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## **DECLASSIFICATION**

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Subject: Schengen evaluation of the new Member States  
- Draft-Council conclusions on the state of preparedness of the  
REPUBLIC OF LITHUANIA towards the implementation of all provisions of  
the Schengen acquis except SIS-related issues

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

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

# RESTREINT UE



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 13 November 2006 (13.11)  
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**14522/1/06  
REV 1**

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## **NOTE**

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from : the Presidency  
to: the Schengen Evaluation Working Party

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Subject : Schengen evaluation of the new Member States  
- Draft-Council conclusions on the state of preparedness of the REPUBLIC OF LITHUANIA towards the implementation of all provisions of the Schengen acquis except SIS-related issues

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## **PART I**

### **a. Background applicable to all new Member States**

1. In 2005, the Schengen Evaluation Working Party started evaluating the readiness of the ten new Member States. All non-SIS evaluations of the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia have now been completed, as is partially the case for Cyprus and for Malta. Altogether 58 themes have been evaluated for the ten countries in the course of nineteen evaluation missions.
2. The legal basis for the evaluation process in the new Member States is Article 3(2) of the 2003 Act of Accession in conjunction with the Decision of the Executive Committee of 16 September 1998 setting up a Standing Committee on the evaluation and implementation of Schengen (Sch/Com-ex (98) 26 Def).

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3. According to Article 3(2) of the Act of Accession, the verification through evaluation procedures that the necessary conditions for the application of all parts of the acquis concerned have been met by the new Member States is a precondition for the Council to take Decisions on the abolition of checks at internal borders with those Member States
4. The evaluations have been conducted new Member State by new Member State, and the by the Council Decisions referred to in Art 3(2) of the 2003 Act of Accession will also be taken individually.
5. In taking these Decisions, the Council may determine that not all the new Member States will be ready to apply the Schengen acquis as a whole from the same date. In such a case, it may be necessary to organise additional visits in order to evaluate the application of the Schengen acquis at the borders between Member States at which the Council has decided not to abolish border checks and which have not already been evaluated. No such visit has taken place so far.
6. The evaluation process started with a Declaration of Readiness for all non-SIS related evaluations by the Member States involved.
7. The Schengen Evaluation Working Party verified in writing the preparation for the application of all parts of the Schengen acquis by the new Member States through a questionnaire and a series of supplementary questions and answers.
8. The questionnaire was followed by evaluation visits by teams of experts which led to exhaustive reports containing factual descriptions as well as positive and critical assessments, and recommendations.
9. The purpose of the following Council Conclusions is to establish whether the new Member State in question, subjected to a full evaluation procedure, fulfill all the preconditions for the practical application of the relevant parts of the Schengen acquis. In case the preconditions have not been completely fulfilled, the Council conclusions indicate where additional measures are required and in which cases the necessary changes should be reassessed during new evaluation visits. These conclusions should be read in conjunction with the detailed evaluation reports. A list of the relevant reports and a follow-up table is annexed to these Council conclusions.

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## b. Background for Lithuania

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

## PART II - Specific findings

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

Lithuania has basically been positively assessed in the field of **border management**, which is based on integrated border security model of the EU. The organisation is streamlined and functional, including national level competency for supervision and instructions on border control, risk analysis, intelligence and investigation of border related crimes. The surveillance of land- and sea borders is carried out systematically, based on patrolling, technical surveillance and maintaining necessary reaction capability.

**Land border** surveillance is mainly in line with Schengen requirements, The border with Russian Federation has not been demarcated yet. The issue requires follow-up reporting, even if it is not crucial in terms of abolishment of internal border controls. The infrastructure of the Panemune road border crossing points is not in line with Schengen standards at this stage due to ongoing reconstruction works and the procedures and number of staff should be re-evaluated.

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The control of the **sea borders** is an issue of concern where Lithuania faces a challenge with respect to the Schengen standards, according to which border control functions at the sea may be carried out only by professional law enforcement officers, with the exception of detection and identification of vessels. Coastal surveillance equipment and offshore patrol craft are mostly obsolete and integration into a single system is suggested. A follow up reporting is required in terms of professionalism in the control of sea borders. The infrastructure of Klaipeda port is not in line with Schengen standards at this stage due to ongoing reconstruction works and should be revisited.

Regarding **airborders**, border checks are mainly carried out in line with Schengen requirements. The infrastructure of the Vilnius and Palanga airports is not in line with Schengen standards at this stage due to ongoing reconstruction works; Vilnius airport port should be revisited at a later stage <sup>1</sup>.

The level of **data protection** was generally positively assessed in Lithuania, with one exception which concerns the independence of the State Data Protection Inspectorate because the position of the director of the Inspectorate as a (dismissible) civil servant.

Following the inspection of **visa issuance** at Lithuania's consular sections in Moscow and Kiev, it was concluded that Lithuania may be in a position to implement the CCI/Schengen acquis in full in due course and that no significant shortcomings were noted in the daily work.

The level of training and education of staff was appreciated, however the proper and thorough assessment of individual visa applications, including interviews and personal appearance of minors should be ensured: awareness of the risk of illegal immigration and other forms of visa misuse should increase. Certain practices e.g. regarding people travelling to Lithuania for 10 days or less, travel medical insurance, the affixing of visa stickers on passenger lists, collection of the handling fee, and the practice that an applicant whose visa has been refused cannot lodge a new application for a year, should be reviewed/abolished (incl. the use of the "refusal stamp"). Finally, the visa decision making process should be adapted to future needs resulting from the abolition of bilateral agreements.

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<sup>1</sup> SCH-Eval should decide on 16/17 November whether the three envisaged visits (to Klaipeda port, Palanga airport and Panemune border crossing point) are indispensable.

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On **police cooperation**, most of the preparatory work for the full implementation of the Schengen acquis has already been realised as regards institutional and operational structures, whereas the practical execution of cross-border activities under Articles 40 and 41 of the Schengen Convention is still hampered by the lack of bilateral agreements in force with neighbouring countries.

Lithuania has effective and efficient cooperation concerning the exchange of information (including under Schengen Articles 39 and 46) at international level, as this is channelled via one single point. The channel chosen depends on the type of information.

However Lithuania has to speed up its decision concerning responsibility for surveillance cases. In taking this decision, the Lithuanian authorities must bear in mind that Schengen is not in favour of judicial involvement in police surveillance.

## **PART III - Conclusions**

In order to allow the Council to take the Decisions referred to in Article 3(2) of 2003 Act of Accession, it requests Lithuania to inform the Council in writing, on the follow-up it intends to give to these recommendations and those contained in the evaluation reports. Lithuania is also invited to remedy the weaknesses listed in the evaluation reports, especially those referred to in Part II.

The Schengen partners must be kept informed of the measures adopted to this end.

In addition, the Council requires a revisit of the airport of Vilnius (and Klaipėda port, Palanga airport and Panemune border crossing point - see footnote on page 4).

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