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Delegations will find attached the declassified version of the above document.

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**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 18 September 2006**

**10473/1/06
REV 1**

**RESTREINT UE**

**SCH-EVAL 101
FRONT 120
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**REPORT**

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

This report was drawn up by the Air Borders Evaluation Committee and will be brought to the attention of the Sch-Eval Working Party which will draft a report and present the follow-up to the Council.

# RESTREINT

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## 1. INTRODUCTION

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

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The Evaluation Committee visited the following sites:
The Border Guard Post (BGP) in Gdańsk – Rębiechowo Airport, the BGP in Warsaw Okęcie Airport, and the BGP in Kraków – Balice Airport.

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

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

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The projects and the status of reconstruction works for separation of Schengen and non-Schengen flights at the airport were presented by the airport administrations: Gdańsk Lech Wałęsa Airport, Frederic Chopin International Airport in Warsaw and The John Paul II International Airport Kraków-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, the hospitality, open attitude and commitment shown by the coordinators and interpreters who accompanied the Committee.

## 2.  MANAGEMENT SUMMARY

The Committee is of the opinion that the border-management strategy at Poland's air borders satisfies the basic Schengen principles of integrated border management. The professional and motivated personnel of the Polish Border Guard is providing high-level border control that essentially satisfies Schengen requirements. However, there is room for improvement on several issues: the practical use of products of risk analysis, profiling and interrogation. The Committee recommends that Schengen regulations be followed strictly in the control of EU citizens and that the systematic control and storage of personal data of EU nationals in Border Guard database be reconsidered.

The Committee would welcome further discussion on the legislative basis for imposing fines on carriers for the implementation of the provisions of Article 26 of the Schengen Convention with regard to sanctions on carriers.

The infrastructure is largely in place. Necessary reconstruction has been planned and must be implemented as a precondition for full accession to Schengen. The Committee considers that the competent Polish authorities should further inform the Schengen Evaluation Working Party on progress in development of the infrastructure, and that the problem of separating passengers on Schengen and non-Schengen flights requires follow-up once reconstruction work has been completed.

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

The Committee used current EU legislation as the basis for the evaluation. The competent Polish authorities are aware of the fact that the new Schengen Borders Code will enter into force on 13 October 2006. The Committee was informed that relevant training had been scheduled and would start from June/July 2006.

## 3. GENERAL INFORMATION

### 3.1. Strategy

The State Border Protection Act of 12 October 1990, the Border Guard Act of 12 October 1990 with subsequent amendments and the related acts of the Schengen Acquis form the legislative basis for border management in Poland.

The Border Guard's fight against illegal immigration is based on the Aliens Act of 13 June 2003, the Regulation of the Minister for Internal Affairs and Administration of 25 June 2002 on border control executed by Border Guard officers, the Regulation of the Minister for Internal Affairs and Administration of 13 August 2003 on the method of controlling the legality of stay of foreigners on the territory of Poland, the Penal Code and the 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 border surveillance of air borders. The Border Guard is directly accountable to the Minister for Internal Affairs and Administration, which Poland's central body in matters relating to border-control activities.

Border management at central and regional level uses an integrated border-security model 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 Border Guard Act, the Border Guard is a single, armed and uniformed formation established to protect the state border on land and at sea, and to organise and perform border-traffic control.

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, Customs, the Ministry of Foreign Affairs, the Navy and the Air Force, the Office for Repatriation and Aliens, the Internal Security Agency, the Intelligence Agency, the Military Intelligence Service, the National Labour Inspectorate, the Military Police and the Railway Protection Service.

International bilateral cooperation is organised with the border guard services of the neighbouring countries, while 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. The Polish Border Guard is represented on the Management Board of FRONTEX, with Polish experts participating 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, has two Focal Points and has liaison officers delegated to the Embassy of the Republic of Poland in Kiev, Berlin, Moscow and Brussels.
The Border Guard also has police liaison officers who perform their tasks while also taking account of border-management needs.

Questions relating to 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 Poland's accession 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 a "Schedule of implementation of objectives, developed in Border Guard Action Programme" were approved.

In accordance with 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, arrangements for the separation of passengers on Schengen and non-Schengen flights are currently being set up at 9 airports which have regular connections with non-Schengen countries. At one airport separation is in the planning phase. One airport does not operate regular passenger flights at present and arrangements for separation are not planned.

In accordance with the Regulation of the Minister for 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 operated 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 accountable to the Commander of the Border Guard regional unit. The Border Guard has primary responsibility for border checks and border surveillance, as well as for checks on 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 the BG, the Polish Air Force and the Polish Navy in protection of the Polish state border. On that basis, the agreement between the Commander-in-Chief of the BG and the Commander-in-Chief of the Air Force was signed on 11.08.2005.

The Police are involved in checking that foreigners are legally resident in the territory of Poland and provides the Border Guard with the information from police databases needed to perform border checks.

The Office for Repatriation and Aliens, the regional authorities of the voivodship offices and customs authorities are involved in checks on aliens insofaras is 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 areas, the fences as well as for passenger and baggage screening of domestic traffic.

The Border Guard performs passenger and baggage screening at the airports for international traffic, as well as supervising security control measures undertaken by the Airport Security for domestic traffic. More than 50 % of Border Guard personnel is designated to 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 at 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 3 802 civil servants. The salary level and status of the Border Guard in Poland provides good opportunities for recruiting new officers. Between 2003 and 2006 the Border Guard plans to employ 5 300 officers for a preparatory and permanent service. Between 2003 and 2005 about 4 000 new officers were recruited (1 325 officers each year, which is more than 25 % of the existing officers). 1 300 officers will be recruited in 2006, over 80 % of them will be used at the external border. The percentage of officers leaving the organisation per year is small (3-4 %).

In 2005 the Border Guard carried out border checks on 208,1 million passengers. In an effort to combat illegal immigration, in 2005 BGPs refused the entry of 41 663 aliens to Poland, apprehended 2 598 aliens for illegal crossing of the state border, as well as 131 facilitators and organisers. 156 illegal immigrants were apprehended at the airport BCPs.

## 3.4. Risk analysis, intelligence and data-flow management

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

Information relating to illegal immigration and other types of border crime 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 information from Europol, the CIREFI Early Warning System 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, Border Guard officers perform their duties in accordance with the Penal Code, the State Border Protection Act, the Code for Administrative Proceeding, the Fiscal Penal Code, the Aliens Act and internal instructions.

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

In addition, the Border Guard is authorised to conduct preparatory proceedings and intelligence activities. Border Guard units, on a 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 criminal analysis.

In the framework of cooperation with the Police, the Border Guard carries out checks on whether or not aliens are legally resident 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 BGPs carry out operations within their territory of responsibility in order to disclose, detain and expel aliens residing illegally in Poland.

The Committee found a basically well organised risk-analysis system, but the practical use of the results at first and second line was not fully satisfying. Sometimes the profiling of passengers appeared not to fully match the results of risk analysis at central and regional level, and seemed rather random. 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 superiors and for Border Guards at 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. Efficient risk analysis is then able not only to gather intelligence and analyse it, but also - and especially - to 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 Poland's borders and in the existing level of illegal immigration and cross-border crime.

The qualifying procedure for the recruitment of new personnel consists of two stages. Candidates must be Polish citizens having secondary education and no criminal record. The first stage comprises an interview, a psychophysical examination, a medical examination 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 the qualifying procedure. The maximum score in the tests is 24 points and candidates with 12 points will be accepted.

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

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

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

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

In the course of their service, officers undergo regular (advanced) training to upgrade special skills. The proficiency training is organised in the Border Guard's regional and local units and is carried out throughout the calendar year during compulsory on-duty time of no fewer 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.

In the course of their service, officers can attend language courses organised by Border Guard.

Specialised training in document checking is provided as part of the training in the non-commissioned officers' school or in the warrant officers' school for all personnel performing border checks.

In cooperation with the Border Guard training centres, the Border Guard Forensic Laboratory started a series of training courses in the field of identification of falsified documents in 2004. The courses are designed for 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 full-time training course. Over 160 officers have completed this training course to date. The main objective of the 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.

In the course of their service, Border Guard officers improve their professional skills as well via proficiency training courses run by the Border Guard regional and local units.

The professional qualifications of the Border Guard officers at different managerial levels is improved on the basis of the new training model, comprised 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 or 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 cooperation and mutual assistance in border issues, signed in Moscow on 15 February 1961.

Under the readmission agreements signed by Poland, in 2002 4 836 persons were removed, in 2003 – 5 942, in 2004 – 6 199 and until October 2005 – 4 050 persons.

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According to Article 23(1) of the Aliens Act of 13 June 2003, the Commander of a Border Guard unit is the authority entitled to issue decisions on 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 the measures to be applied.

The expulsion method depends on the circumstances. In general, expulsions are carried out across the land border or by air. Poland has implemented 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 Aliens Act. Carriers which bring 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, into the territory of the Republic of Poland by air or by sea shall be subject to an administrative fine for an amount equivalent to EUR 3 000-5 000 for each transported person. The total fine for the transport of a group of persons may not exceed EUR 500 000.

According to Article 139 of the Aliens Act, the commanding officer of a Border Guard unit applies to the competent voivod in respect of the seat of the requesting Border Guard unit to impose a penalty on the carrier. The application has to be made individually for 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.

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:

– voivod's failure to notify the interested party of the initiation of proceedings (1 case);

– different interpretation of legal provisions relating to the conditions of entry to Poland by nationals of Switzerland (5 cases);

– the voivods' interpretation of Article 138(1) of the Aliens Act according to which in order to impose an administrative fine on the carrier, he must bring an alien who is not in possession of a travel document and visa at the same time (48 cases).

In 2004, the voivods imposed fines on carriers to the tune of EUR 1 459 534 and between January and September 2005 of a total amount equivalent to EUR 104 063. The abovementioned 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 welcomed the following facts:

- Poland's border-management strategy is based on the integrated border security model.
- The Committee found organisation of the Polish Border Guard to be centralised and clearly structured.
- The employment of 5 300 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 special note of the following items:

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

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

- The implementation of the provision in Article 26 of the Schengen Convention with regard to sanctions on carriers. The Committee would welcome reminders that fines may only be imposed on carriers in cases of failure to present travel documents <u>and</u> visa;

- Experts recommend that consideration be given to situations when persons detained for execution of the expulsion are not expelled and are released after 12 months and stay in Poland without identification documents and legal status, and that a proposal be made on how to avoid such a situation.

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## 4. GDANSK – LECH WALESA REBIECHOWO AIRPORT

### 4.1. General information

Gdańsk Lech Waęsa Airport is located at a distance of 10-20 km from three cities – Gdańsk, Sopot and Gdynia. The airport's owner is Gdańsk Lech Wałęsa Airport Ltd, the shareholders of which are the "Polish airports" State enterprise, the Pomeranian Region and the municipalities of Gdańsk, Gdynia and Sopot. The airport consists of an apron, a passenger terminal, a cargo terminal and a cargo clearance terminal for DHL Company. 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 in the last 4 years and reached 521 664 persons in 2005, the number of aliens has doubled and accounts for approximately 40 % of the number of checked passengers. The airport has the third highest number of passengers in Poland. The airport administration plans to extend the passenger terminal to handle 2 millions passengers in the first stage and up to 4 million in the second stage in 5-7 years. Experts were told of a dramatic increas in the number of passengers (+71 %) from January to March 2006.

Currently there are no regular connections with third countries and no indications of any 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 Tunisia. The estimated proportion of non-Schengen passengers is approximately 37 % of all checked passengers.

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

During 2003-2005, 89 persons were refused entry, mainly for failure to present a Polish visa. In 2005, 7 counterfeited documents were discovered and 50 persons detained.

The experts found the regional border-control strategy to be compliant with 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 are organised.

At the BGP, there is an information exchange point with the Centre for Air Borders (ABC) and EU airports involved in electronic exchange of information (IAP).

Risk analysis is organised at 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 shift manager, and provided to Border Guard officers at first and second line during the pre-shift briefings. There are plans to prepare regular or ad-hoc risk analysis. An annual summary of risk analysis has not yet been prepared. For 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 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 under the permanent supervision of border guard officers.

Crews are controlled in the same lines as regular passengers but have priority access to control by overtaking the queue of passengers waiting at control.

Persons using private planes are escorted from (to) the plane. They have to use the same control booths as passengers of regular flights. With regard to 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 not yet any separation of Schengen-and non-Schengen flights. Physical separation of Schengen-and non-Schengen at the same building is under preparation. Schengen and non-Schengen arrivals and departures will be handled completely separately in the eastern and respectively in the western part of the terminal. The ground floor is established for arrivals and the first floor for departures. The current domestic gate is planned for future non-Schengen traffic. The passenger traffic on the apron (Schengen/non-Schengen arrivals and departures) is without exception under the supervision of Border Guard officers.

No flexible gates are foreseen.

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

The 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 the arrival gate is not extended. One of the arrival booths is situated only 3 metres from the opposite wall.

With regard to the new terminal (construction work will start in 5-7 years), 3 levels are foreseen but the separation of Schengen and non-Schengen traffic is not yet planned. When Terminal 2 has been completed, both terminals will be connected.

The Committee points out the need for the Border Guard authorities to be involved in the process of designing the new terminal.

Two booths with a total of 3 workstations have been installed in the arrivals hall. The construction of the booths was found by the experts to be good. 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.

Two booths with three workstations are used for the departure border checks.

There is an alert system connecting the booths with the second-line control officer.
The access control system provides the 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 the 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 workstations were equipped with telephones. Computer terminals allow officers at the first line as well as at the second line to directly access the database containing specimens of travel documents and forged documents, the Schengen Borders Code and databases of law regulations.

Entry and exit stamps used by the Border Guard were found to be 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 Projectina Docubox documents' authenticity examination set, 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 adoption of the border-control system separating the Schengen and non-Schengen flights, parts of the second-line office would be far away from the first control line, which might harm the efficiency of border control. In future, due to a change in location for one room of the second-line office, the new planned second-line room is regarded by the experts as being too small. Furthermore, there is almost no possibility for overtaking the crowd as the room is to be in front of 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 access control in the international area and patrolling the fence from inside and outside. The Airport Security Service is responsible for the protection of airport restricted zones and for security control of 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 by employees of the Airport Security Service. 38 CCTV cameras monitor the whole airport area. The screens of the camera system are situated inter alia in the shift manager's room.

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

Two detention rooms for short-term detention are situated in the basement of the building. Regular detention is organised in the regional headquarters. The experts mentioned the absence of natural light and poor lighting in the detention rooms.

There is an interrogation room.

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

### 4.3.     Controls and procedures

The current flight schedule makes it possible 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 on foot or by bus under observation of the Border Guard officers.
Bus transport is provided for the airlines and the General Aviation, which pay for this service. The remaining passengers go on foot accompanied by a holding representative.
Persons from non-Schengen countries are transported to the terminal by bus.

In the arrivals hall for international flights there is enough space for persons waiting for the border checks, and passengers can be observed for the purpose of profiling. The experts found the current handling of the traffic to be 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 EU countries usually underwent a minimum check. A thorough check was carried out on citizens of non-Schengen countries. Passport readers were not used. Profiling was used but not all border guards interviewed passengers. The experts were told that not all Border Guard officers had undergone the special training for profiling. There is a special room for observation of the passengers. Due to a lack of space, the experts have doubts about the possibility of using this positive measure after the change of area for border checks.

Crews of passenger planes and cargo planes are checked in the same way as passengers, but they do not have to queue.

Passport control personnel do not have personal data stamps. Data stamps are saved in a closed safe in the shift manager's room and issued to the control personnel for the period of the shift. The officer has to sign a special journal when receiving the stamp. Upon the return of the stamp, the shift manager signs the journal. Security codes of the stamps are changed once a month. The change in the security codes is registered.

Experts assessed the registration of complaints from persons subject to border checks. A special journal is used for the registration of complaints. The last complaint was registered in 2004.

The Border Guard database for border checks comprising information about wanted persons, stolen and lost travel documents, and persons not allowed to enter the country, is available but was not used by all Border Guards during the passport checks 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 on refusal of entry is taken by the shift manager. The decision is always explained to the passenger in a language understandable to him/her. Persons who are refused entry will usually be readmitted by the same plane. If entry is refused because of false documents, a prosecutor will be informed and the necessary proceedings will be initiated. The experts observed that the EU form for refusal was used and were convinced that all refusals were established in a special journal. In 2003 there were 25 cases of refusals of entry, in 2004 – 24 and in 2005 – 40. The main reasons were absence of a Polish visa, absence of a travel document (8 persons from Switzerland), and the purpose of the travel being other than declared.

There were no asylum applications in the period 2003-2005. The Border Guard is responsible for receiving asylum applications, 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-term 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 on 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 purpose. The issuing of the visas is registered in the special journal.

The second-line activities consist of a thorough check on 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 in 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 the Independent Reserve Company of the Morski Regional Unit (up to 37 Border Guard officers) is able to arrive to the BGP within 50-60 minutes.

## 4.5. Staff and training

The Border Guard Post in Gdańsk – Rębiechowo 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 Logistics Group. Border checks are performed by the Border Control Group, consisting of 49 officers – 35 % of the total number of officers. The experts found that every first-line Border Guard officer performs about 5 000 border checks on non-Schengen passengers per year, so the number of personnel is quite adequate. The biggest number of officers belongs to the Security Control Group – 47 %. In 2006 there are plans to increase the number of personnel to up to 181 persons; then allocating 59 officers to Border Control. The experts found current personnel to be professional and highly motivated.

All BGP personnel have undergone basic training and corresponding non-commissioned or warrant officers training.

One day each month is used for refresher training and is mainly dedicated to familiarisation with new legislation.

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

The experts are confident that personnel at the first line have the basic knowledge to reveal possible counterfeited documents for second-line inspection. Not all of the four experts on the second line have had special training in 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 to be sufficient, bearing in mind the current number of passengers and nature of flight connections.

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

Readmission is one of the tasks of the Border Guard. Expulsions are carried out on the basis of the voivod's decision. Readmission is based on the decision of the Commander of BG Post/Regional Unit. Expulsion documents are submitted to the voivod by the Border Guard. The Polish Border Guard pays particular attention to the immediate return of non-admitted passengers. If this is impossible, persons will be sent to regional headquarters for the time needed to prepare 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 on 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 from 2002 to 2005, fines were imposed on carriers in 77 cases. The fines amounted to PLN 588 757. Fines were imposed by the voivod at the request of the commanding officer of the BGP. In 2005 the number of fines decreased significantly. During that year a fine was imposed on a carrier only once, the amount of the fine being PLN 12790,50. The Committee was told 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(1) of the Aliens Act, imposing the administrative fine on the carrier is possible only if the carrier brings to Poland an alien who is not in possession of either a travel document or a visa (both documents missing at the same time).

## 4.7. Comments and recommendations of the Evaluation Committee:

The experts welcomed 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 current procedures in border control.
- Good language skills of the personnel performing border checks.

- The existence of three-tier 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 special note of the following items:

- The infrastructure is largely in place. Experts feel that the future arrivals hall for non-Schengen flights is rather small. It is sufficient for the current passenger flow but could create difficulties when organising sufficient border control in the event of a higher volume of passengers.


- The system and structure for risk analysis exist at 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 of whether to carry out thorough or minimum-level border checks must be on a case-by- case basis in the light of risk analysis and profiling, and should by taken individually by every border guard.

- Not all experts at the second line have undergone special training in the use of the sophisticated equipment for investigation of travel documents.

- It is not possible to control fingerprints at the border-crossing point and consult EURODAC directly.

-  It was not completely clear to the experts how Schengen and non-Schengen flights would 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.

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5. WARSAW – OKECIE AIRPORT

## 5.1. General information

Frederic Chopin International Airport in Warsaw 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 number of border crossings within the Nadwislański Regional Unit). 68 % of arrivals and departures are from/to Schengen destinations. During the day the airport processes around 271 arrivals and departures. Arrivals and departures from/to non-Schengen countries in 2005 accounted for 47 % of all flights.

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

The BGP Warsaw – Okęcie is one of 5 outposts of the Nadwislański Regional Unit. This Regional Unit was created on 15.09.2004. The BGP Warsaw – Okęcie consists of management, a Border Traffic Control Group, a Flight Security Control Group, an Operational and Investigation Group, a Logistics 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)
A comprehensive presentation on the new Terminal 2 project was submitted to the Committee. The central part of Terminal 2 should be completed by 31.06.2006, the southern part of the terminal 2 by 31.12.2006 and the northern part by 2007. Experts were told by Border Guard officers that there is a delay; construction work should have been finished in 2005.

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

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

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

The structure and separation of the flows were found by the experts to be clear. Although the experts were told that there is a tried-and-tested system with only 1 mistake in 3 years (combination of human input and an electronic system), they were not sure about the system's effectiveness for the separation of passengers using flexible gates. The successful separation of Schengen and non-Schengen traffic will be possible if construction work of Terminal 2 is completed on time. The new booths should be equipped with hidden monitor screens, "elevator chairs" and one-way glass.

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

Since December 2003 the BGP Warsaw Okęcie 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 performed at the level of Border Guard Headquarters and at the level of the Nadwislański Regional Border Guard Unit where special independent risk analysis units have been created. There is no risk-analysis unit in the BGP Warsaw Okęcie 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 on new information. The Border Guard Intranet is used for delivery of information about forgery of travel documents. The concept of risk analysis at the level of Nadwislański Regional Border Guard Unit and BGP Warsaw Okęcie was presented, but the experts were not fully convinced about its practical implementation. There is no joint risk analysis with the Police or other law-enforcement authorities at the level of the BGP.

70 % of illegal migrants in the Nadwislański Border Guard Unit were detained at the airport. In 2005 BGP Warsaw Okęcie border guards detained 364 aliens for illegal border crossing or attempt to cross the border illegally (increase of 46 % compared to 2004). The experts were told that illegal immigrants had mainly been detained at departure control. Illegal immigrants enter Poland legally mainly from Moscow, Minsk, Moldova or Ukraine having forged travel documents concealed on them or obtaining forged documents in Poland. Some of them cross the land borders of Poland illegally. 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 to the BGP and 1 075 persons were refused entry (292 persons without a visa and in the case of 701 persons it was found that the purpose of travel was other than declared). Among those 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 complies with Council Decision 2004/381 on the minimum indications on signs at external border crossing points and with Annex III to the Schengen Borders Code.

There is separation between domestic and international flights and between arrival and departure checks. Arrival checks are performed in passenger Terminal 1 on the ground floor and departure checks on the first floor. Airport personnel are 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 passengers to walk through the corridor to another passenger bridge. There was a rope only to avoid passengers changing 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 border checks on crews at arrival. In addition, 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 the "low cost" carriers terminal. Control lines are divided between lines for EU citizens and all passports.

At the first line both in the arrivals and departure halls there is a sufficient waiting area for passengers. Booths are located in front of the passenger 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 that the sides and back of the booths are made of opaque material so as to keep the screens out of the view of unauthorised persons.

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

Offices at 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, a UV lamp, a UV document verifying tester, a retro-reflective 3M film control lamp and a phone. Officers have personal notebooks containing information provided during pre-shift briefings.

The second-line offices are equipped with a device for the examination of DOCUBOX Projectina documents, a PC with access to the local and the central database of the Border Guard, a stereoscopic microscope, a magnifying class with illumination, a photocopier 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 also in a printed version.

All control booths are connected into the computer network and have a 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 personnel, in addition to 2 jeeps, one convoy van and one car for transportation of dogs.

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

The Committee viewed the rooms for non-admitted persons and first interrogation rooms, and visited the Guarded Centre for Foreigners.

Detention rooms have no natural light and are used only for short-term detention. In 2005 the border guards of the BGP Warsaw Okęcie detained 761 persons (including 335 Polish citizens) 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 shift manager's room. 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 underwent a thorough control and interrogation by an officer performing border checks. Passport-readers were used for entering the passport data of third-country nationals. Passengers from third countries were checked via the ZSE II Border Guard database. 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 third-country passenger into the database, information about the visa requirement was displayed on the screen.

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

Passport-control personnel do not have personal data stamps. Data stamps are stored in a closed safe in the shift manager's room and issued to the control personnel for the period of the shift. An officer must sign a special journal when receiving the stamp. Upon return of the stamp, the shift manager signs the journal. Security codes of the stamps are changed once a month. The change in the security codes is registered. The experts found stamping of the documents to be proper.
The Common Manual was available on the Intranet on the first and second line and in printed form in the second line.

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

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

86 asylum applications on 141 persons were submitted to the BGP Warsaw Okęcie in 2005. Compared with 2004 the number of applications and persons has increased more than tenfold. The applicants are mainly nationals of: Russia, Kyrgyzstan, Belarus, Serbia and Montenegro and Afghanistan.

There is a special team dealing with asylum applications in the Operational and Investigation section. The Border Guard is responsible for receiving asylum applications, conducting the first interview, taking fingerprints and transferring the person to the Office for Repatriation and Aliens. Fingerprints are taken manually, scanned and then cross-referenced 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 based on the decision taken by the Commandant of the BGP. Visas are issued by officers trained for that purpose. Experts were satisfied that the issuing of the visas was registered in the special journal and the visa stickers kept in a locked box in a safe in the shift manager's room.

Second-line activities consist of examination of the travel documents and interrogation of passengers. Second-line offices are in both the arrival and 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 the ZSE II database.

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### 5.4. Border surveillance

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

A special intervention team is available at the BGP to react in the event of incidents.

### 5.5. Staff and training

There are 638 Border Guard officers in the BGP Warsawa Okęcie. 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 involved in border control. 132 persons are currently attending a basic training course. 3 % of the personnel has changed during 2005. The experts found BGP personnel to be 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 number of personnel seems to be adequate.

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

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

Border control is organised in 2 shifts: 35 officers from 6.00 to 18.00 (day shift) and 25 officers available from 18.00 to 6.00 (night shift) -. The experts found the number of officers per shift to be 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 Nadwislański Unit of the Border Guard. The Centre is situated close to Warsaw Okęcie airport and is used for detention of the persons awaiting deportation. Foreigners will be detained based on the decision of the court. A decision must be made not later than 48 hours after the arrest of the person. The Centre has 40 places for men and 9 for women. Only adults stay at the Centre. At the moment of the inspection, 40 men and 7 women were staying at the Centre. Men and women stay in separate rooms. Children are kept separately from their parents staying at the Centre. There is only one Centre in Poland where mothers and children can stay together. The maximum period of detention is 12 months. If during that period the person is not deported, he/she will be released. In 2005, 245 aliens were detained at the Centre on the decision of the court. During the year, 166 persons were deported, 46 persons are still staying at the Centre, 15 persons were released on the decision of the court and 15 were released after a 12-monthstay.

In 2005, BGP Warsawa – Okęcie submitted 39 applications to impose a penalty on carriers bringing 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 for 12 carriers, and the amount of penalties was EUR 119 000. 20 applications were submitted in relation to the Polish company LOT. There is a dramatic decrease in the number of fines owing to the amendment to the law (2004 – 435 applications, 2003 – 502 applications, 2002 – 417 applications).

## 5.7. Comments and recommendations of the Evaluation Committee:

The experts welcomed the following facts

- The procedure for passport checks on entry and exit is efficient.

- The quantity and quality of personnel is adequate for the tasks of the Border Guard. Staff are experienced, professional and seem highly motivated.

- The position and status of the Border Guard make it possible to employ well-educated people.

- The software for notifying the border guard officer of nationals requiring a visa was found to be very helpful.

- Border guard facilities at the general aviation terminal are excellent.

- The hidden position of the monitors in the control booths was found to be very suitable.

- Border-control equipment at the first and second level of control is sufficient and modern.

Experts took special note of the 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 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, Border Guard personnel performing border checks need additional training in 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 to better suit the operational needs of the BGPs, enhancing the role of the BGP Warsaw Okęcie and other BGPs in the integrated risk-analysis system, including joint risk analysis with Police and Customs.

**6.** **KRAKÓW – JOHN PAUL II AIRPORT**

### 6.1. General information

John Paul II International Airport Kraków-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 – Okęcie, there is sometimes a need to check 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 twofold (in 2004 – 670 396 persons). Most 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 passengers, and a cargo terminal. Because of the dramatically increasing number of passengers, a new terminal is planned. The entire airport area is 210 ha.

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

The experts found the plan for the structure of the terminal and the planned technology for separation to be both logical and appropriate. The experts were told by the airport administration that tendering was complete, reconstruction works should be completed by February 2007 and financial resources had been allocated.

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The successful separation of Schengen and non-Schengen traffic is possible on condition that construction work on Terminal 2 is completed in time.

Border Guard Post Kraków-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 an Intervention Traffic Safety Group. The Border Traffic Control Group consists 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, the Airport Security Service, the Office of Malopolskie Voivodeship, the Public Prosecutor's Office and some other authorities. English-language translations of agreements between regional Border Guard and Police units as well between regional Border Guard and Customs units on cooperation at Kraków-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 the 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 passengers holding boarding passes and travelling within and outside the EU can move, the functions of the VIP lounge and luggage control.

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

The experts found cooperation to be 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 airports of EU Member States participating in the electronic information exchange network.

Risk analysis is centralised and carried out in the Karpacki Regional Unit of Border Guard, where 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 to prevent and neutralise threats as well as increase 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 to border security and management, by a Reserve Company in planning operations and in intensifying efforts to improve the situation in high-risk regions. A monthly risk-analysis report was presented to the experts. The report concentrated mainly on aviation-security matters.

There is no risk-analysis unit in the BGP structure . Risk-analysis tasks are therefore performed by appointed officers from the Border Traffic Control Group and the Investigation and Operational Group. Experts found that the risk-analysis system was 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 and outside in order to check whether foreigners are legally resident on Polish territory and combat illegal immigration networks.

The main threats seen by the 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 has increased more than twofold (12 persons in 2004 and 28 persons in 2005). Illegal immigrants had entered Poland from Ukraine and tried to leave for the UK, Austria or Italy using counterfeit EU documents. 23 persons detained in 2005 for an attempt to cross the border illegally were nationals of Ukraine, three were nationals of Poland, one person was from Vietnam and one from Moldova.

## 6.2. Infrastructure and equipment

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

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

At arrivals there are 6 booths and at departures 4 booths with one workstation in 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 if more than one flight arrives at the same time the waiting area could become crowded and difficult to observe. It is good 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 at every workstation via Intranet.

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

The experts found that the phone was missing in one of the arrival booths and that 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.

Staff do not have personal entry and exit stamps. The system for 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 VSC4 device for examination of documents, a PC with access to the local and central database of the Border Guard, a stereoscopic microscope, a photocopier and a printer. 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 consists of special equipment such as entry scanners, an endoscope, a mobile fumes and explosive materials detector, a mini video camera, hand metal detectors, explosive materials detectors, a baggage X-ray device and a multi-tier system for baggage control.

The experts found equipment to be advanced and modern.

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

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

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

Blanks of the visas are 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 be compliant with the Common Manual and respective regulations.

## 6.3. Controls and procedures

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

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

The experts observed the systematic control of EU citizens via databases and they were told that personal data of passengers controlled via databases would be stored in the Border Guard's ZSE II database. The experts considered that systematic control of EU citizens and storage of personal data of every passenger in the Border Guard database was not compliant with the principles of the Schengen Convention and Common Manual.

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

Passport-control personnel do not have personal data stamps. Data stamps are stored in a closed safe in the shift manager's room and issued to the control personnel for the period of the shift. An officer has to sign a special journal when receiving the stamp. Upon the return of the stamp, the shift manager signs the journal. Security codes for the stamps are changed once a month. The change in the security codes is registered.

For border checks, the ZSE II database , the 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 containing specimens of travel documents and counterweighted documents;
- AFIS and
- EURODAC.

The Common Manual is available on 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 on Intranet for self-education.

In 2005, 84 persons were refused entry. The ground for refusal of entry was mainly lack of visa. The number of refusals in 2005 compared to 2004 increased approximately threefold (from 29 in 2004). The majority of the persons refused 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 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 to Ukrainian nationals and 6 for Russian nationals. The number of visas issued has increased year by year. In 2004, 26 visas were issued.

The decision to issue a 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 purpose. The issuing of visas is registered in the special journal. The experts were satisfied that visa stickers were kept in a locked box in a safe in the shift manager's room and their use is registered in a special journal.

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

## 6.4. Border surveillance

The territory and perimeter of the airport are 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 recorded by the shift manager and information is stored for at least 1 week.

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

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

## 6.5. Staff and training

BGP staff are professional, experienced and highly motivated. The level of salary and status of Border Guard officers provide good opportunities for recruiting new staff. The staff responsible for border control have undergone the necessary training.

In order to implement the regulations introduced by the new Schengen Borders Code, a course for trainers is scheduled. The trainers will organise the training of all BGP staff during the coming months.

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

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

Everybody at management level must undergo refresher training of 8 days a year.

There are 194 Border Guard officers employed today at the Kraków-Balice BGP. 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. In three years the BGP staff increased from 98 persons in 2003 to 194 persons in 2006, i.e. 98 %. As the BGP structure provides for 297 posts, the total manning coverage is 65 %.

The shift system is adjusted to the schedule of flights and the number of control booths. Shift managers and their assistants, assistants of the Team for Data Processing and Registry and part of the 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 number of personnel in a day shift is 9-12 officers. On 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 considering that every first-line Border Guard officer performs about 7 500 border checks on non-Schengen passengers per year. If the number of passengers increases, there could be a need for more passport-control personnel. BGP heads 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), as well as 9 decisions obliging an alien to leave the territory of Poland (2003 – 13, 2004 – 39).

Persons refused entry to Poland were readmitted. The experts were told that the readmission of the non-admitted persons is successful and 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 BGP personnel to combat illegal immigration:

- risk analysis;

- precise border control of persons and documents at the border;

- checks on whether foreigners are legally resident;

- information exchange and joint actions with other state institutions and

- operational – reconnaissance actions.

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

## 6.7.    Comments and recommendations of the Evaluation Committee

The experts welcomed the following facts:

- Professional, well-educated and motivated team. The number of staff is sufficient to perform the given tasks.

- Use of the databases for border control.

- Forms of different procedural documents are available on Intranet.

- Language skills of the personnel, especially knowledge of Russian language by significant number of officers.

- The integrated and systematic approach of BGP personnel to combating 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 special note of the following items:

- The experts endorse the first results of risk analysis and also recommend that the risk analysis for aviation security consider border security-related regular risk analysis.

- The infrastructure is adequate for the separation of passenger flows in current conditions. Reconstruction of the airport and designed technology of the border checks should be introduced as planned way and on time.

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

- The Committee recommends that more attention be paid to the safe use of passwords and login information.

- The Committee recommends thatSchengen and EU regulations on checking EU citizens be strictly followed and that the systematic control and storage of the personal data of EU nationals in the Border Guard database be reconsidered. 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 is providing a good level of border management at the airports and essentially meets Schengen requirements. Current EU regulations are followed in carrying out border controls. The experts found border checks to be efficient with some minor exceptions.

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

- The position and status of the Border Guard makes it possible 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 passengers on Schengen and non-Schengen flights is not yet accomplished and has not started in some airports. The experts took note of confirmation by the representatives of the airport administrations that all work would be completed during the first half of 2007 in accordance with the plans presented. The Polish authorities should report to the Scheval Working Party regarding completion of the reconstruction work, and the infrastructure requires follow-up.

- The Committee recommends that Schengen regulations on checking EU citizens be strictly followed and that the systematic control and storage of data be reconsidered.

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

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