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

The text of this document is identical to the previous version.

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COUNCIL OF
THE EUROPEAN UNION

Brussels, 12 September 2006

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SCH-EVAL 125
VISA 219
COMIX 733

REPORT

from : Evaluation Committee

to: Schengen Evaluation Working Party

Subject : Report on the Evaluation Committee's mission to the Embassy of **Poland in Moscow** in the context of the New Member States' preparations for the full implementation of the Schengen acquis

Delegations will find attached the draft report of the Schengen Evaluation mission to the Embassy of Poland in Moscow drafted by the Evaluation Committee (Annex II) (hereinafter *EvalCom*). It is presented to the Sch-Eval Working Party for discussion and adoption, allowing for its eventual submission to the Council.

Comments of the Polish authorities are set out after the comments and recommendations of the Evaluation Committee.

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Acknowledgements:

The members of the Evaluation Committee (EvalCom) wish to thank the Polish authorities and the staff of the Polish Embassy in Moscow for the excellent organization of the visit and their valuable the co-operation.. In particular, the EvalCom would also like thank to the staff of the Polish central authority, for their assistance, as coordinator, of the visits to the Embassies located in Moscow.

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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 evaluations adopted by the Council (15275/04 SCH-EVAL 70 COMIX 718, and 7638/2/05 SCH-EVAL 20 COMIX 200), an Expert Committee (*EvalCom*) visited the Embassy of Poland in Moscow, on 12 May 2006.

At the moment of this evaluation, the Visa Facilitation Agreement between the European Community and the Russian Federation, signed on 25 May 2006, had not entered into force yet.

2. MANAGEMENT SUMMARY

The EvalCom considers, on the basis of the checks carried out and the information gathered, that the Republic of Poland, as far as its Embassy in Moscow is concerned, will be in a position to implement the Schengen acquis in full in due course. No significant failings or chronic errors were noted in the daily work of the Embassy.

Positive practices worth a particular mention, included:

- the amount and quality of information provided on consular services
- regulation of flow of applicants
- security
- the training and education of its staff.

Issues requiring special attention or reviewing by the Polish authorities in order for Poland to join Schengen in full related mainly to:

- the need for more attention to assessing individual applications, and a computer system which allows a batch (of 10 applicants at the same time) authorisation of visa applications without having to open each individual records separately
- low percentage of applicants being interviewed
- possibility to issue visas 6 months in advance instead of 3 as stated in Schengen Recommendations and Best Practices

3. ACCESS TO THE EMBASSY AND CONSULAR SERVICES

3.1 Location; entrances

The Consular Division is located in a separated part of the building of the Embassy of the Republic of Poland in Moscow.

3.2. Information

- Written information

At the entrance to the first-contact visa pavilion, there is a notice board providing information in 3 languages (English, Russian and Polish) which includes information on:

- working hours of the Consular Division and its telephone and fax number,
- 24 hour visa information answering machine telephone number,

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- internet website address and electronic mail address,
- a specimen of a completed visa application form, types of visas and visa fee,
- means of subsistence and medical insurance required upon entry into the territory of the Republic of Poland,
- that consular charges are not returned in case of refusal to issue the visa,
- that the final decision about a foreign national's entry onto the territory of the Republic of Poland is taken by the Border Guards,
- about the possibility to obtain detailed information concerning visa matters in counter no. 1 without the need to queue.

There is another notice board in the visa waiting room that repeats the information provided in the notice board outside.

- Telephone information

Telephone contact on visa matters during working days is possible during the office working hours from 8:30 till 16:30 directly with the expatriate employees of the Visa Section and visa consuls. After office hours, visa information is provided by the Embassy's duty officer, and in particularly important cases, the applicant will be connected with the visa consul. A 24 hour automatic answering machine provides information about visa application.

- Electronic information

The website of the Embassy www.polandemb.ru has a link to the Consular Division information, including the chapter concerning visa matters. It contains all relevant information about visa application.

3.3 Application forms

Visa application forms are available at the stand next to the pre-check counters, in all visa counters and in the visa waiting room in Russian and Polish. There is a possibility to download a visa application form from the Embassy's website in five languages (Polish, Russian, English, French and Spanish).

The EvalCom was informed that visa application forms are available at the travel offices which cooperate with the Consular Division and in representative offices of airline companies.

3.4 Access management

The Consular Division is open Monday to Friday between 8:30 and 16:30, visa applications are submitted from 9:00 to 13:00, while the delivery of passports takes place from 15:30 to 16:15.

The Embassy building is protected 24 hours a day by the local militia and by Polish security guards. Furthermore, a local security guard company is employed as well, which takes care of maintaining order in the queue and of applicants' safety outside the Embassy's premises, in front of the entrance of the first-contact visa pavilion.

Thanks to the efficient access management, applicants are attended as they arrive, without long queues. The applicants are attended at three counters in the first-contact visa pavilion. One of the counters serves travel agencies.

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Upon completing preliminary registration, the visa applicants go through the security control carried out by a Polish security guard. Subsequently, the applicants are guided by the security guard to the visa waiting room that is located approximately 20 meters from the first-contact visa pavilion. The spacious waiting room facilities have room for 20-25 people at the same time. The visa waiting room is air-conditioned.

Inside the waiting room, there are:

- 2 payment counters, where the visa fee is paid (attended by expatriate staff),
- 9 counters, where visa applications are submitted (attended by local staff) (one counter is normally reserved for travel agencies),
- 1 counter for legal matters (attended by expatriate staff),
- 1 counter (attended by expatriate staff) that services:
 - Polish citizens with passport issues,
 - employees of the Ministry of Foreign Affairs and of other state authorities of the Russian Federation,
 - holders of diplomatic and service passports and well-known businessmen.

From the visa waiting room there is an access to two rooms designed for conducting individual interviews with applicants, in which privacy is guaranteed. When leaving the visa waiting room, the applicants use an exit to the street through a separate revolving door, keeping outgoing applicants and incoming applicants separate.

EvalCom comments and recommendations:

The EvalCom appreciates the Embassy's efforts to reduce number of waiting outside (maximum 15 people). The system is *efficient and customer-friendly*, while respecting necessary rules of security. Access procedures and facilities are designed in such a way that can be adapted to different levels of demand (from 200 to 500 applicants per day in a peak season).

4. SECURITY

4.1 Outside the building

The entire area of the Embassy is surrounded by an over 2-metre high metal fence and is guarded 24 hours a day by the local militia. Additionally, the street in front of the first-contact visa pavilion is guarded by four security guards from a private security company during working hours. The premises of the Embassy are guarded by a group of Polish security guards. Two security guards are on duty inside the security room of the first-contact visa pavilion during working hours, checking the applicants and their luggage (metal detectors). The entire area of the Embassy, including the consular section, is under constant camera surveillance.

It is impossible for applicants to gain uncontrolled access to the area of the Embassy.

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4.2 Inside the building

Prior to entering the visa waiting room, the applicants are checked by the Polish security guards. The applicants go through metal detection gates and their luggage is screened by appropriate equipment. After such a check is performed, applicants proceed to the visa waiting room through a courtyard which is fenced off from the rest of the Embassy and monitored by a system of cameras. Inside the visa waiting room, a Polish security guard is constantly present. Contact of the visa staff with the applicants takes place through windows secured by bullet-proof glass, equipped with security pass-through document feeders. The counters are equipped with an intercom system. All work posts of the personnel who service the counters are equipped with alarm buttons. Individual interviews with the applicants are carried out by consuls in two special rooms adjacent to the visa waiting room. Those rooms are secured with electronically operated doors that prevent applicants from accessing other rooms. During interviews, Consuls are equipped with manual alarm devices.

Access to the back office used by expatriate and local staff, including the interview rooms of the Consular Division, is regulated by way of individually programmed magnetic access cards.

In situations when visa processing requires longer consideration than usual (one day), travel documents together with the enclosed documents are stored in secure safety deposit boxes of the Visa Section.

EvalCom comments and recommendations:

The security situation as a whole is considered as more than adequate for the protection of staff and visa stickers.

5. SUBMISSION OF APPLICATIONS

The EvalCom was informed that according to Polish law, a person applying for a visa can submit a visa application in person, through a travel agency, a visa intermediary agency or an authorized person. In the event of any justifiable doubts, the consul asks the applicant for an in-depth interview.

5.1 Pre-check of applications

Preliminary control of a visa application takes place directly when an applicant presents him/herself at one of the three counters of the first-contact visa pavilion. Most important documents (valid travel document, confirmation of the purpose of entry, visa application form and identity of the person submitting the visa application or of the authorized person) have to be already presented at this stage. At any given time, one of the Consuls is present in the pre-check area.

5.2 Personal appearance required

Exemptions from personal appearance are foreseen for well known businesspersons, holders of diplomatic and service passports and high ranking government officials. Couriers and travel agencies can bring in visa applications with necessary documentation.

Official parental consent is required for applications of minors.

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The Consul decides whether to invite the applicant to come to the Embassy to submit additional supporting documents or carry out an interview.

5.3 Nationality of applicants

97 per cent are Russian, 3 per cent holds other nationalities.

5.4 Treatment of applications from non-residents

Non-residents can apply for visa.

5.5 Handling fees

Handling fees are accepted in USD because of the dollar system of the Embassy's internal financial calculations. Single entry: 12\$, double entry: 20\$ and multiple entry: 59\$. The visa applicant is informed that in the event that the visa is refused, the handling fee is not reimbursed.

It sometimes occurs that the handling fee is reimbursed to applicants after checking of the application (and sometimes after an explanatory interview at the counter).

Ukrainian, Moldovan nationals and Russian citizens living in Kaliningrad and some other categories of Russian citizens are exempted from paying the handling fee according to existing bilateral agreements between Poland and these countries. The handling fee for Belarusian nationals is reduced by half although for some categories of Belarusian citizens the handling fee may also be waived.

EvalCom comments and recommendations:

The EvalCom considers the percentage (1 or 2 per cent) of applicants being interviewed as low, especially taking into account the volume of visa applicants, and recommends increasing the number of interviews (to verify the applicant's identity, true purpose of stay, etc) once applying Schengen in full (reference is made to chapter III.4 of the CCI).

The possibility for applicants to be reimbursed at the counter (stage II) after checking of the application (and sometimes even after an explanatory interview at the counter) will not match with the existing provisions of the Schengen acquis once the Schengen acquis will be applied in full. At this stage, indeed, the examination of the application has already started and the "handling" fee should have been already paid. Since in such cases, it is common practice among Schengen representations that the handling fee is not reimbursed anymore.

Comments of Poland:

In the draft report EvalCom states that "the percentage (1 or 2 per cent) of applicants being interviewed as low, especially taking into account the volume of visa applicants, and recommends increasing the number of interviews (to verify the applicant's identity, true purpose of stay, etc) once applying Schengen in full." In another part of the document it is also stated that "EvalCom concluded that if the Embassy paid more attention to assessing individual applications more carefully and not take it solely as a paper process, then there should not be any major problem in applying the Schengen acquis fully in due course."

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In this regard Poland would like to state that the precise and thorough analysis of the visa applications is one of the main tasks of the Polish Consular Service that in no way treats them as a biurocratic paperwork process. The procedures currently applied are the result of bilateral agreements and will continue being adjusted to entirely meet Schengen Recommendations as from full application of Schengen acquis.

In one of the comments EvalCom notes “the possibility for applicants to be reimbursed at the counter (stage II) after checking of the application (and sometimes even after an explanatory interview at the counter) will not match with the existing provisions of the Schengen acquis once the Schengen acquis will be applied in full. At this stage, indeed, the examination of the application has already started and the "handling" fee should have been already paid. Since in such cases, it is common practice among Schengen representations that the handling fee is not reimbursed anymore”. The Ministry of Foreign Affairs would like to state that Poland fully applies the practice that after presenting the visa application there is no possibility of obtaining the reimbursement of the visa fee. The specific situation of the Polish Embassy in Moscow is related to the fact that I and II stage of the visa process are located in separate buildings. In accordance with the adopted procedures in the I stage counter the initial registration is related to the applicant and not the application. The documentation is again thoroughly revised in the II stage building where the visa fee is paid. The MFA shares the opinion that the decision of desisting from filing the visa application at this stage should not generate the reimbursement of the fee. The applied procedures in the Polish Embassy in Moscow in these matters will be analyzed with the head of the Consular Section of the Embassy to guarantee its full compatibility with Schengen Recommendations.

6. PROCESSING THE APPLICATION

6.1 Lodging an application

The visa application form is checked with respect to its proper completion and the authenticity of the signature and quality of the enclosed photo. In case of minors, it is required that the official authorisation is signed by the parents / legal guardian.

According to Polish law, a visa can be issued 6 months in advance of intended travel.

6.2 Examination of an application

The submitted visa application with all the supporting documents are checked during the following stages of examination of the visa application:

1) Stage I - first-contact counter

See under Chapter 5.1

2) Stage II- counters for submitting visa applications

At this stage, payment of a visa fee, travel document, documents that confirm the purpose of entry, photograph, visa application form and photocopy of the first page of the travel document are verified.

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In the event of irregularities and discrepancies in the visa application, an explanatory interview is carried out with the applicant by the personnel at the counter. Stamping the travel document with an application stamp takes place at the stage of receiving the visa application. When it is necessary for the consul to examine particularly closely the visa application, the staff at the counters for accepting documents marks the visa application form.

3) Stage III - entering data into the computer by the registration section by local Russian staff

At this stage, the travel document, receipt of the visa fee and the visa application form are verified.

In the event that the personnel at the visa counter note a problem in the visa application form, a function is activated in the system which warns the Consul about the problem, when assessing the application and taking a decision.

4) Stage IV - the consul checks the visa application

At this stage, the consul examines the authenticity of the travel document and the authenticity of documents confirming the purpose of entry. The Consul can amend the type of visa and duration of stay or can ask for additional supporting documents or for an in-depth interview. In cases of doubt, visa applications are sent to the central authority. The final verification of the authenticity of documents is carried out by the Consul at the stage of accepting the application for the printing of the visa. The computer data base contains a list of foreign nationals whose stay on the territory of the Republic of Poland is undesirable. In the event of a "hit", the system automatically informs the Consul about this.

The fact that an application has been received is indicated by placing on the first free page of the travel document the stamp "Consul in Moscow" and by putting down the date of receipt of the visa application.

Consultations are held:

- with respect to visa applications of citizens of countries covered by the principle of obligatory visa consultation,
- in case the visa application does raise some doubts with respect to State security, prevention of illegal migration or the authenticity of data or information submitted by a foreign national,
- in any other cases determined by an ad hoc decision of the Ministry of Foreign Affairs.

As a general rule, visa applications are processed in one day.

Correspondence in consultation matters is conducted through encrypted radio frequency. Apart from the blacklist, individual consultations are made to the central authority (aprox. 10 times per day) to obtain more information about doubtful applications (checks are made by police and immigration departments). The period for waiting for a reply is up to 10 days. In complex cases, the waiting time can be extended.

The central authority provide the visa ban list (visa ban EU and UN data are included in this list) which is computerised. When a visa application from a person included in the visa ban list is entered into the system, a warning will appear on the screen of the consul.

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The Evalcom has been informed that an application is immediately refused in case of a hit (in connection with the national blacklist and the EU visa ban list).

The decision on issuing or refusing the visa is made by the Consul.

6.3 Supporting documents (categories)

Irrespective of the purpose of travel, a passport (valid for at least 3 months beyond the date of planned departure from the territory of the Republic of Poland), photocopy of the personalized page of the travel document, 2 photographs, correctly completed application form and documents confirming the purpose of entry in the territory of the Republic of Poland, need to be submitted.

Other supporting documents may be required for respective visa categories.

6.4 Co-operation with travel agencies

Co-operation with travel agencies is based on an accreditation procedure. The travel agencies have to present the following documents at the Consular Department:

- a letter of information on the company and the couriers;
- photocopies of passports and photographs of the couriers;
- authorization for the couriers issued by the travel agency;
- a tour-operator licence;
- specimens of vouchers issued by the Polish partners;
- agreements with the Polish partners.

Those travel agencies (currently around 120) that meet these requirements are entitled to act as intermediaries in the visa application process. The application is to be signed by the person who applies for the visa. In case a travel agency does not meet the requirements it is removed from the list and thus cannot act as intermediary in the visa application process.

6.5 Medical Insurance

The EvalCom was informed that in accordance with Polish law, Travel Medical Insurance and means of subsistence are only checked at the border and not required in the visa application process (but information about the check at the Polish border is provided to visa applicants).

6.6 Types of visa issued

Airport visa “A” – entitles to enter and stay in the transit zone of an international airport and may be issued to a foreigner for a maximum period of 2 days.

Transit visa “B” – entitles to travel through the territory of the Republic of Poland for a period of stay limited to 5 days.

Entry visa “W” – entitles to a single entry in the territory of the Republic of Poland and may be issued to a foreigner who, prior to passing the border obtained or in the very moment of passing it, will obtain another legal entitlement to reside in this territory (**W/1** – for the purpose of repatriation; **W/2** – for a member of the closest family of the repatriate; **W/3** – to obtain a permit of temporary settlement or a permit to settle).

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Short term visa – “C” can be issued for:

- tourist reasons (C 01),
- reasons of a visit (C 02),
- the purpose of taking part in sports events (C 03),
- the purpose of performing economic activity (C 04),
- the purpose of performing cultural activities or taking part in international conferences (C 05),
- the purpose of performing business tasks by the representatives of authorities of a foreign country and of an international organization (C 06),
- the purpose of taking part in the proceedings to obtain asylum (C 07),
- the purpose of employment (C 08),
- for reasons of scientific, training or didactic activities – excluding employment (C 09),
- for the purpose of temporary protection (C 10),
- if the entry is motivated by an exceptional personal situation, the necessity to undergo medical treatment or the interest of Poland (C 11),

If the circumstances of the residence require that it lasts beyond 3 months, a visa may be issued as a **long-term one**.

Diplomatic visa D/8 is issued to the head and the members of personnel of a diplomatic mission, to the head of the consular post and the members of consular staff of a foreign country.

Service visa D/9 is issued to the member of administrative and technical personnel of the diplomatic mission service, to the consular staff, to the member of the consular post service.

Courier visa D/10 is issued to diplomatic and consular couriers. It is issued for stays up to 10 days and a diplomatic note is required.

6.7. Recognition of Schengen visas for the purpose of transit/stay

In accordance with the a bilateral agreement concluded between Poland and the Russian Federation (similar bilateral agreements also exist with Ukraine and Belarus), Schengen visas and residence permits are recognised as national transit visas (up to a maximum of 5 days) for Russian citizens.

EvalCom comments and recommendations:

With regard to the possibility of issuing visas 6 months in advance of intended travel, EvalCom refers to the Schengen Recommendations and Best Practices for issuing of visas, stating that, in general, visas can be issued at the earliest 3 months before the beginning of their validity.

The EvalCom established that the computer system allows for a batch (all 10 applicants at the same time) authorisation of visa applications without having to open each individual application file separately. It should be noted that the authorisation is the only stage of the visa process where the expatriate staff assesses visa applications and is therefore the most vital stage in the visa application process. EvalCom gives into consideration to change this feature in future releases of the visa system.

Furthermore, all aspects of Article 5 of the Schengen Convention (including proof of means of subsistence and travel medical insurance) will become a requirement for granting visas.

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As the Evalcom has been informed, an application is rejected immediately in case of a hit (in connection with the national blacklist and the EU visa ban list). In such a case, the Embassy could deny a visa to someone appearing on the EU visa ban list for which an exception is foreseen (in the provisions of the corresponding EU regulation) and, as a consequence, for which the issuance of a visa is possible (if no doubt arises / no documents are missing with respect to Polish national legislation). This could lead to problems as the Embassy does not have at his disposal EU regulations in writing (with categories of the exceptions) to check whether an applicant could benefit from such an exception.

The EvalCom points out that once fully applying the Schengen acquis, the types of visas need to be brought in accordance to the CCI (i.e. types A, B, C, D and, if applicable, D+C).

It has to be noted that Schengen Recommendations and Best Practices for issuing of visas state that, in general, visas can be issued at the earliest 3 months before the beginning of their validity.

Comments of Poland:

With regard to the recommendation that “once fully applying the Schengen acquis, the types of visas need to be brought in accordance to the CCI (i.e. types A, B, C, D and, if applicable, D+C)” Poland would like to inform that the specific type of W visa is issued to a foreigner who, during his stay abroad, completed all the administrative procedures for obtaining a legal entitlement to reside in Poland, that will come in force once he crosses the border and completes the rest of the required formalities. These are single entry short term visas issued in relatively few cases defined in the Polish Act on Aliens. Through legislative work conducted with all national institutions involved in the visa processes, Poland will adjust the symbols of these types of visas to the commonly used before applying Schengen in full.

With regard to the observation that “visas may be issued 6 months in advance of intended travel what is not in accordance to Schengen Recommendations” Poland informs that such regulations are currently part of the Polish Act on Aliens. The 6 month period is defined as a maximum period before the validity of the visa and is applied in few cases. This regulation will be modified to fully comply with Schengen Recommendations that define that visas can be issued at the earliest 3 months before the beginning of their validity.

The recommendation that “all aspects of Article 5 of the Schengen Convention (including proof of means of subsistence and travel medical insurance) will become a requirement for granting visas.” is duly noted. The Ministry of Foreign Affairs informs that in current Polish legislation the control of means of subsistence and medical insurance falls within the competence of the Polish Border Guard during the entry of the foreigner to Poland. Insufficient means of subsistence is frequently the reason of refusal of entry to Poland and the annulment of the visa. The legal regulations as well as the applied procedures will be, in this aspect, adjusted to Schengen Recommendations.

The EvalCom comments that “the computer system allows for a batch (all 10 applicants at the same time) authorisation of visa applications without having to open each individual application file separately. It should be noted that the authorisation is the only stage of the visa process where the expatriate staff assesses visa applications and is therefore the most vital stage in the visa application process. EvalCom gives into consideration to change this feature in future releases of the visa system”.

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The Ministry of Foreign Affairs would like to state that in accordance with Polish regulations consul while making his decision has access to the full IT information related to the visa consultation process. The system allows him to open and access each individual file of every applicant integrated in the group of 10 cases and what is more important takes his visa decision after analyzing the full documentation of each case which he has in hand at his station.

Regarding the issue of EU visa ban list, Poland is aware of the situation and will pass relevant documents and instructions to all its diplomatic and consular missions.

7. VISA STICKER

Printing and affixing

The sticker is affixed by local Russian staff supervised by expatriate staff on the first free page of the document so that it covers the stamp confirming the receipt of visa application. In case technical problems make printing impossible, the sticker is filled in manually. The numbers of the manually completed stickers are notified to the Border Guard.

The visa stickers that contain mistakes, on which the data is illegible, or otherwise faulty, are cancelled by applying a “CANCELLED” (“ANULOWANO”) stamp on them and henceforth intended for destruction. Faulty printed visa stickers that are already affixed in the passport are cancelled by applying a “CANCELLED” (“ANULOWANO”) stamp on the sticker. Afterwards, the page of the travel document containing the cancelled sticker is photocopied. The information on the cancelled visa stickers left in the foreigners’ travel documents is stored along with a half-year register of visa stickers. Information on all cancelled visa stickers is also entered into the computer system. The kinogram is properly scratched/destroyed. The cancelled visa stickers are destroyed by a commission, which consists of expatriate staff, at the end of each half-year. Before affixing the visa sticker into the travel document, all previous Polish visas are cancelled, those used as well as unused ones.

Machine-readable zone

The visa sticker is affixed to the travel document in a way that enables the information contained in the machine readable zone to be read. The content of the machine-readable zone is not in accordance with the CCI, Annex 10.

Use of stamp of the issuing authority

Visa stickers are not stamped by the consular post.

Signature

Visa stickers are not signed by the consul.

EvalCom comments and recommendations:

The observed practice is in accordance with Schengen practice (except for the content of the application stamp as described in Chapter 8, point 2 of the CCI), and the content of the machine-readable zone; this will have to be corrected before applying the Schengen acquis in full.

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Comments of Poland:

Poland will make the content of the application stamp fully compatible with the relevant provisions of the CCI.

In regard to the comment that “the content of the machine-readable zone will have to be corrected before applying the Schengen acquis in full” Poland would like to inform that a fully compatible machine-readable zone is already integrated in the present and future IT Systems and requires only its activation. This process will be done concurrently with gradual implementation in Polish Consular Posts of the integration of a photograph into the visa which will be completed by the end of 2006.

8. ISSUANCE OF VISA

The EvalCom was informed that applicants are informed orally on the fact that the application has been refused upon collection of the travel document. The reasons of refusal are not communicated to them. According to the existing Polish legislation, there is no possibility to appeal against the Consul's decision. Such a decision is final.

According to national law, the Consul refuses to grant a visa, if within one year from the date of the previous negative decision on a visa, no new fact or circumstances occurred.

9. SECURITY STAFF/MATERIAL)

9.1 Staff : Division of tasks between expatriate staff and local staff

In total, the Embassy employs 3 Consuls, 4 expatriate staff and 13 local staff (1 citizen of Lithuania, 1 citizen of Ukraine, 1 citizen of Peru, and 10 citizens of the Russian Federation).

Local staff may: work at the counter and have contact with the applicants with supervision by an expatriate; check whether the documents presented are sufficient; prepare the electronic processing application and hand out the visas.

Expatriate technical staff may: cash the handling fee; receive negative answers from national databases; and decide whether further information or interview is required

Expatriate(diplomatic) staff may: receive negative answers from national databases; decide whether further information or an interview is required; decide whether a visa is refused: and contact local partners / consular representations of other MS if necessary in particular cases.

9.2 Staff

Prior to being employed, every candidate needs security clearance by the Ministry of Foreign Affairs in Warsaw. Local staff has annual contracts. Security clearance for local staff is taken care of by the Embassy and central authorities (MFA). After a year, such a clearance has to be renewed. Every employment contract contains a clause on the obligation to keep official secrecy.

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- Further evaluation

The EvalCom was informed that respective posts for local staff (3 different posts) rotate systematically on a daily basis. This decision is taken by the Head of the Consular section. Computer access is changed according to the tasks assigned for that particular day. Consuls rotate regularly from the pre-check post to the examination of visa applications post.

- Access (keys) and stock-monitoring

Access to different rooms of the Consular Division for expatriate and local staff is regulated by means of magnetic access cards. Local staff can move around from the entrance of the Embassy to the rooms of the Consular Division and have access only to the areas, relevant to their work. They do not have access to other rooms. Access to the first-contact visa pavilion is possible using an additional magnetic access card issued every day to local staff by the visa consul, prior to starting work and they are returned at the end of the working day.

Keys for all service rooms are stored in an electronic key deposit box and can be collected by using a magnetic card and upon entry of an appropriate code by the expatriate staff only within the framework of their rights. The keys are not carried outside of the Consular Division. The electronic key deposit is connected with the general security system of the Embassy and is monitored 24 hours a day by the Polish security guards and electronically. In the event that a magnetic access card is lost by its user, the right of access is cancelled and the card becomes useless.

9.3 Documents

Transport

Visa stickers are transported exclusively by diplomatic pouch.

Storage

Visa stickers are kept in a safe in the visa archive, equipped with an alarm system. The numbers of the visa stickers are entered into the computer register of visa stickers immediately after they have been received. The successively numbered visa stickers to be printed are given out each day by the consul; the personnel of the visa section obtain it on receipt. Unused visa stickers are returned at the end of the working day, on receipt as well.

Access

The access to the visa stickers is limited. It is granted to the Head of the Consular Division and to the Head of the Visa Section. The keys to the safe with visa stickers are stored in a metal key box that is kept in the archive room. The box is equipped with an electronic access code and is connected to the alarm system.

Monitoring of stocks

The maximum number of blank visa stickers is 25.000 visa stickers. The Embassy orders a new supply when the stock reaches a level of 2.000 blank visa stickers. Usually, the Embassy issues between 200 and 250 visas per day, only in peak seasons 500 per day (4 days - Christmas, New Year) and so the Embassy orders only 5.000 blank visa stickers out of high season.

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9.4 IT

The information systems of the Consular Division of the Embassy are operated by the system administrator (3rd secretary of the Embassy). Only the system administrator can make changes in the computer system.

- Login (passwords) and Access

The access to the information stored in the computer system is granted according to a system of authorizations, the level of which depends on the tasks allocated to the staff. All staff has personal access passwords, which are regularly changed.

The computer system can generate an exact historical record of the visa access of each particular user.

The database of the register of unwanted foreigners is regularly updated. The updates from the Ministry of Foreign Affairs are received by radio. The exclusive access to these files is granted to the visa consuls. The Consular Division has the up-to-date back-up database copies.

- Encryption

The EvalCom was informed that the radio communication between the Consular Department and the Ministry of Foreign Affairs is encrypted.

- Data protection

The personal data protection is carried out conforming to the Personal Data Protection Act. The access to the personal data stored in the computer system is granted according to the authorization of the staff and conforming to the scope of their activities. Visa applications are stored for 2 years in case of a positive decision and for 5 years in the event of a refusal. Information is kept in the computer system which was installed in 2003 (data will be also deleted). The applications are filed chronologically and kept in the archive room located in a safe room, which is accessible only to the authorized staff of the Consular Department.

EvalCom comments and recommendations:

The EvalCom recommends the Embassy that, in order to avoid unauthorised access to the computer visa system, an automatic system for locking access to the computers - when they are not being used- should be installed.

Comments of Poland:

The EvalCom comments that “the computer system allows for a batch (all 10 applicants at the same time) authorisation of visa applications without having to open each individual application file separately. It should be noted that the authorisation is the only stage of the visa process where the expatriate staff assesses visa applications and is therefore the most vital stage in the visa application process. EvalCom gives into consideration to change this feature in future releases of the visa system”. The Ministry of Foreign Affairs would like to state that in accordance with Polish regulations consul while making his decision has access to the full IT information related to the visa consultation process. The system allows him to open and access each individual file of every applicant integrated in the group of 10 cases and what is more important takes his visa decision after analyzing the full documentation of each case which he has in hand at his station. This practice will be changed with a new IT system in the future.

RESTREINT UE

In regards to the recommendation that “in order to avoid unauthorised access to the computer visa system, an automatic system for locking access to the computers - when they are not being used- should be installed” Poland would like to inform that such systems are used in many Polish consular posts. Furthermore in locations where automatic system is not installed yet, the staff is required to log out from the system in case of leaving the station. However the IT Department of the MFA will conduct an overview of the used access security systems in order to define uniform procedures assuring authorised access.

10. EDUCATION AND TRAINING

Every year, the Polish MFA organises a regional Consular Conference which is attended by the consular officers. The in-service training program is mainly based on both Polish and European Union visa policies and practices.

Every two years, a document expert sent by the Polish authorities to its Embassies and Consulates trains Consuls and local staff members dealing with visas on detection of false documents. The latest visit of the kind received by the Polish Embassy in Moscow apparently took place in March 2006.

The local staff is trained by the Consuls prior to assuming visa activities. Consular officers who had to stand a test on the national Computerized System of Visa Issuance before being assigned as Consuls have to monitor local staff members as regards IT. Finally, every morning the Head of the Visa Section holds a short meeting with all the employees, in which specific duties for that day are distributed and matters of concern can be raised (information about new visa regulations, access logins, etc.).

EvalCom comments and recommendations:

Education of consular staff was considered as adequate.

11. EQUIPMENT FOR DETECTING FALSE DOCUMENTS

The Consular Department is properly equipped with a medium-risk set of special tools, except retro viewer, to detect false or falsified documents. Reference material with samples of travel documents, including their safety features, is readily available.

EvalCom comments and recommendations:

Although the Russian Federation may be considered as a medium-risk country in the field of false documents, it is advisable to add a retro viewer to the existing equipment. Other than that, the equipment is adequate.

Comments of Poland:

The Ministry of Foreign Affairs accepts the recommendation “to add a retro viewer to the existing equipment for detecting false documents”.

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12. CONSULAR CO-OPERATION

The EvalCom was explained that the Consul normally attends the monthly Local Consular Cooperation Meetings.

EvalCom comments and recommendations:

The EvalCom regards as positive that LCC monthly meetings are regularly attended.

13. GENERAL CONCLUSIONS INCLUDING RECOMMENDATIONS

At the end of its mission, the EvalCom considers, on the basis of the checks carried out and the information gathered, that the Polish Embassy in Moscow will be in a position to implement the whole of the CCI in the near future. No failings or significant or chronic errors were noted at any time in the daily work of the Embassy. Especially access procedures and security-related aspects were considered of high standards.

However, the EvalCom wishes to comment on a few points which, in its view, merit special attention by the Polish authorities, at the time of full implementation of the Schengen Acquis:

1) The EvalCom concluded that if the Embassy paid more attention to assessing individual applications more carefully and not take it solely as a paper process, then there should not be any major problem in applying the Schengen acquis fully in due course.

The EvalCom established that the computer system allows for a batch (all 10 applicants at the same time) authorisation of visa applications without having to open each individual application file separately. It should be noted that the authorisation is the only stage of the visa process where the expatriate staff assesses visa applications and is therefore the most vital stage in the visa application process. EvalCom gives into consideration to change this feature in future releases of the visa system.

2) The EvalCom considers the percentage (1 or 2 per cent) of applicants being interviewed as low, especially taking into account the volume of visa applicants, and recommends increasing the number of interviews (to verify the applicant's identity, true purpose of stay, etc) once applying Schengen in full (reference is made to chapter III.4 of the CCI).

3) Furthermore, all aspects of article 5 of the Schengen Convention (including proof of means of subsistence and travel medical insurance) will become a requirement for granting visas.

4) The EvalCom recommends the Embassy that, in order to avoid unauthorised access to the computer visa system, an automatic system for locking access to the computers - when they are not being used- should be installed.

5) Although the Russian Federation may be considered as a medium-risk country in the field of false documents, it is advisable to add a retro viewer to the existing equipment. Other than that, the equipment is adequate.

RESTREINT UE

6) With regard to the possibility of issuing visas 6 months in advance of intended travel, EvalCom refers to the Schengen Recommendations and Best Practices for issuing of visas, stating that, in general, visas can be issued at the earliest 3 months before the beginning of their validity.

7) As the Evalcom has been informed, an application is rejected immediately in case of a hit (in connection with the national blacklist and the EU visa ban list). In such a case, the Embassy could deny a visa to someone appearing on the EU visa ban list for which an exception is foreseen (in the provisions of the corresponding EU regulation) and, as a consequence, for which the issuance of a visa is possible (if no doubt arises / no documents are missing with respect to Polish national legislation). This could lead to problems as the Embassy does not have at his disposal EU regulations in written (with categories of the exceptions) to check whether an applicant could benefit from such an exception.

8) The content of the machine-readable zone is not in accordance with the CCI, Annex 10 and will have to be corrected before applying the Schengen acquis in full.

Comments of Poland:

In the draft report EvalCom states that “the percentage (1 or 2 per cent) of applicants being interviewed as low, especially taking into account the volume of visa applicants, and recommends increasing the number of interviews (to verify the applicant’s identity, true purpose of stay, etc) once applying Schengen in full.” In another part of the document it is also stated that “EvalCom concluded that if the Embassy paid more attention to assessing individual applications more carefully and not take it solely as a paper process, then there should not be any major problem in applying the Schengen acquis fully in due course.” In this regard Poland would like to state that the precise and thorough analysis of the visa applications is one of the main tasks of the Polish Consular Service that in no way treats them as a bureaucratic paperwork process. The procedures currently applied are the result of bilateral agreements and will continue being adjusted to entirely meet Schengen Recommendations as from full application of Schengen acquis.

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ANNEX I

VISAS ISSUED BY THE REPUBLIC OF POLAND EMBASSY IN MOSCOW

VISAS ISSUED BY THE REPUBLIC OF POLAND EMBASSY IN MOSCOW									
IN 2005									
Month	Visas A	Visas B	Visas C	Visas A+B+C	Visas D	Tota Visas A+B+C+D	Visas not Issued	Rejection Rate	Rejection Rate in %
January	-	105	2 644	2 749	142	2 891	-	4	0,1%
February	-	39	2 808	2 847	176	3 023	-	5	0,2%
March	-	53	3 465	3 518	198	3 716	-	9	0,2%
April	-	63	4 602	4 665	180	4 845	-	19	0,4%
May	-	33	3 794	3 827	105	3 932	-	2	0,1%
June	-	97	4 456	4 553	127	4 680	-	7	0,1%
July	-	136	4 018	4 154	118	4 272	-	24	0,5%
August	-	87	3 971	4 058	142	4 200	-	7	0,2%
September	-	70	3 678	3 748	140	3 888	-	12	0,3%
October	-	38	3 295	3 333	135	3 468	-	19	0,5%
November	-	52	3 771	3 823	129	3 952	-	6	0,1%
December	-	70	7 179	7 249	140	7 389	-	19	0,3%
TOTAL	-	843	47 681	48 524	1 732	50 256	-	133	0,3%

VISAS ISSUED BY THE REPUBLIC OF POLAND EMBASSY IN MOSCOW									
IN 2006									
Month	Visas A	Visas B	Visas C	Visas A+B+C	Visas D	Tota Visas A+B+C+D	Visas not Issued	Rejection Rate	Rejection Rate in %
January	-	21	2 063	2 084	96	2 180	-	14	0,6%
February	-	21	2 374	2 395	117	2 512	-	14	0,6%
TOTAL	-	42	4 437	4 479	213	4 692	-	28	0,6%

Schengen Evaluation of the new Member States	
VISA I	
Moscow-St Petersburg, 10-18 May 2006	
Leading expert	Timo TÄRYNEN (FIN)
BELGIUM	Philipe LEFEBVRE
CYPRUS	Charalambos PANAYIDES
GERMANY	Berit BÄUMERICH
NETHERLANDS	Ferdi GEUTJES
SLOVAKIA	Fedor ROLL
SPAIN	Álvaro KIRKPATRICK DE LA VEGA
Commission	Yolanda GALLEGO-CASILDA GRAU
Council Secretariat	Fedja ZLOBEC

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