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THE EUROPEAN UNION**

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RESTREINT UE

**SCH-EVAL 101
FRONT 120
COMIX 539**

REPORT	
from:	the Evaluation Committee Air Borders
to:	the Schengen Evaluation Working Party
Subject :	Schengen evaluation of the new Member States
	- POLAND : report on Air Borders

This report was made by the Evaluation Committee Air Borders and will be brought to the attention of the Sch-Eval Working Party which will ensure a report and the presentation of the follow-up thereto to the Council.

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1. INTRODUCTION

Based on the mandate of the Schengen Evaluation Group (SCH/Com-ex (98) 26 def) and the programme of evaluation adopted by Council (152275/04 SCH-EVAL 70 COMIX 718, and 7638/2/05 SCH-EVAL 20 COMIX 200), an expert team visited the air borders of Poland.

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The Evaluation Committee visited the following sites:
Border Guard Post (BGP) in Gdansk – Rebiechowo Airport, BGP in Warsaw Okecie Airport, BGP in Krakow – Balice Airport.

In Warsaw the Committee visited the Guarded Centre for Foreigners, operated by the Nadwislanski Unit of the Border Guard.

During the visit to Warsaw Okecie BGP missions, equipment and actions of the special intervention squad of the BGP were demonstrated.

The projects and the status of reconstruction works at the airports for separation of Schengen and non-Schengen flights were presented by administrations of the airports: Gdansk Lech Walesa Airport, Frederic Chopin International Airport in Warsaw and The John Paul II International Airport Krakow-Balice.

The Committee would like to thank the Border Guard of Poland and the Polish Ministry of Internal Affairs and Administration for the excellent organisation of the visits, well prepared and structured materials, hospitality, open attitude and the commitment given by the coordinators and interpreters who accompanied the Committee.

2. MANAGEMENT SUMMARY

The Committee has an opinion that the border management strategy at the air borders of the Poland responds to the basic Schengen principles of the integrated border management. The professional and motivated personnel of the Polish Border Guard is providing a good level border control what meets mainly the Schengen requirements. However, there is room for improvement concerning several issues: the practical use of products of the risk analysis, profiling and interrogation, the Committee recommends in control of the EU citizens follow strictly Schengen regulations and to reconsider the systematic control and storage of personal data of EU nationals in Border Guard database.

The Committee would welcome repeated discussion on the legislative basis of imposing fines on carriers for the implementation of the provisions of the art.26 of the Schengen Convention in regard to sanctions to carriers.

Infrastructure is largely in place. Necessary reconstructions have been planned and have to be implemented as a precondition for the full accession to the Schengen. Committee has an opinion that the competent Polish authorities, should further inform the Schengen Evaluation Working Party about the progress in development of the infrastructure and the problem of the separation of the passengers of Schengen and non-Schengen flights needs follow-up, ones the reconstruction work has been finished.

The Committee would like to highlight the great efforts of the Ministry of Interior and the Polish Border Guard on supplying the units at the border with necessary amount of the modern border control equipment, transportation means, communication techniques and IT systems. Committee stresses the need to continue preparation for implementation SIS II, VIS, use of the EURODAC and FADO at the border.

The bases of the evaluation of the Committee was the current EU legislation. Responsible Polish authorities are aware of the fact that the new Schengen Borders Code will enter into force 13 October 2006. The Committee has been informed that the education on this matter has been planned and will start from June/July 2006.

3. GENERAL INFORMATION

3.1. Strategy

The Act on State Border Protection of 12 October 1990, the Border Guard Act of 12 October 1990 with later amendments and the related acts of the Schengen Acquis. form the legislative basis for border management in Poland.
Combating illegal immigration by the Border Guard is based on the Aliens Act of 13 June 2003, the Regulation of the Minister of Internal Affairs and Administration of 25 June 2002 on border control executed by Border Guard officers and the Regulation of the Minister of Internal Affairs and Administration of 13 August 2003 on the method of controlling the legality of stay of foreigners on the territory of Poland, Penal Code and Code of Criminal Procedure.

The Ministry of Internal Affairs and Administration is responsible for border surveillance at land and sea and for border checks. The Ministry of Defence is responsible for the border surveillance of the air borders. The Border Guard is directly subordinated to the Minister of Internal Affairs and Administration, which is the central body in Poland in matters, related to border control activities.

For border management at the central and regional level an integrated border security model is used, consisting of activities in the third countries, international border cooperation, measures at the external border and further activities inside the territory of the country.

Border management is performed by professional Border Guard personnel with special training. Pursuant to the Act on the Border Guard, the Border Guard is a uniform, armed and uniformed formation, established to protect the state border on land and at sea and to organize and perform border traffic control.

The border management in Poland consists of border checks, border surveillance, risk analysis, intelligence and investigations, performed by the same organisation.

In order to exercise its tasks the Border Guard cooperates with the Police, the Customs, the Ministry of Foreign Affairs, the Navy and the Air Force, the Office for Repatriation and Aliens, Internal Security Agency, Intelligence Agency, Military Intelligence Service, National Labour Inspectorate, Military Police and Railway Protection Service.

International bilateral cooperation is organised with the border guard services of the neighbouring countries, multilateral regional cooperation is carried out in the framework of BSRBCC (Baltic Sea Region Border Control Cooperation) and the Operative Committee of the Task Force for fighting organised crime within the Baltic Sea Region. Polish Border Guard is represented in the Management Board of the FRONTEX, Polish experts participate in the activities of the Agency and in joint operations. The Border Guard maintains seven permanent contact points with neighbouring countries at the land borders, two Focal Points and has delegated liaison officers to the Embassy of the Republic of Poland in Kiev, Berlin, Moscow and Brussels.
Border Guard benefits also from the police liaison officers which perform their tasks also taking account the needs of the border management.

Questions related to the national border security are regulated by the "Integrated Border Management Strategy for 2003 - 2005". On the basis of the Strategy the "National Border Development Plan for 2003-2005" and the respective annual plans were developed.

On 15 August 2001 the Schengen Action Plan was adopted, defining the basic actions which should be undertaken to implement the Schengen Acquis before and after the accession of Poland to Schengen. The Action Plan is systematically monitored and updated. "The Concept for state border surveillance and border traffic control adopted to the Schengen Agreements standards of 14 June 1985 and the Executive Convention of 19 June 1990 on the realisation of the Agreement concerning the gradual

abolishment of border control on the common borders" (Concept) was approved by the Border Guard Commander-in-Chief in 2002. On the basis of the Concept a "Border Guard Action Programme necessary for the implementation of the Concept" and "Schedule of implementation of objectives, developed in Border Guard Action Programme" were approved.

According to the Regulation of the Council of Ministers of 18 June 2001 establishing sea- and permanent air-border-crossing points (Dz. U. /Journal of Laws/ 2001 No 62 item 632), there are 11 permanent air border crossing points in Poland. 10 of them are used for regular Schengen and non-Schengen flights. According to information from the Polish Border Guard there are arrangements for the separation of the passengers of Schengen and non-Schengen flights are currently in the process of preparation at 9 airports, which have regular connections with non-Schengen countries. At one airport the separation is in the planning phase. One airport does not operate regular passenger flights at present and arrangements for separation are not planned.

According to the Regulation of the Minister of the Interior and Administration of 21 December 2005 on additional air border crossing points (Dz. U. /Journal of Laws/ of 2005 No 266 item 2244) there are 9 additional air border crossing points. International air traffic at these additional air border crossing points takes place on a sporadic basis and consists of charter flights and business flights performed by small private airplanes.

Pursuant to § 3 subsection 1 of the aforementioned Regulation, the Airport Operator is obliged to inform the territorially competent Commander of the Border Guard Regional Unit and the Head of the Customs Service Unit about the arrival or departure of an aircraft, no later than 48 hours before the planned arrival or departure.

3.2. Organisational (functional) structure

Border control at the airports is performed by the Border Guard Posts subordinated to the Commander of the Border Guard regional unit. The Border Guard has the main responsibility for border checks and border surveillance as well as for the control of aliens within the country.

The organisational structure of the Border Guard includes the Border Guard Headquarters, 12 Border Guard regional units, 138 Border Guard posts and 2 Border Guard divisions (at sea).

The Polish Air Force is responsible for the surveillance of airspace This task is based on the Ordinance of the Ministry of Interior and Administration of 29.12.2004 on rules of cooperation between BG, Polish Air Force and Polish Navy in protection of the Polish state border. On that base the agreement between the Commander-in-Chief of the BG and the Commander-in-Chief of Air Force was signed on 11.08.2005.

Police participates in controlling foreigners legality of stay in the territory of Poland and provides information necessary for performing border checks from police databases for the Border Guard.

The Office for Repatriation and Aliens, the regional authorities of the voivodship offices and Customs authorities participate in the control of aliens in the scope necessary for these authorities to carry out proceedings in matters related to foreigners or customs.

Airport Security Services are responsible for the protection of airport security restricted area, the fences as well as for passenger and baggage screening of the domestic traffic.

Border guard fulfils functions of the passenger and baggage screening at the airports for international traffic as well as supervises security control measures undertaken by the Airport Security within the domestic traffic. More than 50% of Border Guard personnel is designated for that task at the inspected airports.

The organisational structure of the Border Guard units contains 16 reserve units. The three reserve units are composed of students of the Border Guard training centres. The main task of the reserve units is to carry out border operations, independently or as a support to operations carried out by Border Guard regional or local units. The reserve units are fully mobile.

3.3. Operational effectiveness

In 2005 the Border Guard employed 15 771 officers and 3802 civil servants. The level of the salary and the status of the Border Guard in Poland provides a good possibility for recruiting new officers. Between 2003 and 2006 the Border Guard plans to employ 5300 officers for a preparatory and permanent service. During the period of 2003-2005 about 4000 new officers were recruited (1325 officers each year this means more than 25% of the existing officers). 1300 officers will be recruited in 2006, over 80 % of them will be used at the external border. The percentage of the officers, leaving the organisation per year is small (3-4%).

In 2005 the Border Guard carried out border checks of 208,1 million passengers. Combating illegal immigration in 2005 BGPs refused the entry of 41 663 aliens to Poland, apprehended 2598 aliens for illegal crossing of the state border and 131 facilitators and organizers. 156 illegal immigrants were apprehended at the BCPs at the airports.

3.4. Risk analysis, intelligence and Data-flow management

CIRAM (Common Integrated Risk Analysis Model) is the Polish risk analysis methodology. The risk analysis at central level is performed by the Independent Unit for Risk Analysis at the Border Guard Headquarters, at the operational level by the independent sections for risk analysis in the BG Headquarters of Regional Units. BGPs perform risk analysis for the aim of current planning, for carrying out direct operations related to border surveillance and for border checks.

Information related to illegal immigration and other type of border crimes is collected by the Border Guard through a reporting system, via Integrated Registration System II and the Information Registration System. The Border Guard uses information from the National Centre for Criminal Information and from several databases, e.g. POBYT and OPIS. Information acquired from the border guard services of neighbouring countries, including contact points is also used. There is access to the information of Europol, Early Warning System CIREFI and Baltic Sea Region Border Control Cooperation.

The Border Guard participates in combating illegal immigration together with the Office for Repatriation and Aliens, Police and voivodship governor's offices. Tasks for combating illegal immigration are mostly carried out by the Border Guard. In carrying out operational and intelligence activities as well as implementing administrative and law enforcement tasks the Border Guard officers perform their duties in accordance with the Penal Code, Act on State Border Protection, Code for Administrative Proceeding, Fiscal Penal Code, the Act on Aliens and internal instructions.

In performance of operational and intelligence activities aimed at preventing and detecting crime, identifying the perpetrators and obtaining the evidence of offences referred to in Art. 264 of the Penal Code the Border Guard may carry out operational control, perform secret surveillance of the transport and collect, gather and use fingerprints, photos and personal data of the suspected persons without the knowledge and consent of the persons concerned.

Besides, the Border Guard is authorised to conduct preparatory proceedings and intelligence activities. Border Guard units, on par with the Police, may use the following secret methods of operation: operational control, controlled purchase, undercover delivery, secret informants and information sources. Moreover, the intelligence-and-investigation units not only collect information on crimes and their perpetrators in the course of their activities, but they also perform the criminal analysis.

In the framework of co-operation with the Police, the Border Guard carries out control of the legality of stay of aliens in the territory of Poland.

Within the organisational structure of the Border Guard the Board for Operations and Investigations is the unit competent for detecting and preventing illegal immigration. Regional Units of the Border Guard and BGP-s carry out operations at their territory of responsibility in order to disclose, detain and expel aliens residing illegally in Poland.

Basically the Committee found a well organized risk analysis system but the practical use of the results at the first and second line was not fully satisfying. Sometimes the profiling of passengers seemed to be not fully related to the results of the risk analysis at the central and regional levels and looked rather randomly. The experts underline the importance of risk analysis as a tool for optimisation of border checks and a way of providing reliable information both for the superiors and for the Border guards at the field level. Personnel should be provided with knowledge of risk indicators, risk profiles and typical modi operandi of cross-border crime. Named special targets of border surveillance and border checks should also be known to personnel. So the efficient risk analysis is able not only to gather intelligence and analyse it but also and especially utilise the products in field work.

3.5. Staff and training

Only professional personnel are used for border management. The number of border guard personnel is sufficient for performing border management tasks in existing conditions, where the Border Guard is operational at all borders of Poland and in the existing level of illegal immigration and cross-border crime.

The qualifying procedure of the recruitment of new personnel consists of two stages A candidate must be a Polish citizen having secondary education and no criminal record.. The first stage comprises an interview, a psychophysical examination, a medical control and a verifying procedure. The second stage is carried out at Border Guard training centres and consists of a written examination to determine the candidate's general knowledge, a fitness test, a written examination in a foreign language, an interview and an analysis of the results of the first stage of qualifying procedure. It is possible to gain 24 points in the tests and a candidate will be accepted with 12 points.

Before starting their independent duties all officers admitted to the Border Guard undergo a training in Border Guard training centres. Basic training lasts for 5 months. The basic training is immediately followed by a training in non-commissioned officers' school for persons with secondary education with the duration of 3 months or a training in a warrant officers' school for persons with university education with the duration of 3 months.

EU training Core Curriculum for Border Guards is incorporated into the Border Guard training programme.

In the training centres additional training is carried out for Border Guard officers in permanent service (after 3 years of service) according to the following educational model:

- a 3,5 month training in warrant officers' school for persons with secondary education;
- a 10 month officer course for Border Guard officers with university education.

During the service officers pass regular special skills upgrading (advanced) training. The proficiency training is organised in the Border Guard regional and local units and is carried out throughout the calendar year during compulsory on-duty time no less than 5 hours per month. The training covers EU legislation, administrative and criminal procedures as well as issues resulting from situation analysis in the field of cross-border crime.

During the service officers can attend language courses, organised by Border Guard.

A specialised document checking training is provided for all personnel performing border checks in the framework of the training in the non-commissioned officers' school or in the warrant officers' school.

The Border Guard Forensic Laboratory in co-operation with the Border Guard training centres started a series of training courses in the field of identification of falsified documents in 2004. The courses are designed for the officers who carry out or who are going to carry out the duties of the second line document expert. These courses consist of a two-week long full-time training. Until now more than 160 officers finished the this training. The main objective of the mentioned training is to acquire professional skills in complex analysis of travel documents, in detecting forged

documents with the use of special technical devices and in working with the Border Guard internal ITWAN network for electronic transfer of data of document specimens and document forgery.

During the service Border Guard officers improve their professional skills as well via proficiency training courses carried out by the Border Guard regional and local units.

Improvement of the professional qualifications of the Border Guard officers at different managerial levels is carried out on the basis of the new training model, comprising of the following management courses:

- Course for managerial staff
- Logistics management
- Management of border protection and border traffic control
- State border protection
- Securing border operations and
- Investigation procedures.

3.6.   Readmission, expulsion and illegal immigration, carriers liability

With regard to readmission, agreements were signed with the following third countries: Bulgaria, Croatia, Moldova, Romania, Ukraine and Vietnam. No readmission agreements have been signed with the Russian Federation and the Republic of Belarus. The readmission of persons to these two countries takes place under the agreement signed between the Government of the Polish People's Republic and the Government of the Union of the Socialist Soviet Republics on the legal relations at the Polish – Russian national border and co-operation and mutual assistance in border issues, signed in Moscow on 15 February 1961.

Under the readmission agreements signed by Poland in 2002 4836 persons were removed, 2003 - 5942, 2004 - 6199 and until October 2005 - 4050 persons.

According to the Article 23 paragraph 1 of the Act on Aliens of 13 June 2003, the Commander of a Border Guard unit is the authority entitled to issue decisions on the refusal of entry into the territory of the Republic of Poland.

In the period between January and September 2005 the Border Guard issued 28 732 decisions on refusal of entry to aliens intending to enter Poland at the EU external border.

Regarding illegally resident aliens under the provisions of the Aliens Act a decision obliging an illegally resident alien to leave the territory of Poland or a decision on removal may be issued. Generally the aliens conform to such a decision on a voluntary basis. The decision on expulsion is issued by a voivod. In order to establish all important circumstances the alien is interrogated by the Border Guard or Police unit, which apprehended him and decides on measures to be applied.

The expulsion method depends on the circumstances. In general, expulsions are a carried out across the land border or by air. Poland has implemented the Council Directive 2003/110 of 25 November 2003 on assistance in cases of transit for the purpose of removal by air.

During the year 2005 621 aliens were expelled from the territory of Poland.

Implementation of the carriers liability is based on Article 138.1 and 139.3 of the Act on Aliens. The carrier that brought by air or by sea into the territory of the Republic of Poland an alien who does not possess a travel document and visa required for crossing the border or who is not authorised to enter the territory of another country or to return to the country of origin, if such an authorisation is required, shall be subject to an administrative fine in the amount equivalent to EUR 3 000-5 000 for each transported person. The total fine for one transport of a group of persons may not exceed EUR 500 000.

According to Article 139 of the Act on Aliens the commanding officer of a Border Guard unit applies to the voivod competent with respect to the seat of the requesting Border Guard unit, for imposing a penalty on the carrier. The application has to be made individually on every alien. After examining the application the voivod makes a decision regarding imposing a penalty. He informs the official who submitted the application about the decision.

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In 2004, the commanding officers of the Border Guard posts submitted 488 applications to impose a penalty on carriers. In 13 cases, the voivods refrained from imposing a penalty on carriers.

In the period between January and September 2005, the commanding officers of the Border Guard posts submitted 73 applications to impose penalty on carriers. In 41 cases, the voivods refrained from imposing the penalty.

The reasons, for which voivods refrained from imposing the penalties:
– Lack of notification of the interested party by the voivod on initiating the proceedings (1 case);
– Different interpretation of legal provisions related to the conditions of entry to Poland by the nationals of Switzerland (5 cases);
– The voivods' interpretation of Article 138 paragraph 1 of the Act on aliens according to which in order to impose an administrative fine on the carrier, he must bring an alien who is not in a possession of a travel document and a visa, both documents at the same time. (48 cases).

In 2004, the voivods imposed fines on carriers in the total amount of EUR 1 459 534 and between January and September 2005 in the total amount equivalent to EUR 104 063. The above mentioned fines have been fully paid.

Most fines were imposed on the following air carriers: LOT, Air France and KLM.

3.7.   Comments and recommendations of the Evaluation Committee.

The experts were appreciative of the following facts:
- The strategy of the border management in Poland is based on the integrated border security model;
- The Committee found organisation of the Polish Border Guard centralised and clearly structured;
- The employment of 5300 new border guard officers between 2003 and 2006 and the current status quo in this field;
- The qualifying method for applicants applying for a BG officer function.

The experts took a special note on following items:

- The practical use of products of the Polish risk analysis. Information should be provided systematically to officers of the local level.

Experts consider that there is room for improvement in the following point:

- The implementation of the provision down in art. 26 of the Schengen Convention in regard to sanctions to carriers. The committee would welcome repeated discussion that imposing fines on carrier is allowed only in cases of lack of travel documents <u>and</u> visa;

- Experts recommend to consider about the situation when persons detained for execution of the expulsion are not expelled and are released after 12 month and stay in Poland without identification documents and legal status and to propose solution how to avoid such situation.

4.   GDANSK – LECH WALESA REBIECHOWO AIRPORT

4.1.   General information

Gdansk Lech Walesa Airport is located between three cities - Gdansk, Sopot and Gdynia on distance of 10-20 km of them. The owner of the airport is Gdansk Lech Walesa Airport Ltd, the shareholders of which are the "Polish airports" State enterprise, the Pomeranian Region and the municipalities of Gdansk, Gdynia and Sopot. The airport consists of apron, a passenger terminal, a cargo terminal and a cargo clearance terminal of the DHL Company. The air traffic comprises regular passenger and cargo traffic, charter- and disposal flights. The airport operates 24 hours a day. On average there are over 40 landing and take off operations daily. The airport is designed for a handling capacity of approximately 1 million passengers a year. International passenger traffic has increased almost three times since the last 4 years and reached 521 664 persons in 2005, the number of aliens has doubled and is about 40% of the amount of checked passengers. The airport has the third place in Poland on amount of passengers. The administration of the airport has plans to extend the passenger terminal for handling 2 millions passengers in the first stage and for up to 4 million in the second stage in 5-7 years. Experts were told about a dramatically increasing number of passengers (+71%) from January to March 2006.
Currently there are no regular connections with third countries and no indications about beginning such flights in the near future. Regular non-Schengen flights operate to/from UK. The destination countries for non-Schengen charter flights in 2005 were Turkey, Egypt and Tunis. The estimated amount of the non-Schengen passengers is about 37% of all checked passengers.

The Border Guard performs border checks and security control of the international passenger, means of transport and cargo traffic and supervises security control measures undertaken by the Airport Security within the domestic traffic.

During 2003-2005 89 persons were refused of entry, mainly for the lack of the Polish visa
In 2005 7 counterfeited documents were discovered and 50 persons detained.

The experts found the regional border control strategy responding to the Schengen principles of integrated border management and the four tier border security system. Border control is organised by professional border guard officers who have passed the necessary training. Internal and international cooperation is organised at regional level. At local level information exchange and necessary communication between representatives of different authorities operating in the Border Crossing Point is organised.

At the BGP operates information exchange point with the Centre for Air Borders (ABC) and EU airports involved in electronic exchange of information so called IAP.

Risk analysis is organised at the regional level by the Independent Risk Analysis Section of the Morski BG Regional Unit There is no risk analysis unit in the BGP.   Some risk analysis is, however, carried out. It is performed by the Commander of the post and by the shift manager and provided to the Border Guard officers at the first and second line during the briefings before the shifts. It is planned to prepare regular or ad-hoc risk analysis. An annual summary of risk analysis have not yet been prepared. For a regular risk analysis the following types of analysis are foreseen: general risk analysis and risk analysis on chosen profile or problem.

4.2.   Infrastructure and equipment

Experts found the sign posting to be in accordance with the signs annexed to the Council Decision 2004/581/EC determining the minimum indications to be used on signs at external border crossing points and with the Annex III of the Schengen Borders Code.

Internal and international flights are separated. Domestic traffic is managed in the Eastern part of the terminal and the international traffic in the Western sector. Arrivals are operated on the ground floor and departures on the first floor. After arrival the aircraft passengers proceed to the international hall and after the departure check and security control passengers walk to the aircraft. During their walk to and from the terminal passengers are permanent under the supervision of border guard officers.

Crews are controlled in the same lines as regular passengers but they have a priority to access control by passing the line of passengers waiting for the control.

Persons, using private planes are escorted from (to) the plane. They have to use the same control booths as s passengers of regular flights. About the international General Aviation traffic the Border Guards are informed by the Air Traffic Agency via Airport Authority.

The airport administration is planning to build a new General Aviation terminal.

There is no separation of Schengen-and non-Schengen flights yet exercised. Physical separation of Schengen-and non-Schengen at the same building is prepared. Schengen and Non-Schengen arrivals and departures will be handled totally separately in the Eastern and respectively in the Western part of the terminal. The ground floor is established for the arrivals and the first floor is established for departures. The current domestic gate is planned for the future Non Schengen traffic. The passenger traffic on the apron (Schengen/Non Schengen arrivals and departures) is without exception under supervision of Border Guard officers.

There are no flexible gates foreseen.

The committee was told that in 2006 the domestic gate will be enlarged (departure zone 200m^2 more and arrival zone 200-300 m^2 more) while the airport authorities introduced during their presentation a two stage plan for 2006. First stage is to rebuild existing arrival zones and the second stage is to extend the existing departure zone.

Experts are of the opinion that the project seems generally functional but the new arrival area for non-Schengen passengers in future could be too small for processing fully booked flights, if there is no enlargement of the arrival gate. One of the arrival booths is situated at the distance of only 3 meters from the opposite wall.

Concerning the new terminal (construction work will start in 5-7 years) that there are 3 levels foreseen but the separation of Schengen and non Schengen traffic isn't planned yet. After finishing Terminal 2 both terminals will be connected.

The committee points out the need for participation of Border Guard authorities in the process of designing the new terminal.

In the arrival hall two booths with 3 working places in total have been installed. The construction of the booths was found good by the experts. The booths are facing waiting passengers. The observation room for profiling the passengers and the room for the second line control are situated beside the first check line.

For the departure border checks two booths with three working places are used.

There is an alert system, connecting the booths with the second line control officer.
The access control system provides a possibility for the shift manager to close the doors of the gate.

The booths at the first line are equipped with a computer workstation, providing access to national Border Guard database, a MRTD linear document reader, a magnifying glass with illumination, a UV lamp, a UV document verifying tester and a retro-reflective 3M film control lamp. All working places were equipped with telephones. Computer terminals allow officers at the first line as well as at the second line to access directly to database of the specimens of travel documents and forged documents, Schengen Borders Code and data bases with law regulations.

Entry and exit stamps used by the Border Guard were found in compliance with the technical specification referred to in Article 9 of the Decision of the Schengen Executive Committee SCH/COM-EX (94)16 REV 1 as well as in Article 2.1 of the Common Manual.

In the second line office there is the following equipment: a graphic terminal, an advanced documents' authenticity examination set Projectina Docubox, a microscope, a retro reflective 3M film control lamp, a UV document verifying tester, a magnifying glass with illumination, a portable UV lamp, a digital camera and a PC with a DVD recorder, specimens of travel documents and paper information about counterfeited documents.

There was no equipment for taking and controlling fingerprints at the BGP and in case of need, it should be carried out in the regional headquarters.

The second line office is situated close to the first line. It has enough space and is well equipped.

The experts found that after the adoption of the border control system separating the Schengen/ and non/Schengen flights parts of the second line office will be situated remotely from the first control line that can harm the efficiency of border control. In future due to the fact of change of the location of one room of the second line office, the one new planned second line room seems for experts too small. Furthermore, there is almost no possibility to pass the crowd because the room is planned to be situated before the booths.

There are four portable UV lamps and two mobile passport control sets at the BGP
The experts assessed advanced equipment for checking the vehicles, a portable X-ray unit, a radiation detectors, an explosive and drug detection equipment.

All control booths are connected to the computer network. For communication between Border Guard units and officers phones and mobile VHF radio transmitters are used.

For transportation a personal car and an all/terrain vehicle are in use at the BGP.

The Border Guard is responsible for the access control in the international area and patrolling the fence from inside and outside. Airport Security Service is responsible for the protection of airport restricted zones and for the security control of the domestic traffic. The perimeter of all the airport's territory is fenced by a 2,5 m high barbed wire fence, For surveillance the following methods are used: video surveillance, observation posts and patrolling the airport area by the Border Guard and Police officers as well as the employees of the Airport Security Service. 38 CCTV cameras monitor the whole airport area. The screens of the camera system are situated among others in the shift manager's room.

All exits from the terminals to airport operating zone are equipped with card and biometric data readers. The BGP's shift manager supervises the access to international zones of the airport by opening electronically the arrival and the departure gates.

Two detention rooms for short time detention are situated in the basement of the building. Regular detention is organised in the regional headquarters. The experts mentioned the absence of natural illumination and poor lightning in the detention rooms.

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There is a room for interrogations.

Blank visa stickers are kept in a special locked box in a locked safe in the room of the duty officer. The use of the visa-stickers was registered in a special journal.

4.3. Controls and procedures

The current schedule of the flights provides possibility to process one plane after the other. The Border Guard receives information about the arrival of international flights from airport authorities. Preliminary information on passengers (passenger's lists) is presented on the Border Guard officer's request. Passengers move to the passenger terminal to the plane by foot or by bus under observation of the Border Guard officers.
Bus transport is provided for the airlines and the General Aviation, paying for this service. The rest of passengers are moving by foot accompanied by holding representative.
Persons from non-Schengen countries are transported to the terminal by bus.

In the arrival hall for international flights there is enough space for persons waiting for the border checks and passengers can be observed for purposes of profiling. The experts found the current handling of the traffic suitable.

There is no separate international transit zone at the airport.

The experts observed that all passengers passed the border checks on arrival and departure. Citizens of the EU countries usually passed a minimum check. A thorough check was carried out in case of citizens of non-Schengen countries. Passport readers were not used. Profiling was used but not all border guards interviewed passengers. The experts were explained that not all Border Guard officers have passed the special training for profiling. There is a special room for observation of the passengers. The experts have doubts about the possibility to use this positive measure after the change of area of border checks due to absence of space.

The crews of the passenger planes and cargo planes are checked by the same way as a passengers, but they don't have to wait in the queue.

Passport control personnel does not have personal data stamps. Data stamps are saved in a closed safe in the room of the shift manager and issued to the control personnel for the period of the shift. The officer has to make a signature in a special journal when getting the stamp. Upon the return of the stamp the shift manager makes his/her signature in the journal. Security codes of the stamps are changed once per months. The change of the security codes is registered.

Experts assessed the registration of complains from persons, subject to border checks. a special journal is used for registration of complains. The last complain was registered in 2004.

The Border Guard database for border checks what comprises information about wanted persons, stolen and lost travel documents, persons, not allowed to enter the country is available but was not used by all Border Guards during the passport checks as observed by experts.

The experts were convinced that officers performing border checks were aware of the passport control procedure as laid down in the Common Manual and were able to use this in practice. Border Guard officers had not yet been briefed about the differences in procedures, as set by the new Schengen Borders Code.

A decision about the refusal of entry is taken by the shift manager The decision is always explained to the passenger in a language understandable for him/her. Persons who are refused entry will be usually readmitted by the same plane. In case of refusing entry because of false documents a prosecutor will be informed and necessary proceedings will be started. The experts observed that the EU form for refusal was used and convinced that all refusals were fixed in a special journal. In 2003 there were 25 cases of refusals of entry, in 2004 - 24 and in 2005 - 40. Main reasons were the lack of the Polish visa, he lack of a travel document (8 persons from Switzerland), and the purpose of the travel another than declared.

There were no asylum applications in the period 2003-2005. the Border Guard is responsible for receiving asylum application, conduct the first interview, taking fingerprints and transferring the person to the Office for Repatriation and Aliens. Two officers have been designated to process asylum applications. EURODAC is accessible at the Regional Unit's headquarters.

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During the last three years 74 visas (transit or short time residence) have been issued at the BCP (2003 – 32, 2004 – 22, 2005 - 20) for the following nationalities: Russia – 28, Armenia – 9, stateless – 6, the Philippines – 4, Turkey – 4 and others. The decision about issuing the visa is taken by the shift manager on behalf of the chief of the Border Guard Post. Visas are issued by officers trained for that. The issuing of the visas is registered in the special journal.

The second line activities consist of a thorough check of the travel documents and interviewing of the passengers. Second line checks are performed by specially designated experienced officers, using advanced passport control equipment. Not all of them have had special training for the use of the equipment in question.

4.4. Border Surveillance

In the case of incidents the first reaction will be organised using the officers of the Security Control and Pyrotechnics Group. A special reserve unit from Independent Reserve Company of the Morski Regional Unit (up to 37 Border Guard officers) is able to arrive to the BGP in 50-60 minutes.

4.5. Staff and training

The Border Guard Post in Gdansk – Rebiechowo Airport is composed of 122 officers. Personnel is divided between a Border Control Group, a Security Control and Pyrotechnics Group, an Operational and Investigation Group and a Logistic Group. Border checks are performed by the Border Control Group, consisting of 49 officers - 35% of total amount of officers. The experts found that every first line Border Guard officer performs about 5000 border checks of non-Schengen passengers per year so the amount of personnel is quite adequate. The biggest number of officers belongs to the Security Control Group - 47 %. In 2006 is planned to increase the number of personnel up to 181 persons; then 59 officers are determined for Border Control. The experts found current personnel professional and highly motivated.

All the personnel of the BGP has passed a basic training and a corresponding non-commissioned or warrant officers training.

Each month one day is used for the refreshment training and mainly dedicated to familiarization with new legislation.

The experts observed that many officers have good English skills and constant training is organised. There are officers in every shift who speak Russian. Regarding to the Polish statistics 104 officers speak English very good to basic, 37 officers speak German intermediate to basic and 69 officers speak Russian intermediate to basic.

The experts are confident that the personnel at the first line has the basic knowledge in order to reveal possible counterfeited documents for second line inspection. Not all of the four experts on the second line have had special training on the use of advanced passport control equipment.

Border checks are performed in two shifts. The day shift (from 7 am to 7 pm) consists of a shift manager and an assistant, 6 border guards, one document expert and one readmission expert, altogether 10 persons. The night shift (from 7 pm to 7 am) consists of a shift manager and an assistant, 4-5 border guards and an document expert, altogether 7-8 persons. The experts considered that the number of officers performing border checks is sufficient taking account the current amount of passengers and the character of flight connections.

4.6. Readmission, expulsion and illegal immigration, carrier's liability

Readmission is one of the tasks of the Border Guard. Expulsion are performed according to the decision of the voivod. Readmission is performed on the decision of Commander of BG Post/ Regional Unit. Documents of the expulsion are submitted to the voivod by the Border Guard. The Polish Border Guard pays particular attention at the immediate return of the not admitted passengers. If this is impossible, persons will be sent to regional headquarters for the time necessary for preparation of the readmission.

Experts highlighted the use of PCs by Border Guard officers for compiling the necessary procedural documents. The computer database used consists of necessary forms of the procedural documents and after the document is drafted information about procedure will be saved in the database.

Experts were told that all not admitted persons were transported by the carriers to the port of embarkation or to the country of departure.

During the period of 2002-2005 in 77 cases fines had been imposed on carriers. Amount of the fines was PLN 588 757. Fines have been imposed by the voivod at the request of the commanding officer of the BGP. In 2005 the number of fines decreased significantly. During the year only once a fine was imposed on a carrier, the amount of the fine being PLN 12790,50. The Committee was explained that the reason is the lack of uniform interpretation of the legislation in relation to the grounds on which the voivods refrain from imposing penalties. According to the voivods' interpretation of Article 138 paragraph 1 of the Act on Aliens imposing the administrative fine on the carrier is possible only if the carrier brings to Poland an alien who is not in a possession of neither a travel document nor a visa (both documents are missing at the same time).

4.7.   Comments and recommendations of the Evaluation Committee:

The experts were appreciative of the following facts:

- The quantity and quality of personnel was suitable to perform the given tasks.
- The personnel is highly motivated and well informed about the current procedures of border control.
- Good language skill of the personnel, performing border checks.
- The existence of three level training systems.
- The technical equipment at the first and second level is adequate and modern.
- Airport is secured and access control is sufficient.

The experts took a special note on following items:

- Infrastructure is largely in place. Experts think that the future arrival hall for Non-Schengen flights is rather small. It is sufficient for the current passenger flow but could create difficulties to organise sufficient border control in case of higher volume of passengers.

- The system and structure for risk analysis exist at the regional level. Some risk analysis is carried out at the BGP. The experts considered the need for risk analysis products at the level of BGP.

The experts consider that there is room for improvement in the following points:

- Not all officers performing border checks are trained to carry out profiling. The Committee stresses the importance of risk analysis also on the tactical level. The decision whether to carry out through or minimum level border checks must be done case by case based on risk analysis and profiling and should by done individually by every border guard.
- Not all experts at the second line have passed a special training for the use of the sophisticated equipment for investigation of the travel documents.
- It is not possible to control fingerprints at the border crossing point and consult EURODAC directly.
- It was not completely clear for the experts how are the Schengen and non-Schengen flights going to be separated after construction of a new terminal and the experts found that the Border Guard authorities could be more involved in the reconstruction of the infrastructure.

5. WARSAW - OKECIE AIRPORT

5.1. General information

Frederic Chopin International Airport in Warsaw airport is the biggest airport in Poland. It handles more than 70% of international passenger traffic in Poland. The airport has over 80 regular air connections all over the world and is a convenient transit point.

Border traffic of persons has increased by 44% since 2003 and was 6 411 126 in 2005. (94,4% of the total amount of border crossings within the Nadwislanski Regional Unit) 68% of arrivals and departures are from/to Schengen destinations. During the day the airport proceeds about 271 arrivals and departures. Arrivals and departures from/to non/Schengen countries in 2005 were 47% from all flights.

The following authorities operate in the airport: Border Guard, Customs, the Police and Airport Security Service.

The BGP Warsaw-Okecie is one of 5 outposts of the Nadwislanski Regional Unit. This Regional Unit was created on 15 09 2004. The BGP Warsaw – Okęcie consists of a management, a Border Traffic Control Group, a Flight Security Control Group, an Operational and Investigation Group, a Logistic Group, a Coordination Group, a Data Protection Group and a Training Group. In total there are 638 officers.

Border control takes place in three terminals: Terminal 1 where most of airlines operate, Terminal handling "low-cost" carriers and a General Aviation terminal, constructed and equipped as a VIP terminal too.

Terminal 2 (under construction)

Comprehensive presentation was submitted to committee about the project of a new Terminal 2. The central part of the terminal 2 should be finished with 31.06.2006, the Southern part of the terminal 2 should be finished with 31.12.2006 and the Northern part should be finished with 2007. Experts were told by Border Guard officers that there is a delay; construction work should have been finished in 2005.

The Northern part will be established for non-Schengen traffic, the central part and the Southern part will be established for Schengen traffic and domestic flights. There are level + 9,70 for the arrival via passenger bridges, level + 5,30 for the departure via passenger bridges and level 0 for the arrival and departure from and to remote stands.

6 flexible gates are planned for the departures and 7 flexible gates are planned for the arrivals. In cases of Schengen traffic passengers are led via corridors. Experts were told that the separation is made from the bottom to the ceiling. The separation consists of glass and a metal net.

The use and the correct organization of the passenger flow of the flexible gates are in the responsibility of the airport authority (handling agents). This procedure will be under permanent supervision of the Border Guard.

The structure and the separation of the flows were found clear by the experts. Although the experts were told that there is a well experienced system with only 1 mistake in 3 years (combination of the human being and an electronic system) the experts were not sure about the functionality of the system for the separation of the passengers using flexible gates. The successful separation of Schengen and Non-Schengen traffic is possible on condition that construction work of Terminal 2 will be finished in time.

The new booths should be equipped with the hidden monitor screens, "elevator chairs" and on way glass.

BGP Warsaw Okecie cooperates with the Police, Custom -House and Custom Office, Airport Security Service, Agency of Internal Security, Intelligence Agency, Military Information Service and the Military Police.

Since December 2003 the BGP Warsaw Okecie has been an International Contact Point in the network of contact points managed by the Centre of Air Borders in Rome.

Risk analysis is mainly exercised at the level of Border Guard Headquarters and at the level of the Nadwislanski Regional Border Guard Unit were special independent risk analysis units have been created. There is no risk analysis unit in the BGP Warsaw Okecie BCP. Some elements of risk analysis are maintained by the Operational Centre, the Border Traffic Control Group and the Operational Investigating Group. Every morning the shift is briefed about the new information. Border Guard intranet is used for delivery of information about forgery of travel documents. The concept of risk analysis at the level of Nadwislanski Regional Border Guard Unit and BGP Warsaw Okecie was presented however the experts were not fully convinced about its practical implementation. Joint risk analysis with the Police or other law enforcement authorities at the level of the BGP is not organised.

70% of illegal migrants in the Nadwislanski Border Guard Unit have been detained in the airport. In 2005 the border guards of BGP Warsaw Okecie detained 364 aliens for illegal border crossing or attempt to cross the border illegally (increase by 46% compared to the year 2004). The experts were told that illegal immigrants have been mainly detained during the departure control. Illegal immigrants enter Poland legally mainly from Moscow, Minsk, Moldova or Ukraine having forged travel documents concealed with them or obtaining forged documents in Poland. Some of them cross illegally the land borders of Poland. The risk group constitutes nationals of Ukraine and Moldova, using counterfeit Lithuanian, Latvian, Polish and Italian travel documents.

In 2005 86 asylum applications were submitted at the BGP and 1075 persons were refused of entry (292 persons for the lack of visa and in case of 701 persons it was found that the purpose of travel is other than declared. Among refused persons 100 were from Turkey, 97 from Moldova, 66 from Ukraine, 61 from Russia and 50 from Egypt.

5.2.   Infrastructure and equipment

The sign posting is in accordance with the Council Decision 2004/381 on the minimum indications on signs at external border crossing points and with the Annex III of the Schengen Borders Code.

Separation is arranged between domestic and international flights and between arrival and departure checks. Arrival checks are performed in the passenger Terminal 1 at the ground floor and departure checks at the first floor. The airport personnel is responsible for the separation of the arrival and departure passengers at the passenger bridges on the first floor and for their transfer by bus. The experts observed, that the glass doors separating different passenger bridges were not closed so it was possible for passenger to walk through the corridor to another passenger bridge. There was a rope only to avoid the change of passenger to other flights.

In the passenger terminal there are 8 booths for border checks at departure (2 for crews and passengers who have goods to declare to customs), altogether 14 lanes and 8 booths for arrivals (16 lanes). There is one additional booth for the border checks of the crews at arrival. Additionally there is 1 booth (2 lines) for arrival and departure checks at the General Aviation terminal and 4 booths (5 lines) for arrival and 2 booths (3 lines) for departure in "low cost" carriers terminal. Control lines are divided between lines for EU citizens and all passports.

At the first line both in arrival and in the arrival so in departure hall there is sufficient waiting area for passengers. Booths are located in front of passengers queue so that the Border Guard can observe the waiting passengers. The experts found it very positive that computer monitors are hidden under the desk for checking the documents and the sides and the back side of the booths are made of opaque material in order to keep the screens away from the view of unauthorised persons.

The gates near the booths are operated by the Border Guards performing border checks who open the gate for people allowed to cross the state border.

Offices for second line are situated close to the first line.

All booths were fully equipped with a computer workstation providing access to the national Border Guard database, a MRTD linear document reader,a magnifying glass with illumination, an UV lamp, an UV document verifying tester, a retro-reflective 3M film control lamp and a phone. Officers have personal notebooks containing information, provided during briefings before the beginning of the shift.

The second line offices are equipped with a device for the examination of documents DOCUBOX Projectina, a PC with access to the local and the central database of the Border Guard, a stereoscopic microscope, a magnifying class with illumination, a copying machine and a printer, equipment for taking fingerprints as well as photos of documents. Albums of specimen documents and falsified documents were available.

Mobile equipment is located in the general aviation terminal.

Gate iron detectors, manual iron detectors, special bomb detection equipment) and radiometer equipment is used by the flight Security Group.

The Common Manual was available in the first and second line via intranet and in the second line additionally in a printed version.

All control booths are connected into the computer network and have phone connection. For communication between Border Guard units and officers phones and mobile VHF radio transmitters are used.

Different cars provide the necessary mobility. There are 10 cars for transportation of the personnel, additionally 2 jeeps, one convoy van and one car for transportation of dogs.

Access control is performed by Airport Security Service. The entire perimeter of the territory of the airport is fenced. Fence is patrolled inside by the Aviation Security Service and outside the fence by the Police. Observed gates were closed. Access cards system is used. Cards are issued by airport administration by approval of the Border Guard.

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The Committee took a look at the rooms for not admitted persons and first interrogation rooms and visited the Guarded Centre for Foreigners.

Detention rooms do not have natural illumination and are used only for short period detention. In 2005 the border guards of the BGP Warsaw Okecie detained 761 persons (including 335 citizens of Poland) at the border. The main reason was illegal crossing of the border or attempt to cross the border illegally using altered or forged documents.

Blank visa stickers are kept in a special locked box in the locked safe in the room of the shift manager. The use of the visa-stickers was registered in a special journal.

5.3. Controls and procedures

All passengers were checked on entry and exit. Third country nationals passed a thorough control and the interrogation by an officer, performing border checks. Passport readers were used for entering the passport data of the third country nationals. Passengers from third countries were checked via the Border Guard database ZSE II. A very useful consultation mechanism has been introduced into the Border Guard border checks database - when the officer entered the data about the nationality of the passenger from a third country into the database, information about the need of the visa was displayed on the screen.

Experts found the procedure of checking persons on entry and exit efficient. Only some minor shortages were observed.

Passport control personnel does not have personal data stamps. Data stamps are saved in a closed safe in the room of the shift manager and issued to the control personnel for the period of the shift. An officer has to make a signature in a special journal when getting the stamp. Upon the return of the stamp the shift manager makes his/her signature in the journal. Security codes of the stamps are changed once per month. The change of the security codes is registered. The experts found stamping of the documents correct.

The Common Manual was available in the intranet on the first and second line and as a printed version in the second line.

The shift manager has information about the arrival and departure of the flights but only printed on the paper. There is no online access to the flights information.

For processing the refusals of entry the standard form for refusal of entry at the border is used in line with the Schengen Borders Code. Refusals were registered in a special journal and one copy of the decision is kept in the BGP. Experts were convinced that blanks of the standard forms were filled correctly.

86 asylum applications on 141 persons were submitted at the BGP Warsaw Okecie in 2005. Compared with 2004 the number of applications and persons has increased more that 10 times. The main nationalities are: Russia, Kyrgyzstan, Belarus, Serbia and Montenegro and Afghanistan.

There is a special team dealing with the asylum applications in the Operational and Investigation section. Border Guard is responsible for receiving asylum application, conducting the first interview, taking fingerprints and transferring the person to the Office for Repatriation and Aliens. Fingerprints are taken manually, scanned and then consulted with EURODAC via a computer network.

In 2005 787 visas were issued at the BGP (Ukraine - 363, Belarus - 148, Russia -56, stateless persons - 27, Serbia and Montenegro - 21). Since 2003 the number of visas issued has increased by 56%. The main reasons have been problems with the flight, travelling with the spouse who is an EU citizen; person was a member of an official government delegation, participation in sport events and conferences.

Visas are issued by the shift manager according to the decision taken by the Commandant of the BGP. Visas are issued by officers trained for that. Experts were convinced that the issuing of the visas is registered in the special journal and the visa stickers are kept in a locked box in a safe in the room of the shift manager.

Second line activities consist of examination of the travel documents and interrogation of passengers. Second line offices are both in the arrival and in the departure halls.

There are 6 document experts at the second line, at least 1 per shift. It is possible to access the database of counterfeited documents and applicable legislation via internet. At the second line it is possible to take fingerprints and use the information for control via EURODAC.

Second line experts do not have access to database ZSE II.

5.4. Border surveillance

The Security Service of the Airport is responsible for the surveillance of the perimeter of the airport. The territory of the airport is surveyed using 280 CCTV cameras. The camera system is maintained by the Security Service of the Airport. The Border Guard has access to the information of the camera system.

A special intervention team is available at the BGP for reaction in the case of incidents.

5.5. Staff and training

There are 638 Border Guard officers in the BGP Warsawa Okecie. 168 persons, belonging to the Border Traffic Control Group, 40 to the Operational and Investigation Group, 21 to the Data Protection Group and 5 to the Training Group are directly connected with border control. Currently 132 persons attend a basic training. 3% of the personnel has changed during 2005. The experts found personnel of the BGP experienced and motivated. The experts found that every first line Border Guard officer performs about 10 000 border checks of non-Schengen passengers per year so the amount of personnel seems to be adequate.

The Committee was provided information that 125 officers from the Border Traffic Control Group are able to speak English, 104 Russian, 40 German and 11 French on certain level. Language training courses are organised but these are not compulsory. he experts found the number of persons, speaking foreign languages very positive but believed that additional improvements should be made to upgrade the level of knowledge.

All officers performing border checks have passed a basic training on security features of the travel documents and on the examination of documents. There are 6 second level experts for the examination of travel documents, one expert in every shift. The experts have passed a special training for the use of advanced document examination equipment.

Border control is organised by 2 shifts: from 6.00 to 18.00 (day shift) 35 officers and from 18.00 to 6.00 (night shift) - 25 officers available. The experts found that the amount of officers per shift is sufficient for the current traffic flow.

5.6.   Readmission, expulsion and illegal immigration, carrier's liability.

The Committee inspected the Guarded Centre for Foreigners, operated by the Nadwislanski Unit of the Border Guard. The Centre is situated close to the Warsaw Okecie airport and is used for detention of the persons waiting for deportation. Foreigners will be detained according to the decision of the court. A decision must be made not later than 48 hours after the arrest of the person. There are 40 places for men and 9 for women in the Centre. Only adults stay in the Centre. At the moment of the inspection 40 men and 7 women stayed at the Centre. Men and woman stay in separate rooms. Children are kept separately from their parents, staying in the Centre. There is only one Centre in Poland where mothers and children can stay together. The maximum period of detention is 12 month. If during that period the person is not deported, he/she will be released. In 2005 245 aliens were detained in the Centre by the decision of the court. During the year 166 persons were deported, 46 persons still stay in the Centre, 15 persons were released by the decision of the court and 15 were released after 12 month of the stay.

In 2005 BGP Warsawa –Okecie submitted 39 applications for imposing a penalty on the carriers that brought an alien to the territory of the Republic of Poland without a travel document or a visa required for crossing the border. Applications were submitted in case of 12 carriers, the amount of penalties was EUR 119 000. 20 applications were submitted in relation to the Polish company LOT. It's a dramatically decreasing number of fines because of the amendment of the law (2004 - 435 applications, 2003 – 502 applications, 2002 – 417 applications).

5.7.   Comments and recommendations of the Evaluation Committee:

The experts were appreciative of the following facts

- The procedure of passport checks on entry and exit is efficient.
- Quantity and quality of the personnel is adequate to the missions of the Border Guard. Personnel is experienced, professional and seems highly motivated.
- The position and the status of the Border Guard give possibility to employ well-educated people.
- The software for notifying the border guard officer about nationals who need a visa was found very helpful.
- The border guard facilities in general aviation terminal are excellent.
- The hidden position of the monitors in the control booths was found very suitable.
- Border control equipment at the first and second level of control is sufficient and modern

Experts took special note on following items:

- Many officers speak English and Russian, but some of them need to improve their level of knowledge of the foreign language.
- There are 6 experts for the second line activities at the BGP. Management of the BGP should consider increasing the number of experts in the second line, taking into account the number of detected illegal immigrants and refused persons.
- Despite the efficient procedure of border checks the Border Guard personnel performing border checks needs additional training on profiling.

Experts consider that there is room for improvement in the following points

- Adaptation of risk analysis at the level of the Regional Border Guard Unit more to the operational needs of the BGPs and enhancing the role of the BGP Warsaw Okecie and other BGPs in the integrated risk analysis system inclusive exercising common risk analysis with Police and Customs.

6. KRAKOW – JOHN PAUL II AIRPORT

6.1. General information

The John Paul II International Airport Krakow-Balice is used mainly for domestic flights and international flights to/from EU countries. It has international flight connections with 17 airports. Outside the EU: Airport in Kraków – Balice operates direct flight connections from/to 3 airports in the USA and Tel Aviv. As the airport is used as a backup airport for Warsaw-Okecie, there is sometimes a need to check the flights from third countries (Belarus, Ukraine). 35% of flights come from the following three non-Schengen countries: the UK, Ireland and the USA. The number of passengers in 2005 was 1 448 204 persons and compared to 2004 the number has increased more than twice (in 2004 - 670 396 persons). The biggest amount of foreign passengers in 2005 were nationals of the UK and Germany. There were 178 regular arrivals and departures from/to Schengen countries and 107 from/to non-Schengen countries in a week.

The airport consists of a passenger terminal, which has a capacity of 1.5 million passenger, and a cargo terminal. Because of the dramatically increasing number of passenger a new terminal is planned. The entire airport area is 210 ha.

The Committee was presented a project of the reconstruction of the airport for physical separations of the passengers of the Schengen and non-Schengen flights.
Terminal A is foreseen for the Schengen and Non-Schengen departures via ground floor and first floor. The separation will be made from the bottom to the ceiling. Additionally the Terminal A is established for the Non-Schengen arrival and the Non-Schengen – Non-Schengen transit (transit passenger have to use a underground corridor to the Non –Schengen Duty free-area).
Terminal B is foreseen for the Schengen arrival and the General Aviation traffic.
Terminal C will be the domestic terminal.

The experts found the project of the structure of the terminal and planned technology of separation logical and appropriate. The experts were told by airport administration, that tendering is finished, reconstruction works should be completed by February 2007 and financial means have been allocated.

The successful separation of Schengen and Non-Schengen traffic is possible on condition that construction work of terminal 2 will finish in time.

Border Guard Post Krakow-Balice belongs to Karpatski Border Guard Unit and consists of the management, a Traffic Control Group, an Operational and Investigation Group, a Pyrotechnic Control and Intervention Traffic Safety Group. The Border Traffic Control Group consist of a Data Processing and Record Team and a Migration Team. The Operational and Investigation Group is divided into an Operational and Investigation Team, a Readmission and Administrative Proceedings Team and a Convoy and Executive Team.

Cooperation is organised with the Police, Customs, Airport Security Service, Office of Malopolskie Voivodeship, Public Prosecutor's Office and some other authorities. Copies of agreements translated into English agreements between regional Border Guard and Police units as well between regional Border Guard and Customs units on cooperation at the Krakow-Balice Airport were presented to the Committee.

An agreement has been signed between the Management Board of the Airport, the company, handling passenger air transport, Customs and Border Guard. The agreement describes the check-in and check-out procedure of arriving and departing passengers, check-in and check-out locations, marking and range of all zones, the way passenger holding boarding passes and travelling within and outside the EU can move, the functions of the VIP lounge and luggage control.

For border control and intelligence and investigations the Border Guard is able to use Police databases.

The experts found cooperation very well organised and operational.

A point of contact was established in order to facilitate cooperation with the Air Borders Centre in Rome as well as with the airports of EU member states participating in the network of electronic information exchange.

Risk analysis is centralised and carried out in the Karpacki Regional Unit of Border Guard were an Independent Risk Analysis Section was created in April 2005. The main objective of the section is to provide the Commander with information which would enable him to choose the best course of action towards preventing and neutralizing threats as well as increasing the efficiency and quality of state border management. Risk analysis is based on the information gathered from all BGPs, the agencies of the Regional Unit and from other sources. The Committee was informed, that the results of risk analysis have been used by the Karpacki Regional Unit Commander in the process of reaching decisions essential for border security and management, by a Reserve Company for planning operations and for intensifying efforts to improve the situation in high risk regions. A monthly risk analysis report was presented to the experts. The report was mainly concentrated on aviation security matters.

There is no risk analysis unit in the structure of the BGP. Therefore the risk analysis tasks are performed by appointed officers from the Border Traffic Control Group and the Investigation and Operational Group. Experts found, that the risk analysis system is under development.

Intelligence is organised by the Operational and Investigation Team of the Operational and Investigation Group and is exercised both in the territory of the BGP as well as outside of it.in order to control the legality of foreigners staying in the Polish territory and combat illegal immigration networks.

The main threats seen by Border Guard:
- Using counterfeit documents for illegal border crossing;
- Terrorist threat against airport targets and aircraft;
- Smuggling of currency, works of art, weapons and narcotic drugs.

The number of persons detained at the BGP in 2003-2005 was about 90 persons per year. About 60% of the persons were detained as a result of "ordered actions" (mainly wanted by the Police). The experts pointed out that compared to 2004 the number of persons, detained for an attempt to cross the border illegally have increased more than twice (12 persons in 2004 and 28 persons in 2005) Illegal immigrants had entered Poland from Ukraine and tried to leave to the UK, Austria or Italy using counterfeit EU documents. 23 persons from detained in 2005 for an attempt to cross the border illegally were nationals of Ukraine, three nationals of Poland, one person was from Vietnam and one from Moldova.

6.2. Infrastructure and equipment

The sign posting is in accordance with the Council Decision 2004/381 on the minimum indications on signs at external border crossing points and with the Annex III of the Schengen Borders Code. Signs were illuminated and clearly visible.

There is a separation between arrival and departure as well as domestic and international flights. Arrival checks are performed on the ground floor, departure on the first floor. Transportation from and to planes is organised by bus. The separation is managed by the administration of the airport by handling agents.

At arrival there are 6 booths and at departure 4 booths with one working place each. Control lines are divided between lines for EU citizens and all passports.

Control booths are facing the passengers and the construction of the booths is appropriate. The waiting area in front of booths is sufficient but in case of the arrival more than one flight at the same time the waiting area could become crowded and difficult to observe. It is positive that second line offices are situated very close to the first line control.

Every booth is equipped with a fixed PC terminal with a MRTD linear document reader, a 3M lamp to examine retro-reflective transparent foil, a UV lamp, a magnifying glass with illumination and a phone.

The Common Manual and necessary EU and Polish regulations were available on every working place via intranet.

Mobile terminals are available and can be used for border checks.

The experts found that phone was missing in one of the arrival booths' and 3M lamps were not used in every booth. In one booth the login name and password for entering the computer network were printed on a sticker.

The personnel does not have personal entry and exit stamps. System of issuing the stamps was similar to the one observed by experts in other BGPs and was followed strictly.

Second line control equipment consists of a device for examination of documents VSC4, PC with access to the local and central database of the Border Guard, a stereoscopic microscope, a copying machine and aprinter. Albums of specimen documents and falsified documents were available as well as booklets of US passports and visas indicating the security features of these documents.

The equipment of the Pyrotechnic Control and the Intervention Traffic Safety Group consisted of special equipment such as entry scanners, an endoscope, a mobile fumes and explosive materials detector, a mini video camera, a hand metal detectors, an explosive materials detectors , a baggage X-ray device and a multilevel system of baggage control.

The experts found equipment advanced and modern.

Mobile VHF radio transmitters and phones were available for communication. All working places at the first and second line were connected into the computer network
The experts found mobility of the BGP sufficient.

The Border Guard is responsible for security checks and access control on the territory of the airport, used for international connections. Security checks of domestic air traffic are carried out by the Airport Security Service under supervision of the Border Guard.
The entire perimeter of the airport is fenced.

There is a detention room for short term detention on the departure level.

Blanks of the visas were kept in locked boxes in a safe in the shift manager's room. The issuing and use of the visa stickers was inspected by experts and found to respond to the Common Manual and respective regulations.

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6.3. Controls and procedures

A clear system of traffic handling has been introduced. There is a well marked way of the passengers from check in to border control. The VIP and crews have to use the same control lines but have a priority. There is no separate General Aviation terminal and General Aviation crews and passengers are handled as regular passengers. The Border Guard gets the daily list of flights from the operational manager of the airport.

Profiling was sufficient and the experts found the questioning of passengers correct. Databases were used for the control of the non-Schengen passengers.

The experts observed the systematic control of EU citizens via databases and they were explained, that personal data of passengers, controlled via databases will be stored in the Border Guard database ZSE II. The experts considered that systematic control of EU citizens and storage of personal data of every passenger in Border Guard database not responding to the principles of the Schengen Convention and Common Manual.

Stamping of travel documents of third country nationals was performed correctly.

Passport control personnel does not have personal data stamps. Data stamps are saved in a closed safe in the room of the shift manager and issued to the control personnel for the period of the shift. An officer has to make a signature in a special journal when getting the stamp. Upon the return of the stamp the shift manager makes his/her signature in the journal. Security codes of the stamps are changed once per months. The change of the security codes is registered.

For border checks the database ZSE II, digital Album of Specimen Documents and Album of Counterfeit Documents are used at the first line.

At the second line there is access to the following databases:

- OPIS - Border Guard database including data on wanted persons, cars and lost documents;
- ZSE II - Integrated Register System II;
- POBYT - a database of aliens applying for refugee status or asylum, also containing list of aliens, whose presence in the Polish territory is undesirable;
- PESEL - Polish Electronic Population register;
- Database of the specimens of travel documents and counterweighted documents;
- AFIS and
- EURODAC.

The Common Manual is available in PC at the first and second control line and there is a paper copy at the second line. Experts found the Schengen Borders Code available in intranet for self-education.

In 2005 84 persons were refused of entry The ground for refusal of entry was mainly lack of visa. The number of refusals in 2005 compared to 2004 has increased about three times (from 29 in 2004). The biggest amount of the persons refused of entry in 2005 were stateless persons (7), followed by nationals of Ecuador (4), Tunisia (3), Morocco (3) and Peru (3).

No asylum applications have been submitted during the last three years. There are several officers prepared for processing the asylum applications at the BCP.

In 2005 43 visas were issued at the BGP (10 B visas and 33 C visas). 9 visas were issued for Ukrainian nationals and 6 for Russian nationals. The amount of issued visas has increased year by year. In 2004 26 visas were issued.

The decision about issuing the visa is taken by the shift manager on behalf of the Commander of the Border Guard Post. Visas are issued by officers trained for that. The issuing of visas is registered in the special journal. The experts were convinced that visa stickers were kept in a locked box in a safe in the shift manager's room and the use of them is registered in a special journal.

For second line activities there is a document examination expert available in every shift. There are 4 document experts at the BGP. All experts have passed special training.

6.4. Border surveillance

The territory and perimeter of the airport is surveyed using a CCTV system (78 cameras), run by the airport security authority. The Border Guard has access to camera information All data from the CCTV system is recorder by the shift manager and information is saved during 1 week minimum.

The perimeter of the airport is patrolled by Airport Security Service and Border Guard.

The special platoon that is in the structure of Karpatski Regional Unit of the Border Guard can be used in case of different incidents.

6.5. Staff and training

The personnel of the BGP is professional, experienced and highly motivated. The level of salary and status of Border Guard officers provides a good possibility for recruitment of new personnel. The personnel responsible for border control has passed the necessary training.

In order to implement the regulations introduced by the new Schengen Borders Code it is planned to organise a course for trainers. The trainers will organise the training of all personnel of the BGP during the next months.

The experts found the level of knowledge of foreign languages of the Border Guard personnel good. 112 persons in the BGP speak English, 7 at advanced level and 66 at medium level, 54 persons speak Russian, 1 at advanced level and 24 at medium level and 45 officers speak German, 28 at medium level. Language courses are organised frequently and the progress is tested after the courses.

Basic knowledge necessary for checking the travel documents is provided during the basic training. Four persons have had a training of the second level experts. The training day each week is also used for developing document checking skills.

Everybody on the management level has to pass a refreshment training 8 days a year.

There are 194 Border Guard officers employed today at the BGP in Krakow-Balice. The management consists of 3 people, the Traffic Control Group of 75, the Operational and Investigation Group of 15, the Pyrotechnic Control Group of 97 and the Logistical Support group of 4 people. During three years the number of personnel at the BGP has increased from 98 persons in 2003 to 194 persons in 2006, i.e. 98%. As the structure of the BGP foresees 297 posts the total manning coverage is 65%.

The shift system is adjusted to the schedule of flights and the number of the control booths. Shift managers and their assistants, assistants of the Team for Data Processing and Registry and part of Border Traffic Control Group have shifts from 8.30 to 20.30 or from 20.30 to 8.30. Other officers of the Border Traffic Control Group have shifts from 5.00 to 17.00, from 9.00 to 21.00 or from 13.00 to 01.00. The maximum amount of personnel in a day shift is 9-12 officers. Within a night shift there are 4 Border Guard officers, 1 Shift Manager and 1 second line officer.

The experts found the number of personnel to be sufficient for performing efficient border control in existing conditions taking account that every first line Border Guard officer performs about 7500 border checks of non-Schengen passengers per year. In case of an increase in the number of passengers there could be a need for an increase in the number of the passport control personnel. The leaders of the BGP are aware of the fact and recruitment of additional personnel is planned.

6.6. Readmission, expulsion and illegal immigration, carriers liability

In the BGP the Readmission and Administrative Proceedings Team is responsible for readmission and expulsion of persons.

28 decisions on expulsion were imposed in 2005 (11 in 2003, 18 in 2004) and 9 decisions obliging an alien to leave the territory of Poland (2003 - 13, 2004 - 39).

Persons, refused of entry to Poland were readmitted. The experts were told that the readmission of the not-admitted persons is successful no procedure of issuing new travel documents is necessary due to the fact that the countries of readmission accept readmitted passengers without valid documents.

Combating illegal immigration networks is the task of the Operational and Investigation Team of the BGP. During the operations the special platoon of the Karpatski Regional Unit can be engaged. The following methods are used by the personnel of BGP to combat illegal immigration:

- Risk analysis;
- Precise border control of persons and documents at the border;
- Control of the legality of stay of foreigners;
- Information exchange and joint actions with other state institutions and
- Operational - reconnaissance actions.

In 2005 sanctions on different carriers were imposed in 32 cases, total amount of fines was EUR 325 814.

6.7. Comments and recommendations of the Evaluation Committee

The experts were appreciative of the following facts

- Professional, well educated and motivated team. The number of staff is sufficient to perform the given tasks:
- Utilization of the databases for border contro.
- Forms of different procedural documents are available in intranet.
- Language skills of the personnel, especially knowledge of Russian language by significant number of officers.
- The integrated and systematic approach of the personnel of the BGP to combat illegal immigration networks.
- Well organised and exercised internal cooperation.

- Well designed functional structure of the BCP.
- Control booths and second line office are equipped with sufficient and modern technical means for border checks.

The experts took a special note on following items:

- The experts endorse the first results of the risk analysis and recommend also to the risk analysis concerning aviation security to consider border security related regular risk analysis.
- The infrastructure responds to the separation of the passenger flows in current conditions. Reconstruction of the airport and designed technology of the border checks should be introduced in the planned way and in time.

Experts consider that there is room for improvement in following points

- The Committee recommends to pay more attention on the safe use of passwords and login information.
- The Committee recommends to strictly follow Schengen and EU regulations in control of EU citizens and reconsider the systematic control and storage of personal data of EU nationals in the Border Guard database. The registration of all persons crossing the borders also raises concerns regarding its compatibility with data protection rules and needs to be further analysed.

7.   **GENERAL CONCLUSIONS INCLUDING RECOMMENDATIONS AND FOLLOW-UP**

- The committee is of the opinion that the Polish Border Guard providing a good level of border management at the airports and meets mainly the Schengen requirements. Current EU regulations in force are followed in carrying out border control. The experts found border checks efficient with some minor exceptions.

- In general the experts were satisfied with the quantity and quality of personnel as well as technical equipment, that were considered sufficient to carry out border checks in line with the Schengen requirements.

- The position and status of the Border Guard gives a possibility to employ well educated personnel.

- The Committee points out the integrated and systematic approach of the Polish Border Guard and cooperating authorities in combating illegal immigration networks.

- The infrastructure for current border checks is largely in place, the reconstruction of the airports for the separation of the passengers of Schengen and non-Schengen flights is not accomplished yet and has not started in some airports. The experts took a note of confirmation of the representatives of the airport administrations that all works will be accomplished according presented projects during the first half of 2007. Polish authorities should report to the Scheval Working Party about the completion of the reconstruction works and infrastructure needs follow-up.

- The Committee recommends to strictly follow Schengen regulations in the control of EU citizens and reconsider the systematic control and storage of data.

- The experts took a note that persons detained for execution of the expulsion who are not expelled within 12 month have to be released and can stay in Poland without identification documents or legal status. According to the Polish law the authorities are not allowed to detain the same person second time which gives the possibility of illegal stay in Poland after first 12 months period of detention.

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