.2006		
	Land Borders	10470/1/06 REV 1 SCHEVAL 99	27-28.9		
	Police Cooperation	8395/1/06 REV 1 SCHEVAL 61	18.5.2006	9443/06 SCHEVAL 95	
	Visa II (Kiev)	14099/06 SCHEVAL 143	30.10.2006		
	Visa III (Belgrade)	<b>14732/06 SCHEVAL 171</b>	<b>16-17/11</b>		
	<i>Follow-up (general)</i>				
<b>LATVIA</b>					
	Data Protection	14181/1/06 REV 1 SCHEVAL 156	30.10.2006		
	Air Borders	12755/1/06 REV 1 SCHEVAL 138	30.10.2006		

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	Land Borders	14178/06 SCHEVAL 153	30.10.2006		
	Sea Borders	12746/06 SCHEVAL 133	27-28.9.2006		
	Police Cooperation	<b>14174/1/06 REV 1</b> <b>SCHEVAL 150</b>	<b>16-17/11</b>		
	Visa I (St. Petersburg)	12668/06 SCHEVAL 128	27-28.9.2006		
	Visa II (Kiev)	14101/06 SCHEVAL 145	30.10.2006		
	<i>Follow-up (general)</i>				
<b>LITHUANIA</b>	Data Protection	14180/06 SCHEVAL 155	30.10.2006		
	Air Borders	12756/1/06 REV 1 SCHEVAL 139	30.10.2006		
	Land Borders	14177/06 + COR 1 SCHEVAL 152	30.10.2006		
	Sea Borders	12747/1/06 REV 1 SCHEVAL 134	30.10.2006		
	Police Cooperation	<b>14173/1/06 REV 1</b> <b>SCHEVAL 149</b>	<b>16-17/11</b>		
	Visa I (Moscou)	12662/1/06 REV 1 SCHEVAL 122	30.10.2006		
	Visa II (Kiev)	14100/06 SCHEVAL 144	30.10.2006		
	<i>Follow-up (general)</i>				

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<b>MALTA</b>	Data Protection	12749/1/06 REV 1 SCHEVAL 136	30.10.2006		
	Sea Borders (including airports)				
	Police Cooperation	<b>14830/06 SCHEVAL 179</b>	<b>16-17/11</b>		
	Visa I (Moscou)	12663/1/06 REV 1 SCHEVAL 123	30.10.2006	<b>14579/06 SCHEVAL 170 (to be issued)</b>	
	Visa III (Tunis)	<b>14733/06 SCHEVAL 172</b>	<b>16-17/11</b>		
	<i>Follow-up (general)</i>				
<b>POLAND</b>	Data Protection	6897/06 SCHEVAL 31	21.4.2006		
	Air Borders	10473/1/06 REV 1 SCHEVAL 101	27-28.9.2006	12152/06 SCHEVAL 119	
	Land Borders	<b>14819/06 SCHEVAL 177</b>	<b>16-17/11</b>		
	Sea Borders	8832/1/06 REV 1 SCHEVAL 78	30.6.2006		
	Police Cooperation	9064/1/06 REV 1 SCHEVAL 80	30.6.2006		
	Visa I (Moscou)	12665/06 SCHEVAL 125	27-28.9.2006		
	Visa II (Kiev)	14102/06 SCHEVAL 146	30.10.2006		
	<i>Follow-up (general)</i>				

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<b>SLOVAKIA</b>	Data Protection	6898/06 SCHEVAL 32	21.4.2006		
	Air Borders	10474/1/06 REV 1 SCHEVAL 102	27-28.9.2006	12153/06 SCHEVAL 120	
	Land Borders	<b>14818/06</b> <b>SCHEVAL 176</b>	<b>16-17/11</b>		
	Police Cooperation	9065/2/06 REV 2 SCHEVAL 81	27-28.9.2006		
	Visa II (Kiev)	14102/06 SCHEVAL 146	30.10.2006		
	Visa III (Belgrade)	<b>14734/06</b> <b>SCHEVAL 173</b>	<b>16-17/11</b>		
	<i>Follow-up (general)</i>				
<b>SLOVENIA</b>	Data Protection	8401/06 SCHEVAL 65	18.5.2006		
	Air Borders	12712/06 SCHEVAL 131	27-28.9.2006		
	Land Borders	10471/1/06 REV 1 SCHEVAL 100	27-28.9.2006	12604/06 SCHEVAL 121	
	Sea Borders	8830/06 SCHEVAL 77	30.6.06	10735/06 SCHEVAL 109	
	Police Cooperation	8396/1/06 REV 1 SCHEVAL 62	18.5.2006		
	Visa I (Moscou)	12664/06 SCHEVAL 124	27-28/09		
	Visa III (Belgrade)	<b>14735/06</b> <b>SCHEVAL 174</b>	<b>16-17/11</b>		
	<i>Follow-up (general)</i>			<b>15302/06 SCHEVAL 185</b> <b>(all subjects are covered)</b> <b>(to be issued)</b>	