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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



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NOTE

from : the Presidency
to: the Schengen Evaluation Working Party

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

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 the Czech Republic

10. The Declaration of Readiness of the Czech Republic allowed to start the Schengen evaluation by 1 January 2006, without any reservation (doc. 5592/05 SCHEVAL 7 COMIX 54).
11. Inspections on site took place at the air borders as well as in two Consulates. Police cooperation and Data protection have been assessed in situ, too.
12. The Czech Republic 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.

The Czech Republic has created an integrated **border management** system for the special situation, when the future external border consists of airports only. Special note was taken of the ongoing reform of training.

As the broad concept of the integrated border security model involves several authorities participating in certain areas of the four-tier border management system, there is a need for close cooperation at all levels. This requires close attention to the functions of supervision and instruction. At Prague airport the infrastructure was deemed as being largely in line with the Schengen standards. The number of personnel at Prague airport was deemed insufficient and led to a solution, whereby the Army was involved in patrolling at the airport having the competence to support the Police of the Czech Republic in the sphere of public order and security. There is room for improvement of the risk analysis system and in infrastructure at both airports visited (Prague, Brno). Additional training is needed in terms of profiling, interviewing skills and languages¹.

¹ A revisit at the airports of Prague (operational aspects only) and Brno has been envisaged. SCH-Eval should decide on 16/17 November whether this visit is indispensable.

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Following the inspection of **visa issuance** at the consular sections of the Czech Republic in St. Petersburg and Kiev, it was concluded that the Czech Republic 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 comprehensive exchange of information between the local and central level and the possibilities provided by the electronic data transmission system were appreciated.

However, issues requiring particular attention/reviewing included the visa decision-making process and awareness of the risk of illegal immigration; waiver of handling fees in certain cases; the security situation (premises, interview room, quick response in case of alarm and storage of visa stickers); stamping of the visa sticker, filing and the type of data in the machine readable zone, and staff training on Schengen related matters.

The **data protection** requirements with respect to Schengen were considered to be met, provided that the Amendments to the Police Act and other special acts specify the competences of the Data Protection Authority over SIS and SIRENE and that no doubt remains as far as exceptions are concerned.

Most of the preparatory work on **police cooperation** for the full implementation of the Schengen acquis has already been realised as regards institutional and operational structures. Close cross-border cooperation, in particular at the common borders with Germany and Slovakia, is an integrated part of day to day police work. A Schengen Action Plan has been initiated containing a clear time schedule for implementation, which should be seen as a best practice.

However there is a clear need for one single contact point for cross-border surveillance and hot pursuit.

Introduction of the European Criminal Intelligence Model (ECIM) is to be considered.

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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 the Czech Republic to inform the Council in writing, on the follow-up it intends to give to these recommendations and those contained in the evaluation reports. The Czech Republic is also invited to remedy the weaknesses listed the evaluation reports, especially those referred to in Part II.

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

The Council requires no additional visits (except possibly at the airports of Prague and Brno, see footnote on page 3).

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