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(see document 12758/1/02 SCH-EVAL 26 COMIX 564 + ADD 1)

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, 16 December 2002

**15004/1/02
REV 1**

RESTREINT UE

**SCH-EVAL 39
COMIX 687**

NOTE

from : the Spanish delegation

to : the Working Party on Schengen Evaluation

Subject : Answers from Spain to the questions with a view to the evaluation of the application of the Schengen Acquis
(see document 12758/1/02 SCH-EVAL 26 COMIX 564 + ADD 1)

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I. Evaluation of Spanish External Borders Control

I. Control and surveillance of external borders.

1 Which are the authorities charged with protecting/controlling borders in your country?

REPLY:

- a.1) The National Police Force (Directorate-General of Police).
- a.2) The Civil Guard.
- a.3) The Customs Surveillance Service.

Which Ministry do they come under and how are the authorities structured?

REPLY:

a.1. The Ministry of the Interior.

This Ministry is regulated by the following provisions:

ROYAL DECREE NO. 1449/2000 OF 28 JULY, ON THE BASIC ORGANIC STRUCTURE OF THE MINISTRY OF THE INTERIOR

The Department's General Organisation.

The Ministry of the Interior is entrusted with the preparation and implementation of the Government's policy on the general administration of public security; the promotion of the conditions for the exercise of basic rights, particularly in relation to freedom and security, in the terms established in the Spanish Constitution, and their enabling legislation; the high command, and direction and coordination of the State Security Forces and Services; control of private security companies and personnel; formulation of the Government's policy on aliens, immigration and right of asylum, coordination and promotion of any action in those fields, and use of the authorities assigned to it in the current aliens and asylum legislation; updating and implementation of the National Drugs Plan, coordinating the activities of governmental departments in the field and participating in international bodies related with the matter; the administration and organisation of Penitentiary Institutions; the action required for electoral processes; exercise of the competences assigned to it by law on civil protection; general Administration of the traffic and road safety Police.

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As Departmental head, the Minister of the Interior is assigned the initiative for and the planning, running and inspection of all the Ministry's services, State Security Forces and Services high command, and the other functions in Article 12 of Act No. 6/97 of 14 April on the Organisation and Operation of the General State Administration, and those assigned in other Acts or special provisions.

The Ministry of the Interior is structured into the following senior bodies and executive centres:

a) The State Security Secretariat, to which the following bodies are attached:

- 1.° The Directorate-General of Police.
- 2.° The Directorate-General of the Civil Guard.
- 3.° The Directorate-General of Infrastructures and Security Matters.

c) The Government Delegation for the National Drugs Plan.

d) The Directorate-General of Penitentiary Institutions.

Directorate-General of Police.

1. Reporting to the Secretary of State for Security, the Director-General of Police has direct command of the National Police Force, in its field of authority exercising the powers in Article 16 of the State Administration Act.

2. The Director-General is in particular assigned the following functions:

a) To direct and coordinate the services and central and peripheral bodies of the Directorate-General of Police.

b) To distribute the personnel and material resources assigned to the Directorate-General of Police, to its various Units.

c) To propose to the Secretary of State for Security the operating plans and projects for the Directorate-General of Police's services.

d) To connect directly with the administrative authorities, public or private bodies and entities, in relation to the operation of the Directorate-General's operational services.

e) To provide for the collaboration and assistance of other countries' Police Forces, in the fulfilment of the functions assigned to the National Police Force under the Security Forces and Services Organic Act.

f) To direct, organise and control compliance with the provisions on aliens, the National ID Document, Passports, gaming, drugs, the control of private security entities and services, surveillance and investigation, and public spectacles, all in the area of policing, and in the terms established in the current legislation.

g) Surveillance and investigation of the conduct of civil servants contrary to professional ethics.

h) Application of the of the National Police Force disciplinary regime.

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- i) Selection and promotion of National Police Force personnel, and implementation of the technical and teaching activities in the training and finishing of the Force's personnel.
- j) The acquisition of transmission equipment, that for independent data processing, transport, helicopters, vessels, equipment and, in general, the material resources required to apply the Directorate-General of Police's remit.
- k) In implementing its competences in the field of aliens, immigration and asylum, it operates in coordination with the Government Delegation for Aliens and Immigration.
- l) To promote the analysis, planning and development of methods, techniques and procedures in the operational police field.
- m) In general, all functions assigned to it under the current legislation, or delegated to it.

Subsequently, in Royal Decree No. 683/2000 of 11 May altering the organisational structure of the Ministries of Foreign Affairs, Finance, the Interior, Infrastructures and the Economy, the Government Delegation for Aliens and Immigration was set up, whose head formulates Government policy on aliens, immigration and the right of asylum, and coordinates and promotes any actions in the field.

The Order of the Ministry of the Interior of 10 September 2001 develops the organisational structure and functions of the central and peripheral services of the D.G.P. and, in operational terms, is organised as follows:

1. **The Operational Sub-Directorate**, to which the following Units are attached:
 - 1.1. **General Police Information Headquarters.**
 - 1.2. **General Criminal Investigation Department Offices.**
 - 1.3. **General Police Headquarters, Public Security.**
 - 1.4. **General Police Headquarters, Aliens and Documentation.**
 - 1.5. **General Scientific Police Headquarters.**

The General Immigration and Documentation Offices are assigned the following:

To organise and run the services for issue of National ID Documents, Passports and Foreign Residents' Cards; to control entry to and exit from national territory of Spaniards and foreigners and, in general, the police regime on aliens, refugees and asylum, and immigration.

The General Offices are made up of the following operational Units:

- a) The Unit Against Immigration Networks and Forged Documents (U.C.R.I.F.), which investigates national and cross-border crime related with trafficking in persons, illegal immigration and false documents in this area, and the operational coordination and technical backup to the territorial units.

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- b) The Central Borders, Treatment and Documentation of Aliens Unit (U.F.A.D.E.), which coordinates and controls entry to and exit from national territory of Spaniards and foreigners, and the border regime, and all matters concerning the documentation of foreign citizens in Spain.

Directorate-General of the Civil Guard:

Among other things, this Directorate-General is entrusted with the surveillance of foreign borders. The Civil Guard Service, attached to the Ministries of Defence and the Interior within their respective authorities, is the guarantor of the free exercise of rights and freedoms granted under the Constitution, and the protection of public security, within the Security Forces and Services collective. The force numbers at present about 73,000.

In addition to competencies it shares with the National Police Force, the Security Services and Forces Organic Act, No. 2/86, assigns the following exclusive competencies to the Civil Guard:

- Fiscal guarantor of the State, and action to prevent and prosecute contraband.
- Custody of land communications, coasts, borders, ports, airports and centres and installations whose significance requires that.

The Directorate-General of the Civil Guard is organised into three Subdirectorates-General: Operations, Personnel and Support; the Units for Surveillance of external borders are attached to the Subdirectorates-General through the following:

- Provincial (or similar) Territorial Units (Commands)
- The Headquarters of Special and Reserve Units with the Rural Security Grouping, the Mountain Service and the Air Service
- Fiscal and Border Headquarters, with the Fiscal, Coasts and Borders Services and the Marine Service

The Civil Guard is responsible for public security in 88% of national territory. Competence for custody of coasts, borders, ports and airports involves surveillance of all Spain's borders, 8,250 km of coast, 70 km with Andorra and 19 km in Ceuta and Melilla.

The Customs Surveillance Service:

This service is attached to the Ministry of Finance, with competencies as Fiscal Guarantor and in Contraband.

How is the coordination taking place between the different bodies?

As indicated in Point 1, the Directorates-General of Police and Civil Guard are coordinated by the Secretariat of State for Security, to which they are attached.

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Also, for matters related with aliens, immigration and the right of asylum, they are coordinated by the Government Delegation for Aliens and Immigration, which is the body coordinating and implementing all action in this field.

Nonetheless, in each Autonomous Community in general there is a Security Policy Council (Article. 48 of the Security Services and Forces Organic Act) presided over by the Minister of the Interior and comprising the Autonomous Community's Interior or Governance Councillors and the same number of State representatives appointed by central Government, which implements the following functions:

- To approve coordination plans in the field of security and police infrastructure.
- To inform the Autonomous Communities' Police personnel, and their modifications.

2 What strategy is followed with regard to the handling of information concerning illegal immigration, cross-border crime and organised crime?

Do the authorities in charge of the control and surveillance of borders have such information about suspicious vessels, vehicles and persons, and if so, what procedure or mechanism allows them to obtain and use this information?

REPLY:

Affirmative. The information is centralised by General Police Headquarters for Immigration and Documentation, usually coming from INTERPOL, Sirene (Article 7 of the Convention of Implementation) or through any Schengen State, by rapid communications and, to enhance the efficacy of border control and surveillance, Article 7 provides for the exchange of any relevant and important information allowing for these controls, with the exception of regulated personal details.

These data exchanges (which may, among other things, refer to migratory flows), take place through the central authorities. In Spain, the competent body is the General Police Headquarters for Immigration and Documentation in the Directorate-General of the Police, already mentioned.

Border posts are informed by notifications, basically about vehicles and/or persons.

Another source of information is the D.G.P's data bases, concerning persons of interest to the police, PERPOL, (vehicles, objects, documents, visas, arms, etc.) and ADEXTTRA the aliens data base which, by law, allows use of data for investigation.

Information can also be secured from companies operating in ports and airports, i.e. airlines, shipping companies and even the Port Authority itself.

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As part of the Subdirectorate-General of Operations, the Directorate-general of the Civil Guard has a number of Services dealing with illegal immigration:

- The immigration networks Information Service on matters which may affect State security (in analytical and operative terms)
- The Central Operations Unit, on treatment of persons.
- The Criminal Investigation Department's Technical Unit (analysis), and that Department's Organic Units (Commands), in operative terms, and
- Fiscal and Borders Headquarters, for technical support for the territorial Units controlling external borders.
- The Territorial Units which, within their integrated police authorities, at the daily level, identify illegal foreigners and hand them over to the National Police Force, in line with the Immigration Act and Regulations.

Similarly, distributed territorially, with criteria of special effect, there are nine Immigrant Attention Teams (EDATI).

The following is entrusted to the Immigrant Attention Teams:

- To inform immigrants of their rights
- To receive, deal with and channel their demands and needs in security matters
- To facilitate the processing of documentation for stay or residence in Spain
- To ensure compliance with the job hiring provisions
- To counsel and inform on activities promoting the integration of immigrants, and which facilitate their stay in this country
- To provide a link with other Institutions and Bodies.

The strategy for investigation in matters of illegality is based on collection of information from the Territorial Units and the special investigation and data collection Services, which is delivered to the offices for the analysis and elaboration of information, and which then passes its conclusions on to the other Services affected, and to the Operative Units. In other words, there is an upward data flow, another which is horizontal and, finally, a downward flow.

The Civil Guard has Liaison Officers in Morocco, Algeria and Turkey, among others.

There is a variety of data bases which include operative information such as that of fiscal interest, vessels detected in ports controlled by the Civil Guard, or vehicles and persons crossing the Straits of Gibraltar, apart from those on crime in general, all available to the Units responsible for surveillance and investigation.

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3. Which kind of legislation (or administrative practice or instructions) is foreseen to fight against illegal immigration, and in particular on controls on persons inside the territory?

REPLY:

1. Organic Act No. 4/2000 of 11 January, amended by O.A. No. 8/2000 of 22 December, on foreigners' rights and freedoms in Spain and their social integration.
2. The Security Services and Forces Organic Act Organic Act, No. 2/86, of 13 March.
3. Royal Decree No. 864/2001, of 20 July passing the Regulations enabling Organic Act No. 4/2000, reformed in No. 8/2000.
4. Article 25 of the Convention for the Implementation of the Schengen Agreement, of 19 June 1990. "*Entry will be denied to foreigners not meeting the requisites established, in a reasoned resolution...*".
5. The Penal Code.

Infractions which may be penalised by EXPULSION:

- a) Any very grave infraction in Article 54 of Organic Act No. 8/2000.
- b) Article 53, points a), b), c) d) and f).
- c) Article 57.2: "*Following conviction ...*".

Does this legislation (or administrative practice or instructions) provide differences between internal border zones and the rest of the territory, especially as far as the reasons for carrying out checks on identity, their frequency, their intensity or eventual sanctions are concerned?

REPLY:

Unlike the Schengen legislation, the national legislation does not specify the difference between internal and external borders.

Nevertheless, the national legislation makes it clear that anyone entering national territory must do so through the authorised border crossing points, considered to be those so classified in the Schengen Agreement: because controls applied there refer to citizens from other countries, the distinction between external and internal borders is made there.

4. What is the number of staff present at border crossing-points? At green borders, blue borders and air borders? What is the number of total staff posted at the green borders and blue borders?

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REPLY:

GREEN BORDERS

OFFICE	TYPE	PERSONNEL					
		COMMISSIONER	CHIEF INSP.	INSP.	DEPUTY INSP.	OFFICER	POLICE
Alcañices (Zamora)	U.E.	0	1	0	0	0	8
Ayamonte (Huelva)	C.C.	0	1	1	0	3	6
Camprodon (Girona)	U.E.	0	1	0	1	1	15
Canfranc–Somport (Huesca)	C.C.	0	1	0	0	2	9
Caya (Badajoz)	C.C.	0	1	0	1	2	8
Dancharinea	U,E	0	1	0	0	0	8
Fuentes de Oñoro (Salamanca)	C.C.	0	2	0	0	1	26
Irún (Guipúzcoa)	C.C.	0	0	1	1	0	10
La Jonquera (Girona)	C.C.	1	1	3	2	0	36
Les (Lleida)	C.C.	0	1	2	0	2	21
Portbou (Girona)	U.E.	0	2	3	1	2	22
Puigcerda (Girona)	E.U.	0	1	0	2	10	25
Salvatierra (Pontevedra)	U.E.	0	3	0	0	1	7
Tuy (Pontevedra)	C.C.	0	5	1	0	1	22
Valcarlos (Navarre)	U.E.	0	0	0	0	0	6
Valencia Alcántara (Cáceres)	U.E.	0	1	0	0	1	9
Verín (Orense)	U.E.	0	3	0	0	0	7
Ceuta	T	0	2	1	3	4	26
Melilla	T	0	0	3	0	6	43
Seu D'Urgell (Lérida)	T	1	2	1	0	3	21
La Línea de la Concepción	T	0	0	1	0	1	23
TOTAL		2	29	17	11	40	358

U.E. Aliens and Documentation Units.

C.C. Joint Police Stations.

T. External Land Borders

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BLUE BORDERS

OFFICE	TYPE	PERSONAL					
		COMMISSIONER	CHIEF INSP.	INSP.	DEPUTY INSP.	OFFICER	POLICE
A Coruña	M	0	2	0	0	2	0
Algeciras	M	0	2	0	5	4	34
Alicante	M	0	0	0	0	0	4
Almería	M	0	1	0	1	0	10
Avilés (Asturias)	M	0	0	0	0	1	1
Barcelona	M	1	1	0	2	0	6
Bilbao	M	0	1	0	1	1	7
Cádiz	M	0	0	1	3	0	6
Cartagena	M	0	0	0	0	0	2
Castellón	M	0	0	0	0	0	0
Ceuta	M	0	1	1	0	3	15
El Ferrol	M	0	0	0	0	0	3
Gijón	M	0	1	0	0	1	3
Gran Canaria (Las Palmas)	M	0	1	1	1	2	15
Huelva	M	0	1	0	0	0	0
Ibiza	M	0	0	1	0	0	0
La Línea	M	0	0	0	0	0	0
Lanzarote (P. Mármol)	M	0	0	0	0	0	2
Málaga	M	0	2	0	0	1	6
Melilla	M	0	0	3	0	6	43
Menorca (P. Mahón)	M	0	0	0	0	0	0
Motril	M	0	0	0	0	1	5
Palma Mallorca	M	0	5	0	0	0	4
Sagunto (Valencia)	M	0	0	1	0	0	3
Santa Cruz Tenerife	M	0	1	0	0	1	10
Santander	M	0	1	1	0	1	4
Seville	M	0	0	0	0	0	1
Tarragona	M	0	0	1	0	0	0
Valencia	M	0	4	0	0	2	7
Vigo	M	0	1	0	0	0	3
TOTAL		1	25	10	13	26	194

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AIR BORDERS

OFFICE	TYPE	PERSONAL					
		COMMISSIONER	CHIEF INSP.	INSP.	DEPUTY INSP.	OFFICER	POLICE
A Coruña	A	0	0	0	0	2	4
Alicante	A	0	5	1	0	1	25
Almería	A	0	1	0	0	0	8
Asturias	A	0	1	0	0	1	1
Barcelona	A	1	1	8	10	5	55
Bilbao	A	0	1	1	4	2	20
Girona	A	0	0	0	0	2	8
Gran Canaria (Las Palmas)	A	0	3	2	1	8	44
Granada	A	0	0	0	1	2	4
Ibiza	A	0	0	1	0	2	16
Jerez de la Frontera	A	0	2	0	0	1	8
La Palma	A	0	0	0	0	0	4
Lanzarote	A	0	1	0	0	2	13
Madrid – Barajas	A	2	9	5	12	34	190
Málaga	A	0	4	2	0	10	54
Menorca	A	0	0	1	0	1	5
Murcia	A	0	0	0	0	0	2
Palma Mallorca	A	0	5	1	5	5	60
Pamplona	A	0	0	0	0	0	0
Reus	A	0	0	0	0	0	4
San Sebastián	A	0	0	0	0	0	0
Santa Cruz de Tenerife	A	0	2	3	0	4	51
Santander	A	0	1	1	0	1	4
Santiago Compostela	A	0	4	0	0	2	14
Seville	A	0	2	0	2	2	9
Valencia	A	1	3	1	0	7	16
Valladolid	A	0	0	0	0	1	2
Vigo	A	0	1	0	0	1	7
Vitoria	A	0	0	1	0	0	0
Zaragoza	A	0	4	0	0	0	7
TOTAL		4	50	28	35	96	635

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How many border crossing-points are there? Distribute these statistics over land borders, sea borders and airports.

AIR BORDER POSTS : 30	
1. Madrid – Barajas	16. Tarragona – Reus
2. Barcelona – El Prat	17. Girona – Costa Brava
3. Palma Mallorca – Son S. Juan	18. Fuerteventura
4. Málaga – Pablo Picasso	19. Menorca – Ciudadela
5. Las Palmas G. Canaria-Gando	20. Jerez de la Frontera
6. Sta. Cruz Tenerife –Reina Sofia	21. Almería – Gador
7. Alicante – El Altet	22. Santander – Parayas
8. Bilbao – Sondica	23. Pamplona – Noáin
9. Seville – S. Pablo	24. La Palma
10. Valencia – Manises	25. Asturias – Ranón
11. Lanzarote – Arrecife	26. La Coruña
12. Santiago Compostela - Labacolla	27. Ibiza
13. Zaragoza	28. Murcia – San Javier
14. Vigo – Peinador	29. Valladolid – Villanubla
15. Granada – Chauchina	30. Vitoria - Foronda

SEA BORDER POSTS : 31	
1. Algeciras	16. Avilés
2. Las Palmas G.C – La Luz	17. Cádiz
3. Barcelona	18. La Línea de la Concepción
4. Sta Cruz de Tenerife	19. Tarragona
5. Málaga	20. San Sebastián – Pasajes
6. Almería	21. Huelva
7. Palma de Mallorca	22. Castellón – El Grao
8. La Coruña	23. Cartagena
9. Vigo	24. Sagunto (Valencia)
10. Valencia	25. El Ferrol
11. Bilbao – Santurce	26. Seville
12. Ibiza	27. Arrecife – Lanzarote
13. Alicante	28. Mahón
14. Santander	29. Motril
15. Gijón – El Musel	30. Ceuta
31. Melilla	

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LAND BORDER POSTS: 4	
1. La Seu de Urgel (Extra Schengen)	
2. El Tarajal (Ceuta) (“)	
3. Beni Enzar (Melilla) (“)	
4. La Línea de la Concepción (“)	

JOINT POLICE STATIONS: 8	
With France	With Portugal
1. La Junquera	1. Ayamonte
2. Les	2. Caya
3. Canfranc	3. Fuentes de Oñoro
4. Irún	4. Tuy

The distribution of National Police Force offices with authorities in border matters is shown in the following annexes.

In the sense of combating illegal entry and exit, what is the principle of controlling the green border? Statistics on all known cases of illegal border crossing?

Fixed external-border controls, along with specific operations in which border posts are supported by other services by way of backup to combat illegal immigration and, in particular, human trafficking networks, e.g. Operation Rusadir in Melilla, Operation Canarias in the Canary Islands, Operation R.I.O. at Airports, Operation Orca and Operation Danubio attacking immigration from Eastern European countries, or on-going summer and Easter operations backing up diverse sea borders, “Operation Paso del Estrecho” in the Straits of Gibraltar, etc... .

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LAND BORDER REFUSALS

LAND BORDERS	TOTAL												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL 2002
Ceuta	3855	3200	4137	3724	3540	3591	3675	3132	1844	3284			33982
Melilla	95494	89431	98072	80685	85382	77778	82226	79532	70191	72606			831397
TOTAL	99349	92631	102209	84409	88922	81369	85901	82664	72035	75890			865379

What is the estimated level of detecting and apprehending a person crossing the border illegally? How is this estimate justified?

Illegal entry estimates are based on:

1. Numbers of illegal immigrants intercepted.
2. Declarations from those detected individually (modus operandi)
3. The circumstances of detection (e.g. Close to the border crossing point, in possession of a train, bus or aircraft ticket).

Because of possible errors and the fact that many foreigners declare that they come from another Schengen State (which cannot be verified), there are no statistics on the matter of entry.

Civil Guard Resources:

- Air Service: 36 helicopters
- Provincial Maritime Services: 786 staff, 80 craft
- GEAS (Specialised Underwater Activity Groups): 168 staff, 66 craft (semi-rigid, inflatable, and jet skis)

External Border Surveillance Services: 5,697 staff

In 2001, at the Ceuta and Melilla land borders, the Civil Guard rejected a total of 62,973 at its surveillance points; in 2000, this figure was 39,630 and, to 30 September 2002, 42,217.

The interception rate for craft detected is calculated at the points where the SIVE is integrated, by comparison of the craft detected and those abandoned on the coast: in 2001 642 craft were intercepted, 198 detected but not intercepted, with a total of 10 sinkings.

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5. What training and continuing training measures have been undertaken to maintain the level of control required by Schengen?

REPLY:

Apart from training given to all police agents on joining the National Police Force, regulated in **ROYAL DECREE No. 614/1995 of 21 April passing the Regulations on National Police Force selection and training.**

SCALE	CATEGORY	FREE ENTRY CONDITIONS	TRAINING
BASIC E. 2	POLICE	Free Examination, Primary and Secondary Education, over 18 and a Spanish national.	9 months' theory, 12 months' practical
BASIC E. 1	POLICE OFFICER	Internal Promotion: 2 years basic 1	4 months' theory, 2 months' attendance, 2 months' distance
DEPUTY INSPECTION	DEPUTY INSPECTOR	Internal Promotion by: Competitive Examination, 3 years basic 1 Selective Seniority	6 months' theory, 3 months' distance, 3 months' attendance
EXECUTIVE 2	INSPECTOR	Free Examination, University Qualification, BTP permit. Internal Promotion: Competitive Examination, 3 years Deputy Insp. Selective Seniority	2 years' theory, 7 months' practical.
EXECUTIVE 1	CHIEF INSPECTOR	Internal Promotion: Competitive Examination, 5 years, or 10 years Selective Seniority	4 months, 2 months' attend-ance, 2 months' distance
SENIOR	COMMISSIONER PRINCIPAL COMMISSIONER	Internal Promotion: Competitive Examination: 3 years Selective Seniority	4 months

Annual courses are also given on the following:

- False travel documents.
- Borders and aliens.
- Handling of the Docubox and Photofon systems.
- Schengen refresher.

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Civil Guard training program:

Training programs for all Civil Guards include study of matters related to the regime on aliens, illegal immigration, contraband and the fiscal legislation in general. This training is of the following average duration, depending on scale:

- Senior Officers: 5 years
- Officers: 3½ years
- Non-commissioned officers: 2½ years
- Civil Guards: 1 year

Specific courses are also given on piloting helicopters and boats, and courses are being developed for handling of special surveillance tools, along with specific Immigrant Attention Team courses (EDATI); those for Fiscal and Customs Specialists and Territorial Fiscal Patrols are being updated with matters related to Surveillance of Borders outside the EU, illegal immigration and the Convention for the Implementation of the Schengen Agreement.

6. Have the new officials responsible for border controls been briefed on the Common Manual and prepared for applying it?

REPLY:

The Common Border Manual forms a part of general police training courses at all levels, scales and categories, and the specific courses mentioned above in question 5.

7. New intervention concepts introduced or planned, such as:

- **organisational units with competence at regional level, operating in different zones (border crossing points and green/blue borders) and equipped with mobile units capable of rapid deployment in the context of organised interventions;**
- **what is the operational activity of the organisational units at local level and of the special investigation groups?**
- **formation of special investigation groups with a view to combating international organised crime;**
- **surveillance of blue/green borders at the border line itself and in border regions with the participation of general police services.**

REPLY:

With the elimination of land border posts in Schengen States sharing a common border, like France and Portugal, following Spain's application of the Schengen Agreement, such posts were converted either to Joint Police Stations or Immigration and Documentation Units.

RESTREINT UE

Operative Mobile Groups have been incorporated into those offices or units, dedicated to patrolling the entire length of the border for security and immigration controls.

These groups are correctly trained in borders and aliens, and in all matters relating to any criminal activity occurring in cross-border demarcations.

Operative Mobile Groups are also acting to control blue borders, as part of the associated Immigration and Documentation Units in the Provincial Commissioners' Offices: they run periodic controls at marinas, fishing ports and in private aerodromes in their demarcations.

In some circumstances, these operative groups are being backed by other Police Units with national authority, such as the Central Borders Unit, the Central Borders, Treatment and Documentation of Aliens Unit (UFADE) and the Police Intervention Units (UIP), the former in the General Police Headquarters for Immigration and Documentation, and the latter at General Police Headquarters for Public Security.

For the investigation of immigration networks trafficking in persons, there are operative investigating groups in the Provincial Units of the National Police Force integrated into the Unit Against Immigration Networks and Forged Documents (UCRIF) which are dedicated to these tasks.

As an integrated police force, in addition to competences it shares under the Security Services and Forces Organic Act, No. 2/86, the Civil Guard acts inter alia, as State Fiscal Guarantor, action to prevent and prosecute contraband, and custody of land communications, coasts, borders, ports, airports and centres and facilities whose significance requires that.

The distribution of Civil Guard personnel means that, in addition to the Central Analysis, Technical Direction and Operative Units, there are other peripheral operative bodies called ZONAS (zones) which coincide with the Autonomous Communities (regions) of the Spanish administrative system. Attached to these Zones are the COMMANDS which, in a large part of the territory, are the same as the provinces; these Commands have Information and Criminal Investigation Department Units which investigate illegal immigration networks, human trafficking, and crime in all its most varied aspects, including cross-border crime.

The Civil Guard controls external European Union sea and land borders permanently.

This surveillance is done basically with personnel from the Civil Guard's Territorial Units established along the Spanish coast and on the borders with Morocco, Andorra and Gibraltar.

On the other hand, the 17 Territorial Fiscal Patrols (PAFITEs), are deployed with total staffing resources of 833 and with the specific function of special coastal surveillance, and control of fishing vessels in those marinas and fishing ports without permanent Civil Guard surveillance.

In this area, the Civil Guard has a computerised data base called "Embarcaciones" (craft), where the personnel from these patrols record all vessel movements on the Spanish coast.

RESTREINT UE

There is also a data base named “Estrecho” (strait), where registration numbers and dates and times of passage of vessels at the authorised points, to or from North Africa are entered. Some of these points have an automatic registration number reader system.

Territorial waters and, therefore, off-shore coastal surveillance are controlled by the Civil Guard Maritime Service, in coordination with the land Units.

At high-conflict points on the Spanish coast or land borders, as in Andalusia, the Canary Islands and in Ceuta and Melilla, there are specialised coastal or land border surveillance units.

When special circumstances make it advisable to strengthen border controls, Rural Security Grouping Units, Rural Action Units, the Mountain Service and Underwater Activity Units are used.

8. What technical equipment is available at the border crossing-points? What equipment has recently been introduced, for instance:

- **8.1. Terminals for consulting SIS (fixed or mobile),**

REPLY:

All border posts have at least one SIS access and query terminal, in both the police offices and in the control filters. This equipment is usually fixed: particularly, and for special operations, there are mobile units in COMBI type backup vehicles, which also have the resources needed for these queries.

- **8.2. Schengen entry and exit stamps**

REPLY:

There have been standard Schengen entry and exit stamps at all external border posts from the outset.

- **8.3. Equipment for checking documents**

REPLY:

8.3.1. There are briefcases (portable and easy-to-handle in a first line of control) comprising the following: a magnifying glass, retroviewer for 3M folios, a portable UV light lamp incorporating a white light, line tester, plastic lifter blade, pins, ruler, etc... .

8.3.2. At the second line of control: an indoor office. UV, fixed items, DOCUBOX, S.I.S. terminals, Intranet Webpol access, Photophone, Scanners, individual telephones and fax, e-mail, etc... .

RESTREINT UE

- 8.4 Vehicles.

REPLY:

All Units operating in the field of aliens, whether in control or in investigation, have the vehicles necessary to fulfil their remit.

9. What technical equipment has been made available to the forces responsible for controlling green and blue borders, for instance:

REPLY:

The National Police Force has a helicopter fleet used in general to pursue crime and which, when necessary, can also be used in pursuit of illegal immigrant traffickers.

It also has night vision and infrared equipment used against crime in general and which, of course, can be used in the hunt for offences related to illegal trafficking in humans.

For border controls and surveillance, the Civil Guard has the following material resources:

CIVIL GUARD RESOURCES FOR COASTAL SURVEILLANCE:

Mobile heat cameras:

These are the so-called Mobile Surveillance Units (UMV), consisting of a van with no official markings, which is fitted with night-vision equipment mounted on a concealed telescopic mast inside the vehicle bodywork, and a cab with a control console for two operators. The camera is the infrared (IR) image vision type using a heat contrast sensor, and has a 10 Km target identification range.

They are used for night coastal surveillance or in low-visibility conditions caused by fog or heavy rain.

Portable heat cameras:

This is IR vision equipment using a heat sensor, of the prismatic type, though larger and heavier than they, independently powered by rechargeable batteries, with 5 Km target identification range.

They are used for night coastal surveillance and in low-visibility conditions caused by bad weather.

Medium range night viewers:

This is goggle type IR night-vision equipment using active intensification of residual light in the area of focus, which can be adapted to a medium range lens, powered independently by alkaline batteries and with an 800 m range.

It is used to walk or drive without a light source, when approaching an area where a consignment is due, or illegal immigrants are to disembark.

RESTREINT UE

Mobile radars:

These are Mobile Detection Units comprising a radar sensor and Optronic heat-vision (IR) equipment mounted on a van type vehicle. The radar detects the presence of objects sufficiently in advance, and the camera has a recognition range of 8 km.

The equipment is designed to detect, locate, identify and recognise and notify units for the interception of suspicious vessels approaching the Canary Island coasts and the mainland area of the Straits of Gibraltar.

CIVIL GUARD RESOURCES FOR LAND BORDER SURVEILLANCE:

Portable heat cameras:

This equipment is of the same characteristics as described in the coastal surveillance section.

Short- and medium-range night viewers:

This is IR night vision equipment operated by active intensification of the residual light in the area of focus, of a monotube prismatic type independently powered by alkaline batteries, and with ranges of 200 and 800 m.

It is used by the Force in service at the land border.

CCTV:

A system of fixed TV cameras with low-luminosity sensor CCD, located along the perimeter of the border with Morocco in the cities of Ceuta and Melilla.

This circuit is centrally monitored on a display console in the Operative Services Centres (C.O.S.) of the Commands concerned.

Fence sensors:

A system of vibrating sensors installed along the border with Morocco in the cities of Ceuta and Melilla. These sensors are connected to an alarm centre in each C.O.S.

CIVIL GUARD RESOURCES FOR TERRITORIAL WATER SURVEILLANCE:

14 lightweight rigid patrol craft:

These are two-colour craft with Civil Guard markings, 11.9 m long and with a crew of 4, fitted with radar, GPS and a magnetic compass for night navigation or zero-visibility conditions.

These craft are used in 12 mile and territorial waters surveillance, with range for services lasting 24 hours.

46 semi-rigid lightweight patrol craft:

These are two-colour craft with Civil Guard markings, 12.5 m long and with a crew of 4. They have no navigation instruments and have range for services of up to 12 hours.

RESTREINT UE

They are used in surveillance of the Straits of Gibraltar for the prevention of drug-trafficking and illegal immigration.

15 Rigid medium patrol craft:

Two-colour craft with Civil Guard markings, 16.5 m long and with a crew of 7, they have radar, GPS and a magnetic compass for night navigation or in conditions of zero visibility. They also carry a goniometer for radio signal direction-finding.

These craft are used in 12 mile and territorial waters surveillance, with range for services of up to 72 hours.

5 high-sea patrol craft:

These vessels are 26 - 30 m long with Civil Guard paintwork and markings and a crew of 11, fitted with all the equipment need for instrument navigation, radio direction-finding and infrared image vision.

They are used for 12 mile and territorial waters surveillance, in services of up to a week's duration.

CIVIL GUARD RESOURCES FOR AERIAL SURVEILLANCE:

28 Eurocopter BO-105 Helicopters:

Five-seat Helicopters, with Civil Guard paintwork and markings, fitted with meteorological radar for surface target detection and GPS receiver, and with preliminary installation for fitting of a gyro-stabilised Optronic sensor with an infrared camera (FLIR device). They also have equipment for transmission of FLIR captured images, by radio.

These aircraft are used in all types of services associated with the fight against contraband, drug-trafficking and illegal immigration.

8 Eurocopter BK-117 Helicopters:

These are 11-seat Helicopters with Civil Guard paintwork and markings, fitted with all the resources needed for instrument flying.

They are used mainly for personnel movement.



THE INTEGRATED EXTERNAL SURVEILLANCE SYSTEM (SIVE).

Given the existing specific problem on the coasts of Andalusia and the Canary Islands, the European Union's southern frontier, with unauthorised immigration and hashish trading, the Civil Guard has designed a specific program for these areas known as the SIVE (Integrated External Surveillance System):

Concept:

In the light of the increase in this illegal traffic, its likely evolution and the ease of action which modern resources give organised crime, the Civil Guard decided to introduce a coastal surveillance system which would enhance efficiency in the fulfilment of its mission, with maximum use of the human resources available.

This is the SIVE , which is guided by the following principles:

- Advance presence and early detection.
- Single command.
- Organisational flexibility.
- Assured confidentiality.

RESTREINT UE

According to these principles, the aim is to move surveillance off the coast, moving it forward into territorial waters, with the creation of a permanently supervised area sufficiently distant to make it possible to detect, identify and assess incursions, with the necessary time to react with the appropriate means and ensure their interception.

In response to the principle of single command, surveillance and interception resources are placed under one command, to attain maximum coordination in the operations of Units with different characteristics and organisations, using resources which can act on land, at sea and in the air.

The information obtained and orders given go through discreet and reliable communications systems.

System Architecture:

System components:

- *Sensor stations*: each comprises a radar and two cameras, one each for day and for night vision.
- *Command and Control Centres*: Information is received here from the sensor stations, with record of the actual deployment and of the information of interest to the service. The incursion detected is evaluated here and orders given to sea, land or air resources for interception.
- *Communications System*: Secure and discreet to allow communication between sensor stations and between them and the Command and Control Centre, and remote control of surveillance resources.

In addition to these passive surveillance resources, those of Units involved in active surveillance and which make the interceptions are being increased (Land Patrols, Maritime Service Vessels and Air Service Aircraft) with more modern location devices and faster interception material.

Introduction of the system.

Because of the speedy development of the resources and methods used by organised crime, it was decided to begin the introduction with the deployment of a prototype comprising three transportable sensor stations in the province of Cádiz, a Command and Control Centre at Algeciras Command, and the associated lines of communication.

The prototype currently being introduced makes it possible to check in a real situation the possibilities of the system and so to correct possible defects or make the necessary changes to achieve optimal results.

Deployment will subsequently be completed throughout the zone of the Straits of Gibraltar, in three phases:

PHASE I: under way, to complete the entire Cádiz coast.

PHASE II: deployment extended to Málaga and Granada provinces.

PHASE III: deployment completed in the area of the Straits of Gibraltar with resources on the Huelva and Almería coasts.

RESTREINT UE

Simultaneously, because the problem is taking on considerable proportions in the Canary Islands, the Civil Guard Units assigned surveillance of the places with the greatest incidence of crime are being provided with mobile sensor stations of a design similar to the prototype, with the enhancement of land, sea and air service resources in the area.

While waiting for the final introduction of the prototype in mid-2002 with any necessary modifications, an effort is currently under way to enhance the Units' resources, without neglecting the introduction of the rest of the technical backup, Phase I of which has begun.

At the same time, the SIAM (automatic registration number reader system) is in operation in the Port of Algeciras and is being planned for the Ports of Cádiz, Ceuta, Melilla, Málaga, Almería and Alicante.

Algeciras has a system of sensors in its port to detect illegal immigrants concealed in trucks.

The Civil Guard has the following resources for the surveillance of external borders:

- *10 mobile heat cameras
 - *17 portable heat cameras
 - *65 night viewers

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RESTREINT UE

- *2214 flashlights
- *115 lighting guns
- *1856 field glasses
- *1 sonar
- *1 underwater camera

10. What is the number, broken down by type, of the monitoring facilities at sea and land borders?

REPLY:

At all border posts considered external Schengen borders, there are facilities where the police officers assigned to aliens carry on the control work. In ports with incoming passenger vessels, there are also the necessary control booths to run these checks on persons and vehicles.

All the installations have computer terminals connected to police data banks: these terminals also operate in the passenger control filters.

On land borders also considered external Schengen borders, there are independent control booths for pedestrian passengers and those in vehicles.

The Civil Guard has 25 Commands with coastal demarcation, all with Operational Service Centres (COS) to coordinate the operating Units. A total of 257 Posts are attached to the Commands. The Maritime Service has 22 installations in the ports where the vessels are located.

Algeciras Command has a SIVE Command and Control Centre.

The Ceuta and Melilla Commands have the following for control of the perimeter fence:

CCTV:

A fixed TV camera system with a low-luminosity CCD sensor, installed throughout the perimeter of the border with Morocco in the cities of Ceuta and Melilla.

- Ceuta, 39 cameras
- Melilla, 106 cameras

Surveillance using this circuit is centralised on a display console in the Operational Service Centres (C.O.S.) of the Commands concerned.

RESTREINT UE

Fence sensors:

A system of vibration sensors is installed along the border with Morocco, in Ceuta and Melilla. These sensors are connected to an alarm centre in each C.O.S.

In addition, the Air Service participates in coastal surveillance, with the helicopters assigned.

11. What are the means of communication between the operational units assigned to monitor sea borders and their operational centre?

REPLY:

Communications take place through VHF walkies, radio-telephones, mobile phones. Vehicles also have radios working on the same frequency and channels as those above for communications between the operating centre and operating units. There is also fax, e-mail and photophone for any consultation with the General Police Headquarters for Immigration and Documentation, specifically with the Central Unit Against Immigration Networks and Forged Documents.

The communications resources used by the Maritime Service Units of the Civil Guard run through UHF, VHF and HF stations in the Civil Guard's bands, the Global Marine Distress and Safety System (SMSSM) and aerial Band. The "SIRDEE" (UHF), system is also used, along with GSM mobile telephones and, on some craft, the INMARSAT satellite system.

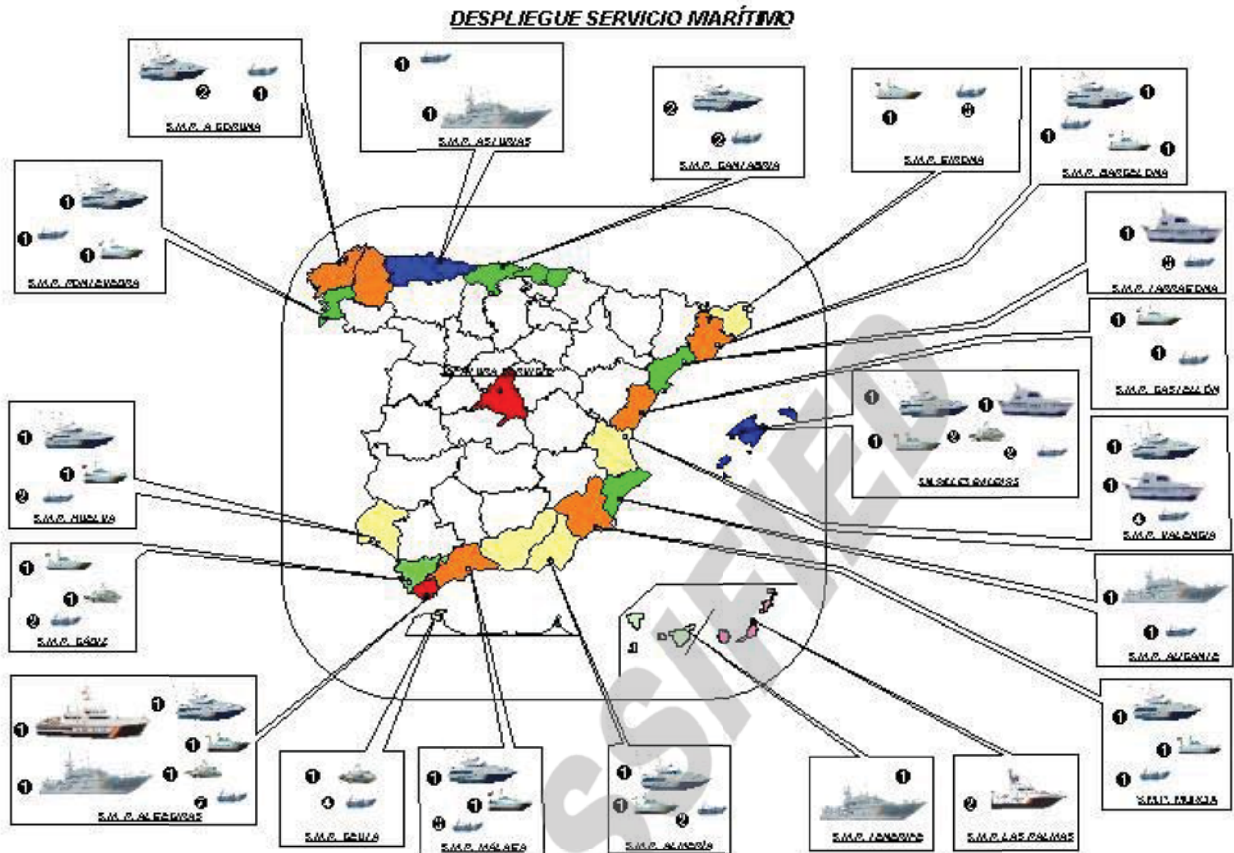
12. In the sense of combating illegal entry and exit, what is the principle of controlling vessel movements outside the official border crossing points?

Approximately, how many hours a day are external sea borders monitored by resources available (broken down by the different areas)?

Number of physical controls conducted onboard vessels that approach the coast in other locations than official BCPs? Results of these controls? How are decisions on such controls made?

RESTREINT UE

REPLY:



Vessel control outside the points authorised is run by the Civil Guard, with surveillance by the Territorial Fiscal Patrols (PAFITES) on marinas in their territorial demarcation (in 2001, there were checks on 10,017 craft), along with controls by the Maritime Service in Spanish territorial waters.

In 2001, the PAFITES ran 1,310 controls and the Maritime Service 9,031 interceptions at sea, totalling 181,481 hours and 629,847 nautical miles and, on land, a total of 15,673 services, 154,172 hours and 937,729 km.

In coastal areas with the SIVE, surveillance monitoring is round-the-clock, and has the human and technical resources necessary to deal with illegal entries.

The Maritime Service's activity at sea in 2001 was as follows, distributed by areas of action:

RESTREINT UE

Zone	Number of Units	Hours per annum
Saharan Atlantic	3	12,387
South (Strait)	37	67,357
Northern Mediterranean	28	71,240
The Atlantic (Galicia and Cantabria)	12	30,497

In 2001, the Maritime Service stopped 2 speedboats, 136 small open boats, 111 zodiacs and 143 boats of other sorts. It seized 40,478 kgs of drugs (mainly hashish) and 17,050 cartons of tobacco products. In 2001 it handed over a total of 8,168 immigrants to the National Police, along with the masters of craft taken in territorial waters.

13. Are further reinforcements planned in terms of technical equipment or staff? When?

REPLY:

Every year, technical resources which have deteriorated are replaced with the new equipment needed. With this in mind, tests are under way at border posts of the O.C.R. reader system, which will begin in Airports.

With personnel increases in mind, the Directorate-General of Police recently published a new Job Catalogue in which all border posts are adequately dimensioned, implying an increase in human resources.

14. Do customs services also take part in border controls?

REPLY:

The Customs Service in the Ministry of Finance participates in controls on passenger luggage, to prevent entry of prohibited items within their jurisdiction in the area of contraband, and enjoy normal relations with the National Police Force which is responsible for personal documentation controls.

The Customs Service as such is not involved in border controls, except in case of infringement of the Customs Act.

An outlay of 112,951,000 euros is planned in the SIVE program between 2000 and 2004, in addition to the process of modernization of the Civil Guard, and which includes procurement of craft, motor vehicles, go-anywhere QUAD motorcycles, detection systems, transmissions, and the updating of communications and computers systems.

RESTREINT UE

The Civil Guard, as the State's Fiscal Guarantor, is present in customs facilities, and these Units are attached to Fiscal and Border Headquarters which also has jurisdiction in this Force for surveillance of EU external borders. As members of the State Security Services and Forces, in addition to their specific competence, they are also involved in surveillance missions.

15. How many refusal-of-entry decisions have been taken? (total number, breakdown by main nationalities concerned, breakdown by border posts and by distance between border posts).

REPLY:

ALIENS REFUSED ENTRY, AND REPATRIATION

DISTRIBUTION BY BORDER AND REASONS

PERIOD: 2001

BORDERS	TOTAL	REASONS						
	YEAR 2001	NO TRAVEL DOCUMENTS	NO VISA	NO FINANCIAL RESOURCE	FORGED DOCU.	S.I.S	NO DOCU - MENTARY JUSTFCTN.	OTHER
LAND	628	16	52	14	490	11	1	44
Ceuta	597	15	28	14	485	10	1	44
Melilla	31	1	24		5	1		
AIR	6,542	996	167	244	76	227	4,387	445
Alicante	56	2	9	4			41	
Barajas	5,458	682	96	128	59	208	3,859	426
Barcelona	471	131	1	11		11	316	1
Bilbao	1		1					
Ibiza	4		1			3		
Las Palmas	233	161	6	19	11		21	15
Málaga	158	9	37	73	4	5	30	0
P. Mallorca	17	2	6	6	2		1	
Santiago	5						5	
Seville	3		1				2	
Tenerife	129	4	7	3			112	3
Valencia	7	5	2					
SEA	1,711	666	555	86	47	61	289	7
Algeciras	368	15	290	1	1	59	2	
Alicante	463	60	32	85	1	1	284	
Almería	872	591	233		45		3	
Málaga	2							2
Motril	1					1		
Santurce	5							5
TOTAL	8,881	1,678	774	344	613	299	4,677	496

In 2001, in surveillance points under its jurisdiction at the land borders with Ceuta and Melilla, the Civil Guard rejected 62,973 persons in all and, in 2000, 39,630. To 30 September this figure was 42,217. In 2001, it handed over a total of 8,168 immigrants detained in territorial waters, 7,481 on the coastline, and 6,443 inside the country, to the National Police Force.

RESTREINT UE

16. How is Spain dealing with situations like

- Territories of the Kingdom outside continental Europe, like in the Atlantic, the Mediterranean or in Northern Africa?

REPLY:

It is well-known that Spain is the EU State closest to Africa and so the most likely to receive immigration flows from that continent. A number of actions have taken place to prevent the entry of illegal immigrants;

Ceuta and Melilla have reinforced border perimeters with fence systems which easily prevent access by those wishing to enter illegally. At the same time, border posts have been upgraded to ensure better controls.

Shipping lines have, in collaboration with the Civil Guard, established control mechanisms for light craft attempting to reach Spanish territory illegally; sea border posts with passenger movement have put in place strict controls to prevent illegal entries, even travelling out to vessels from Morocco for en-route controls, focusing attention and border controls during the Summer months (Operation "Paso del Estrecho"), when many Third countries nationals take advantage of this massive movement of people to get onto the Spanish mainland, making it necessary for special Operations concentrated on controls at these borders.

The Civil Guard participates in surveillance of the Canary Islands coasts and has developed a Special Plan for the islands which includes SIVE investment with the procurement of mobile surveillance units, sensor stations, the Puerto Rosario Command and Control Centre, heat cameras, helicopter and patrol resources, the purchase of two patrol Maritime Service vessels and the provision to the Territorial Fiscal Patrols of go-anywhere vehicles, QUAD motorcycles, night viewers, etc.

On the Ceuta and Melilla perimeters, surveillance is run on the double fence around the two Autonomous Cities.

RESTREINT UE

17. Are cargo boats controlled by the authorities when they enter territorial waters?

REPLY:

In territorial waters, in addition to the Civil Guard Maritime Service, there are Naval Units from the Customs Service of the Ministry of Finance running controls on vessels sailing through these waters.

18. What is the procedure concerning the control of pleasure craft when they are in port of call within territorial waters?

REPLY:

Such controls take place in normal conditions, albeit not systematically, with account taken of factors such as the port or origin, type of craft, etc. It must be made clear that these controls do take place whenever the vessel comes from a port outside the Schengen space, so that there are the Operative Mobile Groups attached to the peripheral Immigration and Documentation Units.

Territorial Fiscal Patrols make periodic visits to marinas within their territorial jurisdiction, checking pleasure craft moored there and, in case of breaches of the legislation and regulations on aliens, notify the National Police Force.

19. How do you proceed when a person presents him/herself at the border with a visa issued by another Member State?

REPLY:

Obviously, the technical resources for the detection of forged documentation are used to confirm the authenticity of the visa, and the relevant police data base is also consulted to see if it is recorded as a document declared by the issuing State to have been lost.

A Airports

20. What measures have been taken in terms of infrastructure to separate passengers on Schengen flights from those on extra-Schengen flights (physically, administratively, equipment)?

REPLY:

As of Spain's application of the Schengen Agreement, instructions were issued to all border posts, particularly at Airports, to do the work, through the bodies responsible, to separate non-Community and Schengen Community flows.

RESTREINT UE

21. Are passengers on extra-Schengen flights channelled in such a way as to ensure the separation between persons covered by Community law and those from third countries?

At how many airports has the separation been operated by physical means?

REPLY:

Affirmative: this has been done at all airports classified as non-Schengen borders.

22. How does Spain deal with flights originating from outside mainland Spain?

REPLY:

On flights from Melilla (there are no flights from Ceuta), exit controls are run at the city's Airport to prevent departure of those who may have entered Melilla under bilateral arrangements, but who may not visit the mainland without the appropriate documentation.

23. Do airports have separate areas for asylum applicants and inadmissible passengers?

REPLY:

Madrid-Barajas, Spain's main airport, does have two separate areas. At other airports, where requests are minimal, if an application for asylum arises, attempts are made to separate them from others pending repatriation as inadmissible.

B Seaports

24. What measures have been taken in terms of infrastructure to guarantee the separation between passengers on ferries on Schengen crossings and passengers on ferries on non-Schengen crossings (physically, administratively, equipment)?

REPLY:

As for airports.

25. Are passengers on extra-Schengen crossings channelled in such a way as to ensure the separation between persons covered by Community law and those from third countries?

REPLY:

Yes, this has been done at all ports classified as external Schengen borders.

RESTREINT UE

26. Statistics should be provided for the past three years as regards the number and types of vessels calling at ports from EU and third country ports (ferries, cruise ships, cargo vessels, fishing vessels and pleasure boats).

In the sense of combating illegal entry and exit, what is the principle of controlling vessels (ferries, cruise ships, cargo vessels, fishing vessels and pleasure boats).

Amounts of physical control made onboard these vessels (can be substituted with permanent monitoring)? Results of the controls. How are decisions of such controls made?

REPLY:

It is not possible to include statistics on the entry of craft from EU countries.

The principles followed in controls on any type of craft are the same as for those carrying passengers from other countries on commercial and habitual routes, with prevention of the entry of those from other countries through ports not authorised as external Schengen borders.

There are administrative regulations for the different types of vessel, and this is also regulated in the Ministry of Infrastructure's provisions.

The Customs Ordinances and Instruction No. 22/99-6A of 22 October 1999 of the Director of Customs and Special Taxes include, among others, as functions of the "Resguardo" (Civil Guard Control Body), arrival visits to vessels reaching port and, as applicable, those anchoring.

C Land Borders

27. Are passengers on international crossings channelled in such a way as to ensure the separation between persons covered by Community law and those from third countries?

REPLY:

A distinction must be made between border controls at Ceuta and Melilla and those at Seo de Urgel and La Línea de la Concepción.

There is no separation in the former, since most of those attempting to cross these borders are Moroccan citizens.

On the other two borders, crossings are by vehicle, and are the same for all types of travellers who, on the other hand, are not particularly numerous, so that unnecessary waiting does not occur.

RESTREINT UE

28. How are the provisions with non Schengen neighbouring countries like Andorra applied?

REPLY:

The same as with any other non-Schengen Member State, though it must be kept in mind that flows from Andorra are not a concern in terms of illegal immigration. It must be remembered that, previously, those entering Andorra had come from France.

29. With reference to Article 2(2) of the Schengen Convention, have border controls been occasionally reintroduced at the land borders with other Schengen States? In which circumstances does your country justify temporary reintroduction of border controls under Article 2(2) of the Schengen Convention? For how long did this exceptional situation last?

REPLY:

At the time of international events implying entry of external elements which may cause a deterioration in Public Security, such as meetings held in Spain at the time of Presidency of the European Union.

On each occasion, the approximate duration was seven to ten days.

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II. SCHENGEN INFORMATION SYSTEM

SCHENGEN INFORMATION SYSTEM

- Organizational conditions

30 Geographical location of the N.SIS.

Castellana 64,
28046 - MADRID

31 Describe the structure, hierarchy and organisation of the N.SIS.

The N.SIS is integrated into Schengen Area of the Coordination and Studies Cabinet of the Secretariat of State for Security in the Ministry of the Interior.

The Secretariat of State for Security is a command, coordination and management body for the State's Security Forces and Services.

The functions of the Coordination and Studies Cabinet are to study, coordinate, advise and report on security matters to the Secretary of State.

The Schengen Area coordinates all Ministry of the Interior action in relation to the Schengen Information System.

32 General presentation of the organisation of the services responsible for police functions in relation to the SIS.

Technical:

SIS implementation in Spain is based on the principle of an N.SIS acting as link point between the various national user bodies and the C.SIS, and the so-called OE.SISs which are local SIS implementations in each body using SIS data. Annex 1 contains Schengen solution schemes in Spain.

All the OE-SISs are located in user body Data Processing Centres, which are attached to their IT Areas, Services or Divisions.

The N-SIS keeps the national copy of the SIS data bases, and each OE-SIS keeps a technical copy identical to the national copy, except for the Ministry of Foreign Affairs which receives just the registers referred to in Article 96.

RESTREINT UE

There are five OE-SISs: the National Police Force, the Civil Guard, the Ertzaintza (the Autonomous Basque Country Police Force), the Mossos de Esquadra (the Autonomous Catalan Police Force) and the Ministry of Foreign Affairs. This Ministry is included here in order to provide a complete overview of the Spanish architecture: it must however be emphasised that its functions do not involve policing, but are rather administrative, in the area of issue of visas.

Operationally, the following are the services responsible for SIS-related police functions:

Statewide, the National Police Force and Civil Guard. In their territorial distribution they range from Central Services with countrywide authority to local Police Offices or territorial Posts with jurisdiction within their geographical field.

The autonomous regional forces are the Ertzaintza in the Basque Country, the Mossos de Esquadra in Catalonia and, in Navarra, the Navarra Foral Police. The three range down to the local level and have jurisdiction within their Autonomous Communities.

Local police forces carry on Criminal Investigation Department functions and so have direct access to SIS data via terminals connected to one of the institutions referred to above.

As already explained, the Ministry of Foreign Affairs holds the Article 96 authorities for issue of visas.

33 Which tasks under national law necessitate access to the SIS by the justice system?

There is no specific national legal provision defining the work for which SIS access is indicated.

The Spanish Justice Administration accesses the SIS indirectly through the Security Forces and Services.

34 How is the precedence of the Schengen search over the Interpol implemented at national level?

Any SIS hit indicates, as part of the process to be followed, that contact must be made with the SIRENE office (See question 70)

35 List of services with access to SIS data. Is this list in accordance with Article 101 of the Schengen Convention and with the latest published version of the users list?

(See doc. 5002/2/00 rev. 2 SIS 2 COMIX 2). Unmodified.

RESTREINT UE

- **Technical conditions**

36 How many terminals are made available for input and consultation of data by:

a. the police forces, including non-police forces with a control function;

	National Police Force	Civil Guard	Ertzaintza	Mossos de Esquadra
Input	17200	15	10	1700
consultation	17200	3371	1072	1700

b. the border control authorities;

2000 National Police Force terminals (included among the 17,200 mentioned above).

c. diplomatic missions and consular posts;

300 terminals at 156 diplomatic representations.

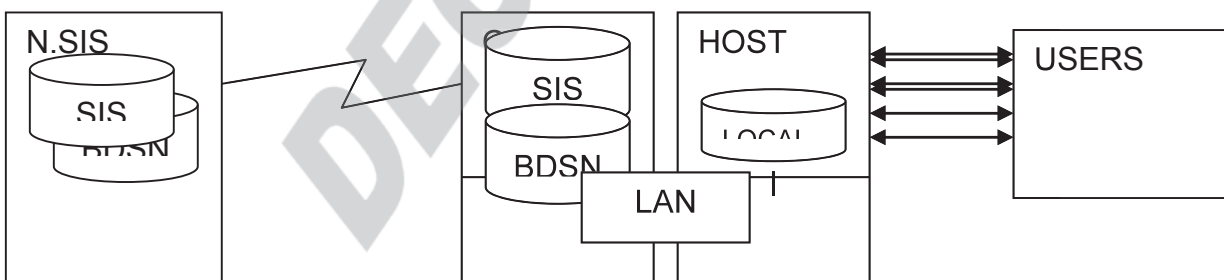
d. the authorities responsible for aliens and asylum;

3100 National Police Force terminals (included among the 17,200 mentioned above).

e. customs authorities?

37 Presentation of the computer architecture of national police systems, which are connected to the SIS.

Page 2 in Annex 1 gives the general description of the technical architecture of the police systems connected to the SIS, all within the following basic scheme:



The N.SIS is connected to the national systems via a computer called OE-SIS which contains a technical copy of the SIS data base. This technical copy is used by the bodies to deal with SIS Queries.

RESTREINT UE

N.SIS ↔ OE-SIS communication is through an encrypted private virtual network with a TCP/IP protocol. OE-SIS ↔ HOST communication is via LAN.

In both the N.SIS and the OE-SISs there are two data bases: SIS and BDSN (the National Alert Data Base). The first contains the SIS data and the second the data shared nationally by user bodies. There is a third LOCAL data base residing in each institution's host and containing antecedents and other historical data.

Not being a police body, the Ministry of Foreign Affairs is not included here.

38 Description of data flows between national systems and the N.SIS in connection with input of data according to each of the articles 95 to 100.

In case of SIS data updates, users access their host and ask for the update. The host releases a transaction on the OE-SIS. Once the update request is received, the OE-SIS sends it to the N-SIS, which checks to see if it is of SIRENE interest, in which case it is made available to that office (Arts. 95 and 99). The N.SIS finally sends the update to the C.SIS.

Once the C.SIS has disseminated the update, the N.SIS incorporates it into its SIS data base and, in turn, sends it to the OE-SISs where it is integrated into their technical copy of the SIS data base.

39 Description of the computer processing of an N.SIS database consultation from the remote workstation of an end user.

In all cases, users make their enquiry using each body's applications, with its tele-processing network, in principle going to its host. The consultation is dealt with via access to the data bases resident in the user body, i.e. the LOCAL data base located in its host, and to the national data bases (BDSN) and international data bases (SIS) located in OE-SIS.

40. How do police officials on the ground have access to end-user terminals (by radio, only by telephone, via mobile terminals fitted in vehicles, only in person, only in writing)? Are there differences between the various national police?

National Police Force.- Via radio, telephone or directly through terminals connected by GSM.

Civil Guard.- Normally by radio.

Ertzaintza.- Radio or telephone GSM.

Mossos de Esquadra.- Radio (tetrapol private network).

41 Procedure followed by a user in the field to consult the national system and the SIS database.

The user makes radio or telephone contact with its central unit, where specialised operators deal with the enquiry, delivering the response through the same channels.

RESTREINT UE

42 How many terminals are used how often (statistics on take-up rates), how often is the SIS consulted?

See question 36.

There were about 44 million consultations in 2001.

During the first ten months of this year, there were 37 million consultations; the expected total is 46 million.

43 How many queries are made to the national SIS database per year? – if possible please state the number of queries per category.

2001: 33.6 million searches for persons, 9 million for vehicles, 0.3 million for issue of documents, and the remainder equally distributed among the other categories.

2002: up to and including October, 28.5 million searches for persons, 8.2 million for vehicles, 0.2 million for issue of documents, and the remainder equally among the other categories. To the end of the year, a further 7 million are expected for searches for persons and 2 million for the rest.

44 Are the SIS and the national system consulted at one and the same time, or do both systems have to be consulted separately?

All enquiries are integrated so that a single consultation accesses all the necessary data bases (LOCAL, BDSN and SIS), for both persons and objects.

45 Accessibility of the data base for end users; location and number of access points, current response times measured on national systems, and response times for N.SIS consultations.

All user body offices, including border posts, are directly connected to their host and, through it, to the SIS data base technical copy.

Response times are between 1 and 5 seconds.

46 Volume of data to be transmitted to the SIS database and transfer procedures.

Updates sent to the SIS in 2001 numbered 93,000, including all categories. The expected volume for 2002 is about 100,000.

Updates are sent ON-LINE from our user bodies.

RESTREINT UE

47 How do the consular posts of your country access the SIS?

The servers of the consular posts receive the SIS data from OE.SIS. This equipment is connected permanently to the N.SIS.

48 What practical arrangements have been made for updates of data to the consular posts?

The consular posts receive daily a transfer of data from the OE.SIS via communication line.

49 How frequently will data be updated? By online and offline links.

Once a day; off-line.

- Data

50 What is the number of alerts loaded per category (Articles 95 to 100), per ultimo 2000 and 2001?

	WP	VE	ID	Armed Services	DB	BK
2000	20,566	158,140	31,320	19,556	10,236	134
2001	19,833	132,592	47,532	21,199	10,564	342

51 Entering SIS alerts

a. Do the competent authorities enter the alerts centrally or locally?

National Police Force.- All decentralised, except for court warrants for persons, which are introduced centrally.

Civil Guard.- Centralised in all categories.

Ertzaintza.- Centralised.

Mossos de Esquadra.- Decentralised.

b. If data entry is decentralised, do uniform criteria apply?

Yes in all cases. Each body draws up uniform criteria to be applied in its field, and there are mechanisms for national coordination.

RESTREINT UE

c. If there are uniform criteria, are checks carried out at national level to ensure proper application and do the criteria apply to all categories of alert?

Checks are run both at the central level of each institution and at N-SIS level. It is sought as far as possible to make most checks automatic. Periodic data controls are run. The N-SIS has a head of data quality who, if anomalies are detected in national and international data introduced, contacts the body concerned for their immediate correction.

d. Are there national criteria governing the number of alerts entered per category with, for example, account being taken of category-related offences?

NO. All SIS data deliveries are automatic.

e. If entry is decentralised (regional), is the number of alerts entered at regional level monitored to facilitate evaluation in the light of national criteria?

Yes. All bodies monitor and extract statistics on the data introduced, for subsequent elaboration and study.

f. Are the data in the national systems synchronised with those entered in the N.SIS?

Always. Being single applications for consultation and/or updating of both national data bases and the SIS, registers are entered just once.

g. If so, are data synchronised locally or centrally?

Centrally.

52 Are there any plans to introduce methods for collating statistics on take-up rates? If not, why?

There is a method for the user bodies to obtain central statistics.

53 Description of measures to check that data conform to the requirements of the Schengen Convention.

The protocol for data transmission between user bodies and the N.SIS is standardised. The applications implemented include controls on mandatory fields, and checks on data introduced.

It is automatically checked that the field content is in line with its definition.

RESTREINT UE

In addition, and manually:

All users receive instructions to make a prior enquiry concerning the data they intend to enter, to see if there is a previous registration.

The N.SIS runs a daily off-line process to detect data quality problems, including duplications. The N.SIS has this task assigned exclusively to one of its technicians.

At the **SIRENE** level, Article 95-related alerts are checked before being sent to the SIS.

54 What measures does the Ministry of Justice take to increase the number of SIS alerts issued pursuant to Article 95 of the Convention (statistics on national/international arrest warrants, directives)?

The National Criminal Investigation Department Commission, the Ministry of Justice's coordinating body, has instructed all courts to use a single form for the introduction of national, Schengen and international alerts. This form contains the fields required for the introduction of an alert in the SIS.

55 Management of SIS alerts

a. Are lists kept of alerts entered per region or per authority?

There is a single table of alerts containing the data on authority, region, etc.

b. How are these lists broken down (e.g. alert category, date of entry)?

Alert tables are organised by data categories.

c. Are the lists drawn up by computer or manually, centrally or locally, regularly or occasionally?

By computer, centrally.

d. Are these lists compiled centrally or locally?

The tables with the data compilations are stored centrally.

e. How is deletion of the data guaranteed if action has been taken in response to an alert?

Deletions are considered updates, so that the technical procedure described in the answer to question 38 is followed.

f. What kind of checks are carried out?

Periodic revisions, by specialised users.

RESTREINT UE

g. At what stage of implementation is an alert deleted? (e.g. immediately after notification of an arrest, after notification of a person's whereabouts, after the reported discovery of an object, or after all measures have been taken, e.g. actual extradition, dispatch of documents to the place of residence, retrieval of the object)

Once all the purposes for which it was entered in the SIS have been complied with.

h. How does the authority responsible for central or local management carry out its duty of preventing the data files from becoming clogged with data (non-deletion of alerts after a hit)?

Periodic revisions, by specialised users.

i. What measures are taken to cope with such a situation if it is detected?

Immediate correction of the erroneous data and an analysis of the cause of the dysfunction. If the error was caused by a mistake in the procedures, they are altered and users are advised of this. If an error in the application of the procedures, and the procedures are correct, the user is reminded that the procedure applicable caused the error.

- **Data protection and other legislation**

56 Legislative and regulatory provisions adopted to set up the N.SIS.

The Order of 27 July 1994 regulating personal data files handled by the Ministry of Justice and the Interior. (Creation and declaration to the Data Protection Authority of SIS and BDSN files).

The Order Communiqué of the Secretary of State for Security, of 24 March 1998.

57 Security measures at the N.SISs pursuant to Article 118 of the Schengen Convention.

Controls on:

a. entry;

There is a control and security service manned by plain clothes police officers to whom a person accessing the building must identify themselves.

All authorised persons have a permanent or (for visits) a provisional magnetic card, which limits entry to certain parts of the building, fundamentally to the basement where the computer systems are located.

RESTREINT UE

Both the perimeter of the building and its sensitive areas are supervised by closed circuit television monitors.

b. data carriers;

The following are the only data which leave the N.SIS secure area: Data for comparison with the reference Data Base, sent via a coded line, and encrypted copies of the backup tapes, carried for storage by members of the Civil Guard or National Police Force.

c. Users & d. access;

Consultations are generally made on the user bodies' OE-SIS. Direct N-SIS consultations can be summarised in terms of: SIRENE Officers, Navarra Foral Police, the Customs Surveillance Service, INTERPOL, and direct N.SIS technical personnel access.

Each of these users has limited access, depending on their function. SIRENE, INTERPOL and Navarra Foral Police users access via the screens designed for them using ORACLE-FORMS, and are identified univocally at the application level by means of user and password.

The N.SIS technicians responsible for the data bases have, in that capacity, full access to the Data Base.

e. transmission;

All international and national SIS data transmissions take place through encoded lines on virtual private networks (VPNs).

f. input.

Data input is assigned in any event to the user bodies. There are no direct N.SIS admissions.

58 Control of physical access to the premises of the N.SIS, where applicable including paper archives storage rooms.

Access to the computer room where the N.SIS, SIRENE and backup apparatus are located, along with all the auxiliary storage and communication equipment, employs magnetic cards which have a user profile.

We do not have N.SIS paper archives.

RESTREINT UE

59 Level of protection and protection measures applied to computerised police applications – and in connection to this which special measures are taken in relation to the SIS application?

In all cases, both computer applications and data bases reside in secure environments under the custody of the members of the Forces concerned. Access to the computer rooms is restricted. The environments are designed to guarantee high availability. There is no provision for special measures in relation to the SIS application.

60 Control of computerised access to SIS data.

Data access is managed by the bodies themselves, using customised user names and codes. Each user is assigned a profile depending on the post they hold. Logs are kept with audits of data base access.

61 Measures put in place to ensure that each user has access only to the categories of data for which he or she is authorised, in accordance with Article 101.

There is an initial distinction in SIS data distribution: the Ministry of Foreign Affairs receives only Article 96 data.

A second distinction is made in terms of user bodies, based on the profile of the user accessing each body's police applications. Answers to consultations contain different levels of information depending on the user profile.

- Training and information

62 Description of the specific training given to operators and to those responsible for the N.SIS.

N.SIS operators receive both general training in IT and in the specific tools they use (Patrol, OmniBack, Administration X-Window). New operators do a two-month practice period with experienced operators.

Technical heads receive specific training in their area of responsibility.

63 Training and information for end users. In particular:

- Are newly-recruited policemen given training in the use of SIS? If so, how many hours?

National Police Force.- In the Directorate-General of Police's Police School, new police officers must study and pass a course in information technology in which they learn about the use of the National System and automatic SIS access.

RESTREINT UE

New officers in other police forces (Local Police) with access clearance to the Directorate-General of Police's National System are trained specifically in the concepts and handling of the consultation programs.

Civil Guard.-

Senior Officer Scale: There are nine sessions in the fifth year of Professional IT Training: SIS, Introduction to the Schengen Convention, Registers in the SIS, N-SIS, C-SIS and SIRENE, communications between them, general software structure, the Spanish N-SIS, joint Data Base use, etc.

Corporal and Guard Scale: students are informed of the existence of the SIS and of the content of Title IV, Chapter II of the Agreement for the Application of the Schengen Convention.

Ertzaintza.- Training is given to the officers who need it for discharge of their functions. Ertzainak-students receive information about Schengen and the SIS during the academic term.

Mossos de Esquadra.- Because the Mossos d'Esquadra have only recently joined the SIS, the necessary training is planned as of this police course, 2002-2003. SIS training is therefore part of integrated training given in the Police School.

- **Does continuing training take place in the form of courses, seminars, conferences etc? If so, how many hours?**

National Police Force.- The following is a summary of courses on the Directorate-General of Police's National System given in the last two years:

2000	39 courses
2001	48 courses
2002 (to November)	29 courses

The average duration of each of these courses is 15 hours.

Civil Guard.-

Officer Scale: two specific sessions are given on the Schengen Information System (each of 50 minutes), as part of the course on International Relations and other matters related to European construction, the Third Pillar, Europol, Bilateral Agreements, the EU external border, OLAF, etc.

Non-commissioned Officer Scale: The same information on the subjects referred to for the Officer Scale, and the brochure on "The Schengen Agreement, SIS" published by the Secretariat of State for Security, involving two sessions as part of "Applied Information Technology".

Ertzaintza.- Once in the Units or posts, and depending on their functions, officers are informed or trained by personnel from that centre which has received refresher know-how. The number of hours varies according to the content of the material to be updated.

RESTREINT UE

Mossos de Esquadra.- As of this year, on-going recycling courses are provided. Information is imparted on the SIS in promotion, specialisation and recycling courses.

- **If continuing training is provided, i.e. courses, seminars, conferences, how many hours?**

See the previous point.

64 What measures are being taken to ensure the level of competence of new users?

In all cases, students are assessed in examinations, to test the level of knowledge acquired.

65 How are police officials on the ground informed about the SIS (by specific training, in the course of ordinary police training, multiplier effect from trainers, articles published in police journals, through specific brochures, through general public relations work)? Are they kept regularly informed, just given the information once, or not at all? Are there differences between national police forces?

National Police Force.- Information is imparted in lectures and seminars on specific matters, and in notices and news in police publications and in the assistance functions of the National System itself.

They are regularly informed in on-going recycling courses.

Civil Guard.- Once posted to the Territorial Units, they are informed in internal rules (General Orders, Circulars, Instructions, etc.) and other Official Publications of SIS-related updates.

Ertzaintza.- In information given by heads or personnel assigned by them, and in circulars and informative notes, in case of any significant variations, or when the matter requires this.

Mossos de Esquadra.- In promotion, specialisation and recycling courses, SIS information is updated: all this information is available to all users via Intranet.

66 Alert procedures for the prosecuting authorities and procedures following a hit:

- (a) **How are judges and public prosecutors informed about the SIS (awareness of the SIRENE Bureaux, the role of the SIRENE Bureaux, differences between SIS and Interpol searches)? (by specific training, in the course of ordinary training, multiplier effect from trainers, publications, through specific brochures, through general public relations work)? Are they informed regularly, just once or not at all? Are there regional differences?**
- (b) **Do the SIRENE Bureaux have any influence (by information and training measures)?**

RESTREINT UE

SIRENE

67. Geographical location of the SIRENE Bureau

The headquarters of the SIRENE Bureau-Spain are located at the following address:

Paseo de la Castellana, 64
28046 MADRID

Tel +34 91 537 23 05
Fax +34 91 537 23 24
E-mail: sire@ses.mir.es.

68. Administrative organisation of the SIRENE Bureau and practical organization of the work (staff, administrations represented, day and night teams, specialisation of operators ...).

The SIRENE-Spain Office is attached to International Coordination and Cooperation Unit (UCCI) under the Sub-Directorate General for Operations, Directorate General for Police, Ministry of the Interior.

Although the SIRENE Bureau is a department that forms part of the structure of the National Police Force, there are two liaison officers, one from the Civil Guard and another from the Basque Autonomous Police.

The 32 civil servants of the National Police Force who make up SIRENE in Spain represent the four Scales: **Superior** (Bureau's Chief Superintendent), **Executive** (6 Chief Inspectors and 4 Inspectors), **Sub-Inspectorate** (3 Sub-Inspectors), **Officer** (6 Officers), **Police** 11 policemen/-women, **Auxiliary** (1 civil servant from the *Cuerpo General del Estado*. [General Central Government Staff])

Work is distributed in two turns of normal office hours, 37.50 hours per week, (26 civil servants) and the 24-hour a day Permanent Duty Service is covered by 6 civil servants all year round.

An Inspector and Officer who work at the N.SIS. have to be added to the aforementioned civil servants.

In the summertime there are 3 translators (non-civil service staff) hired during 5 months with working hours restricted to 25 per week.

In the Bureau's organization chart there are 4 Technical Sections distributed by duties (not by subject matters): **Operational**, **Legal**, **International Relations** and **Police Cooperation**. The intention is that SIRENE civil servants should be versatile.

RESTREINT UE

69. The limits of the respective spheres of competence of operators and end users.

The “SIRENE Application” has been designed developing the most suitable functions for the Bureau’s functional organization. As explained above, it is divided into sections based on their type of activity: Legal Section, Section for Inter-Sirene Relations (Translation), Operational Section (includes the 24-hour duty service). There is a function by which users, SIRENE operators, have access to the messages being processed in their Section’s sphere of activity (“status of the message”). When they finish their work, they deposit the message in the corresponding Section, which changes the “status” of the message. This prevents overlapping or duplication of activities on the same message. If there is overload, operators of one section can help with the work of another section (versatility of civil servants).

70. What practical steps have been taken to carry out checks within the meaning of Article 95(2) of the Convention? Do agreements exist with the judicial authorities, particularly with a view to ensuring that SIS alerts take priority over Interpol alerts?

A) ACTIVE EXTRADITION. The practical steps start upon a national alert, with the issuing of the international arrest warrant by the judicial authority. This arrest warrant may be sent by the Judge to the various police corps and forces. However, a copy of every international arrest warrant must be sent to the INTERPOL NCB, that supervises and produces the international alert and sends a copy to the SIRENE Office in order to “validate” the alert at the SIS, after filling out the corresponding “A” form. Both of which are sent simultaneously.

If there are missing data or aspects that are not sufficiently clear, the civil servant at the SIRENE Legal Section contacts the requesting authority, either directly or through INTERPOL, depending on how urgent it is.

The corresponding “A” form is then translated into the support language.

According to our computer application, the file then remains in “pending” status until it is certain that it has been placed in the SIS.

B) PASSIVE EXTRADITION. When there are incoming alerts from other Member States, an alarm goes off on our computer system, informing that there is an incoming Article 95 alert. The operator checks whether the mandatory “A” form has also been received and if not, 24 hours later, the issuing SIRENE is requested to send the form using an “F” form, so that the alternative measure to arrest can be applied until we receive the “A” form and to know whether the alert is compatible with our national law.

After assessing the legal viability of the alert in question, it is considered “studied”. If any legal problems arise, the Chief Public Prosecutor of the *Audiencia Nacional* [High National Court] may be consulted, as this Court has competence in all passive extraditions.

RESTREINT UE

Regarding SIS alerts taking priority over INTERPOL alerts, no agreements exist with judicial authorities, although the INTERPOL NCB reports that when circulating notices it always states that it is issued for every country “except Schengen Area countries”.

71. How are the activities related to Article 96 (non-admission) and Articles 5 and 25 of the Convention performed?

(a) Which authorities in your country issue the alerts referred to in Article 96 for purposes of refusing entry?

The central authority for alien affairs is the *Comisaría General de Extranjería y Documentación* (CGED) [General Police Headquarters for Aliens and Documentation], under the Directorate-General for Police (Ministry of the Interior). Answerable to it are the *Unidad de Fronteras para Atención a la Documentación de Extranjeros* (UFADE) [Unit for Border Matters relating to Documentaion of Aliens] and the *Unidad Central de Redes Ilegales y Falsificación de Documentos* (UCRIF) [Central Unit for Illegal Networks and Forged Documents]

Spanish Article 96 alerts come from the corresponding expulsion order issued by the Central Government Delegate or Deputy Delegate in each province. The expulsion file is produced by the civil servants of the National Police Force attached to the Provincial Alien and Documentation Brigade or to the General Police Headquarters for Aliens and Documentation itself.

These civil servants proceed to order the provincial IT delegations to feed the alerts into the *Base de Datos de Señalamientos Nacionales* (BSDN) [National Alerts Data Base], from where they go to the SIS. When the alert comes from the CGED central, it is circulated through the IT Department of the Directorate General for Police at El Escorial.

(b) Which authority performs the role of the national SIRENE Bureau with regard to the alerts referred to in Article 96? Are clearly defined channels of communication in place between the national authorities involved?

There are no problems in the relationship between the SIRENE Bureau and the authorities for aliens' affairs. The CGED itself, through the UFADE, has a Section exclusively for SIS alerts on inadmissible aliens and for relations with SIRENE.

All messages with requests for Article 96-related information are systematically sent by SIRENE to the above Section, which is also asked for any information that the SIRENE Bureau is unable to obtain directly.

RESTREINT UE

(c) What measures have been taken to give the SIRENE Bureau access to background information (for example, a decision on expulsion/ ban on entry) which is not recorded in the SIS?

As stated in the foregoing section, SIRENE always has to consult with the corresponding Section of the authorities for alien affairs (CGED). These authorities have granted SIRENE the possibility of accessing their data bases with an application called “ADEXTRA”. With this application SIRENE can check all the data on foreigners who have been banned entry into Spain. In addition, we have the data on foreigners who have obtained a residence and work permit together with data of the *Número de Identificación de Extranjero* (NIE) [Alien Identification Number] and the validity period for the permit. It is also possible to obtain the photographs and fingerprints of the right index finger of these third-country nationals.

Aliens who have been refused a residence or work permit also appear in this data base .

Nevertheless, to obtain further information on other particulars, the SIRENE Bureau must resort to the General Police Headquarter for Aliens and Documentation through the liaison contacts appointed specifically for the SIRENE Bureau.

(d) Which national authority liaises with the Schengen partners for purposes of sending and receiving of requests for consultation under Article 25 of the Convention?

For purposes of consultation procedures (Article 25.1 and 25.2), the sole authorities in Spain are the above-mentioned CGED and its Unit, UFADE.

72. The Sirene Bureaux' position and margin for manoeuvre at national level

(a) Can the Sirene Bureau directly consult and enter data in the national police system when running SIS searches, or initiate procedures for this to be done, (such as on indications concerning an abductor in alert on a missing minor)? If not, are steps being taken to this end?

The SIRENE Office can consult national data bases with its “Perpol” software application that includes all data that are on the BDSN and the SIS. In turn, the BDSN, has the data of the different law enforcement corps and forces that exist in Spain.

SIRENE, however, cannot enter, modify or delete any data in the aforementioned bases. Its role is that of intermediary between end users, alert owners, and their counterpart SIRENE services.

As there are no national authorities responsible for incoming data from other SIRENES, it is practically impossible, or very difficult, to enter them in our national data bases.

RESTREINT UE

(b) Is the Sirene Bureau able to access and enter data into other databases (vehicle registration databases, aliens' registers, population register), is there coordinate and effective cooperation with the corresponding departments?

The SIRENE Bureau can access data bases on vehicles and aliens'. Regarding the *Documento Nacional de Identidad* [National Identity Card] data base, only one person inside the Office is authorised to access it for consultation.

However, there is effective cooperation with the corresponding Departments, from whom information may be requested, even by phone.

(c) Is the Sirene Bureau well-known to and accepted by the national police? Can the Sirene Bureau give instructions or does it have any other ways of influencing cooperation? Does police training cover the Sirene Bureau?

The police applications that feature SIS data also include the indication for users to address the SIRENE Bureau. The "help programme" of these applications contains this same information for all alerts included in the SIS. So this makes it indirectly well known.

The SIRENE Office cannot give instructions at any time, given that these are determined by the computer systems. Nevertheless, its main influence is achieved through the advice that SIRENE gives end users in order that the relevant action for each kind of alert is implemented correctly.

Police training for the various scales and categories includes subjects on SIS/SIRENE and its roles, which is also expanded on in other advanced courses.

(d) Are the Sirene Bureaux empowered to conduct investigations or act as coordinators? (such as Articles 39 and 41).

The SIRENE Bureau does not have an operational capacity and, as stated above, its role is one of intermediation and coordination between other countries and national end users.

73. Working relations between the Sirene Bureau, basic and further training

(a) Is the time taken to respond in the course of processing a hit on the whole found to be good / acceptable / inadequate / variable depending on the alert category concerned / unacceptable for certain alert categories (state which categories)?

In principle, the response time for hits is acceptable. There are times when, with a hit, certain investigations or measures are necessary and the SIRENE Bureau cannot carry them out. In such cases, SIRENE Bureaux's are dependant on their interlocutor.

With regard to Article 100 (found vehicles) the response to the "G" form with the corresponding "P" form should be quicker. We must not forget that judicial authorities expect information that, sometimes, arrives very late, so it could be considered unacceptable. This same remark is applicable to Article 96 alerts, especially when photographs and fingerprints are requested from certain SIRENE Bureaux.

RESTREINT UE

(b)Is the substance of the responses given when processing a hit on the whole found to be good /acceptable / inadequate / variable depending on the alert category concerned / unacceptable for certain alert categories (state which categories)?

Generally, the responses and information regarding hits have been good. Occasional shortfalls in terms of substance are detected normally in Article 96 alerts, when reasons or grounds are requested for their inclusion in the SIS.

(c)Are there duties of the staff working in the Sirene Bureau well-defined and appear clearly structured to an outsider?

See question 68.

It has already been clarified that, despite the distribution of tasks by functions, our intention is for SIRENE staff to be as versatile as possible, so as to prevent work overload for some Sections.

Is the level of staff training on the whole good / acceptable / poor (regarding knowledge of police affairs, legal affairs, language skills, acquaintance with the SIS and the Schengen Convention)? Are there any basic training / specialised training / exchange programmes?

Knowledge of police and legal aspects pertaining to the police scale to which the staff belongs is good.

The Bureau, except the translators, has shortfalls in the knowledge of languages, which is why there are English lessons every day for all staff with these shortfalls.

Given the small amount of changes in staff, day-to-day work experience makes their skills in SIRENE application and the management of cases good.

There have been both active and passive exchange programmes for the last two years. We have received several operators from other SIRENE Bureaux. Our operators have also visited the SIRENE Bureaux in Germany and France for a week. Exchanges with other countries have been impossible, basically because of budgetary reasons.

(d)Is staff informed of recent developments / changes in cooperation ensuing from decisions taken at higher levels, notices etc.?

When the decisions adopted at the appropriate level and affect the SIRENE Bureau's work, not only is all Bureau staff informed but the SIRENE application is adapted to the requirements of these recent developments.

RESTREINT UE

(e) Is such joint training desirable?

We think that joint training is very positive. It avoids possible flaws in the processing of cases that inertia can produce. Joint training means coordination and standardisation of how all SIRENES work, as well as a common interpretation of the Manual's rules, while it facilitates personal contacts between operators attached to SIRENE Bureaux.

That is why Spain offered a training course for Nordic country operators, held in Madrid in 1999, and the last training course for operators from all SIRENE Bureaux was held in El Escorial (Madrid) on 12-19 May 2002.

74. Areas where the Sirene Bureaux cooperates with Interpol and where not

(a) Problem areas in cooperation as a result of the fact that the bodies connected to Interpol and the Sirene Bureaux are not the same (other Ministries, other police services) in the exchange of information, clashes in areas of competence and responsibility).

Cooperation is good and in Article 95 cases cooperation is total. In fact, INTERPOL records all Spanish alerts that are, afterwards, included in the SIS. So as to speed up processing, civil servants at the INTERPOL-Madrid NCB have consultation-only access to all SIRENE application Article 95-related files and messages.

Both INTERPOL and SIRENE are attached to the Ministry of the Interior, the same Police Directorate-General and the same Sub-Directorate General for Operations, although INTERPOL forms part of the General Police Headquarters of Judicial Police and the SIRENE Bureau forms part of the organic structure of the Sub-Directorate General for Operations, under the International Coordination and Cooperation Unit.

In the specific case of letters of request, it is INTERPOL competence, pursuant to what is set forth in Article 53 of the Convention Implementing the Schengen Agreement, although in some cases, in order to avoid changing the information channel, the SIRENE Bureau has processed a letter of request when it concerned someone registered in the SIS on which a SIRENE file already existed.

(b) Information exchange between the national Sirene Bureau and Interpol is found to be good / acceptable / unsatisfactory...

Information exchange between both services is good, as almost a total of 20 messages are either received or sent by fax every day.

RESTREINT UE

75. How do the judicial authorities react in the event of a hit regarding Article 95 alerts? (Interpol alert requirements, awareness of role of accompanying papers, request for additional information, translation of national arrest warrants)

In principle, the processing of extradition messages and documents is done directly by INTERPOL-Madrid, who is in charge of all contact with the judicial authority. It is SIRENE's opinion that the judicial authorities reaction is always good when requested for additional information, which is also applicable to the data they provide for INTERPOL notices and alerts in the SIS.

In the case of passive extradition, as it is the competence of the *Audiencia Nacional* [High National Court] they are well aware of the function of the "A" form and there are good cooperation relations with the State Prosecution Service.

In general, however, in active extradition judges do not send the translated international arrest warrant but send a writ with the aforementioned warrant. SIRENE-Spain then translates what concerns the "A" form and the NCB translates the INTERPOL notices

Occasionally, the requesting judicial authority sends the corresponding form totally filled out, which facilitates this Bureau's work.

-Technical conditions

76. Technical arrangements made to enable to operate the SIRENE Bureau without interruption in exceptional circumstances such as natural disasters, power cuts, disturbance or interruption of traditional telecommunications systems, etc.

(See the answer coordinated with the N.SIS.)

-Data

77. Follow-up action

(a) Are hits following alerts recorded manually or by computer?

Hits are recorded by the "client application" of user agencies.

(b) If they are recorded by computer, how is this done?

When a consultation is made on an alert, the user agency is asked for the reason for their consultation and the following data is recorded on a table: alert owner and agency making the consultation (for national alerts) and the country (for other alerts). In both cases data is completed with the Schengen identification number, consultation date and imputing the alert, user and reason for consultation.

RESTREINT UE

(c) Are the consequences of a hit, e.g. the results of an investigation, recorded? If so, is this done centrally or locally? How long the results of an investigation are recorded?

Storage is at the central SIS data base and data are recorded for six months.

The consequences and the investigations that are carried out according to the hits or positive responses to alerts are recorded in the SIRENE application computer file insofar as they have been notified by end users through this Service's fax. End users also keep record of the steps or investigations they have carried out.

The investigations which appear on the forms exchanged with other SIRENE Bureaux, also remain in the SIRENE Application, and it is recorded for approximately one year after the alert is deleted in the SIS.

In the event of the file of the acting police service, the police rules of the internal regulations are applied, pursuant to what is set forth in the Spanish Data Protection Act.

(d) Is the number of SIS searches at central or local level logged?

All SIS searches are logged. Every hour the amount of negative results are totalled and positive results are logged as stated in paragraph (b).

(e) Are results analysed and used as a basis for policy evaluation?

The total amount of consultations is taken into account with statistical purposes and by way of assessing use of police applications, including the SIS.

(f) Is it possible to indicate, in the context of external border control, the number of SIS searches as a percentage of the total number of persons subject to checks under Article 6 of the Schengen Convention?

This statistic is not available, but the total amount of consultations to the SIS/national systems.

-Data protection and other legislation

78. Legislative and regulatory provisions adopted to set up the SIRENE Bureau, including subsequent legislative measures.

The SIRENE Bureau-Spain was set up following an administrative decision of 17 September 1992 by the *Comisión Interministerial de Retribuciones* [Cross-Ministerial Commission for Remunerations]. This Commission is the competent authority for the creation of Units below the deputy directorate general level and defines the jobs of each subdivision.

RESTREINT UE

79. Security measures at the SIRENE Bureaux pursuant to Article 118 of the Schengen Convention.

Controls over:

(a) Entry

The SIRENE Bureau shares the building with the N-SIS. The entry security rules are the same for both. The building has no external logos announcing the existence of police premises.

There is external security control carried out by plain-clothes police plus identity control measures for persons entering the building, either with magnetic cards or external control.

The outdoor perimeter of the building has closed-circuit TV camera surveillance and parking is forbidden on the street side of the building.

(See N-SIS response)

(b) Data carriers

(See N-SIS response 9)

(c) Users

(See N-SIS response and the following)

(d) (Data) access

Access is managed by the Application. Each system user is assigned a user name and a secret password. This password is personal for each user and must be changed when the maximum validity granted to each of them expires. Each application requires its user name and secret password.

e) Transmission

Control over transmission of data in the messages used by operators is managed by this same Application.

Transmission of information to other Bureaux is done through already established communication channels (SISNET) (Via fax if there is a breakdown or hardcopy document transmission).

For communication with national end users a fax machine is used. The fax numbers of the addressees are taken automatically from a number list implemented by the SIRENE application. Optionally, in emergencies, e-mail is used for fingerprint and photograph transmission (Intranet).

RESTREINT UE

f) Input

The SIRENE Bureau-Spain cannot input, change or delete data in the SIS. For this purpose SIRENE addresses the civil servants in charge of the case or owners of the alert on the national side.

80. Control of physical access to the premises of the SIRENE Bureau, where applicable including paper archives storage rooms.

Physical access to the premises is controlled jointly with the N-SIS. See the response to this above. There are no physical archives.

81. Level of authorisation of SIRENE staff, and all staff with access to SIS data.

The level of authorisation of SIRENE staff and of any other user accessing the application is established by way of the following controls:

- a. User name and secret password.
- b. Level of access:
 - i. Translator
 - ii. Processing
 - iii. Supervisor (Manager)
 - iv. Administrator
- c. Security profile assigned to each system user enabling access to certain application functions (screens and operations).
- d. File access screening based on several criteria: types of register, reasons, alert owner countries.

Each police agency is in charge of the authorisations given to its civil servants/end users for access to data bases (including the SIS).

82. Level of protection and protection measures applied to computerised police applications- and in connection to this which special measures taken in relation to the SIRENE application.

(See N-SIS response to question No 59)

83. Control of computerised access to SIRENE files.

(See response to question No 81)

Control of computerised access to SIRENE data is done by one audit for files and another for messages. Any access to information contained in files, be it for consultation or updating, is registered and can only be accessed by supervising users.

RESTREINT UE

84. Measures put in place to ensure that each user has access only to the categories of data for which he or she is authorised, in accordance with Article 101.

See question No 61 of the N-SIS and concerning **SIRENE** see response No 81 above.

85. Who in your country is the national supervisory authority within the meaning of Article 114 of the Convention?

The Data Protection Agency

86. Measures taken to ensure that **SIRENE files are destroyed after withdrawal of the alerts to which they relate. Who is responsible for controlling the implementation?**

The withdrawal or deletion of SIS alerts automatically implies a change in the “status” of the **SIRENE** file to “STOPPED”.

A file with “stopped” status cannot be consulted. Only in exceptional cases can it be recovered by a “supervising” user, in which case the file becomes “pending” so it can be used.

Nevertheless, any “stopped” status file is physically destroyed after one year, if no correspondence has been exchanged on the matter. The revision and physical deletion of the file is carried out by a “supervising” user.

-Education and information

87. Description of the specific training given to operators and to those responsible for the **SIRENE Bureau.**

All staff who begin to work at the **SIRENE** Bureau receive a fifteen day training course, on the tasks and importance of the **SIRENE** Bureau, and practical training for the **SIRENE** application s/he is going to use. Later this training is extended to other areas so that s/he can be versatile.

As regards the persons in charge of **SIRENE**, in addition to the general training, they work alongside another expert person in charge for some time so as to complete his or her knowledge.

88. From the point of view of your **SIRENE, how well informed do you think end-users are about the SIS and the **SIRENE** Bureaux: good / adequate / poor?**

It can be considered adequately informed. As stated, when end users consult their own bases, they also obtain SIS responses and, consequently, the indication to contact the **SIRENE** Bureau.

RESTREINT UE

89. Training and information for end users. In particular:

- Are newly-recruited policemen given training in the use of SIS? If so, how many hours?
- Does continuing training take place in the form of courses, seminars, conferences etc? If so how many hours?

See the response to question No 63 of the N.SIS

90. What measures are being taken to ensure the level of competence of new users?

See the response to question No 65 of the N.SIS

91. How are police officials on the ground informed about the SIS and the SIRENE Bureaux (by specific training, in the course of ordinary police training, multiplier effect from trainers, articles published in police journals, through specific brochures, through general public relations work)? Are they kept regularly informed, just given the information once, or not at all? Are there difference between national police forces?

See the response to question No 65 of the N.SIS

92. Alert procedures for the prosecuting authorities and procedures following a hit:

- (a) How are judges and public prosecutors informed about the SIS (awareness of the SIRENE Bureaux, the role of the SIRENE Bureaux, differences between SIS and Interpol searches)? (by specific training, in the course of ordinary training, multiplier effect from trainers, publications, through specific brochures, through general public relations work)? Are they informed regularly, just once or not at all? Are there regional differences?

(See the reply to question No. 66 of the N.SIS)

- (b) Do SIRENE Bureaux have any influence (by information and training measures)?

The Head of the SIRENE Bureau has given several lectures to judges.

(See the reply to question No 66 of the N.SIS)

RESTREINT UE

Additional questions by the German Delegation (SCH-EVAL 26 Rev. 1 Add 1)

II A (SIS; technical conditions)

Description of data processing with regard to the transliteration rules

- (a) transliteration of data of others
- (b) transliteration of national data

(See the reply of the N-SIS)

II A (SIS; training and information)

What practical steps have been taken by end users in impersonation alerts?

(See reply of the N-SIS)

II B (SIRENE: training and information)

What procedures must be followed at the SIRENE Office after it has been informed of identity impersonation?

The SIRENE Office staff was informed of the creation of a “Q” form in the year 2000 and of its implementation on 17 July 2001; a copy of doc. 9158/00 SIRENE 34 was delivered.

SIRENE operators must know that when an end user addresses them asking them about the problem of identity impersonation, they must consult the SIRENE Application to find the above-mentioned “Q” form (or the so-called “identity certificate”) and supply the end user (who is making the check) all the data of the “Q” form that may help the end user determine whether the person who is being checked is the victim or the perpetrator of the impersonation. The most relevant information aspects would be, on the one hand, the physical description of the victim that appears on the “Q” form and if necessary calling the SIRENE descriptor requesting photographs or fingerprints of the victim and, on the other hand, the highlighting of the date on which the identity proving document was issued, so that the civil servant making the check may, by comparing, know whether the date coincides with that of the identity document or passport coincides with produced by the person being checked.

RESTREINT UE

III. Vision network

93. How are other States consulted? What technical means are implemented?

The Visa issuing system installed in all the consular posts check if the petitioner is a national of a country which has to be consulted. If so, the issuing of the visa is blocked and the consultation follows automatically.

The consultation process reaches Madrid and the national application directs the consultation to the corresponding member States via the Vision network.

After the established period the national application unblocks the issuing of visas if there has been no objections.

94. What is the estimated response time for consultation?

Usually the States do answer in the established period of seven days.

95. Under which circumstances do the Consuls of your country consult their authorities?

In the cases contemplated in Annex A of the CCI

96. Under which circumstances do other States consult them? (What is the number of national and international consultations)

According to Annex 5B of the CCI

- Number of national consultations in the year 2002 (up to november): 41.985
Number of international consultations in the year 2001: 704.841; and in the year 2002: 541.617

97. What provisions have been made to ensure that permanent consular posts only issue Schengen visas?

Other consular posts (i.e. the Honorary Consuls) simply do not have means of any kind to issue them.

RESTREINT UE

98. Is there any technical equipment for detecting false documents (travel documents, supporting documents, etc.)?

See reply to question 116.

99. Is any specialized training given in the detection of false documents?.

There is no specialized training.

100. Are there any manuals of specimen documents to check that the documents presented are genuine?

There are no specimen documents.

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IV. JUDICIAL CO-OPERATION

101. Has your country received and made requests for mutual assistance requests on issues relating to areas covered in Articles 49 and 50 of the Schengen Convention?

Having raised this matter with the General Council of the Judiciary, no statistical data with reference thereto exist.

102. What is the current situation regarding application of the rules on compliance with the requests and the granting of authorisations in accordance with Article 50.3 of the Convention?

Having raised this matter with the General Council of the Judiciary, no statistical data with reference thereto exist.

103. Has the application of Article 52.2 of the Convention caused problems of any kind?

Having raised this matter with the General Council of the Judiciary, it has been pointed out that the possibility conferred by Article 52.1 has been scarcely used by Spanish judges partly due to a relative unawareness of this possibility and partly due to the legal complications arising from the last two paragraphs of Article 52.

Specifically with reference to Article 52.2, worries concerning a subsequent procedural nullity has lead may judges to order a burdensome and costly translation (the average period of time required to effect the translation of a simple decree ordering the commencement of the trial is one month).

104. As regards application of Article 53 of the Convention, are there any guidelines or directives defining the channels to be used for sending requests for mutual assistance or is this simply left to the discretion of the judicial authorities?

It is left to the discretion of the judicial authorities.

105. Have the judicial authorities received the Directory of the cities of the other Member States so that they can use the possibility of forwarding directly requests for mutual assistance as provided for in the Convention?

Affirmative. The High Provincial Courts (*"Audiencias Provinciales"*) have received the Directory.

RESTREINT UE

106. Have extradition been authorised under Article 66 of the Schengen Convention? How many have been authorised to date ?

In effect, Spain receives extradition requests, pursuant to Article 66 of the Schengen Convention. The Central Courts of Preliminary Investigation of the National High Court (“*Juzgados Centrales de Instrucción- Audiencia Nacional*”) are the competent bodies for these purposes.

According to the archives of the Sub- Directorate General for International Legal Co-operation, belonging to the Directorate- General for Legislative Policy and International Legal Co-operation of the Ministry of Justice, extraditions granted, under this procedure, since 1999, have been as follows:

- 1999: 65
- 2000: 160
- 2001: 45
- 2002: 92

Aggregating 362 extraditions approved, since 1999, pursuant to Article 66.

107. How are the forms for requesting the transmission of extracts from judicial records (SCH/III (97) 41 4 rev) distributed and used?

Having raised the matter with the Central Register of Convicts and Absconders (“*Registro Central de Condenados y Rebeldes*”), it has been pointed out that the forms were distributed by the Central Group to all judicial authorities of the Member States, together with instructions on the drafting thereof.

Likewise, it was indicated that the transmission of such data is effected via the same form, received through the relevant fax. If no criminal record exists, this is indicated and, if the contrary is true, an annex is attached with the criminal history of the person concerned.

108. Are the possibilities of mutual assistance in criminal matters and extradition, provided for by the Convention implementing the Schengen Agreement used satisfactorily?

Having raised the matter with the State Prosecution Service (“*Fiscalía*”) at the High National Court, as far as the evaluation of Chapters 2 (Mutual assistance in criminal matters) and 4 (Extradition) of the Convention implementing the Schengen Agreement are concerned, the opinion is positive, in the case of both Chapters.

One could point out, within the extradition field, the use of the simplified extradition regulated in Article 66, that allows for a truly simple and fast extradition procedure making it possible to have a judicial resolution granting the extradition within a very short period of time indeed, normally around one week.

Likewise, the contents of Article 62.1 have implied a considerable progress, i.e. the application of the provisions of the requesting State as regards interruption of limitation of actions.

RESTREINT UE

As far as Articles 67 to 69 of the Convention are concerned, which comprise Chapter 5 referring to “Transfer of the enforcement of criminal judgements” the Ministry of Justice has detected differences in the construction thereof between States. A solution to these difficulties is being sought.

Article 68 provides that: *“The Contracting Party in whose territory a penalty involving deprivation of liberty or a detention order has been imposed by a judgement which has obtained the force of res judicata in respect of a national of another Contracting Party who, by escaping to the national’s own country, has avoided the enforcement of that penalty or detention order may request the latter Contracting Party, if the escaped person is within its territory, to take over the enforcement of the penalty or detention order”*.

In fact, a specific case has arisen whereby a Spanish Court had condemned by a judgement with the force of *res judicata* two citizens from another Member State for events that had occurred within Spain. Once the judgement was notified to them, the convicted persons had escaped to their country without commencing in Spain the execution of their penalties (they were previously on bail).

Spain requested the execution of the penalty pursuant to Article 68, but the State to which the request was made considered that the Article was not applicable arguing that, according to its legislation, a strict violation of the penalty is an essential requirement and this had not occurred since service of the penalty had not commenced. Additionally, it recommended Spain to use Article 21 of the 1959 European Convention on Mutual Assistance in Criminal Matters to denounce the facts before that State, thus permitting the initiation of a new judicial procedure leading to a new judgement.

Spain does not share this interpretation since it implies adding new requirements to the provisions of Article 68, rendering the implementation thereof much more difficult.

RESTREINT UE

V. LEGISLATION ON FIREARMS

109.- Have the contents of the EU Directive (91/477) on firearms been transposed into national legislation? If so, what stage is the legal process at? Have the model common forms been adopted for the control of firearm purchases?

Yes, by virtue of Royal Decree 137/1993, dated 29th January, approving the Regulations pertaining to arms, which entered into force on the 5th May 1993, in line with EU Directive 91/477/EEC, of the Council, dated 18th June 1991.

With reference to the model common forms for the control of firearm purchases, the following exist:

- Form for prior consents;
- Transfer Permit Form;
- European Pass.

110.- What measures have been taken in terms of organisation and personnel in order to ensure the application by the competent authorities of the contents of the EU Directive on arms or the corresponding national legislation?

The creation within the Central Service for Weapons & Explosives (ICAE) (*“Intervención Central de Armas y Explosivos”*) of specific administrative units assigned with the function of everything related to transfers and prior consents for firearms.

111.- How is information on firearms purchases exchanged between your country's authorities and their counterparts in other EU Member States? What is the volume of such exchanges?

Information is exchanged by fax and in written documents addressed to the different authorities of the countries in question.

The volume affects all firearms that enter any European Community country and weapons exiting to different countries (Statistical tables for last year attached).

RESTREINT UE

112.- Are the other reports required under the Directive (e.g. on the transfer of firearms) also forwarded via the designated central authority to the other Member States? Are there statistical records of all reports?

As a general rule, other Member States use the same means to send information.

They are registered by countries and volume of weapons, as reflected in the tables mentioned in the preceding reply.

113.- What firearms may be brought into your country without prior permission but solely using the European pass?

Only for weapons for hunting and weapons for competitions, in the case of target shooting, reflected in the European Pass.

114.- Which firearms do not require consent within the meaning of Article 11(4) of Directive 91/477/EEC by your competent national authorities in order to be brought into your country?

Weapons other than firearms (disabled weapons, compressed air or gas arms, steel blades or knives, etc.)

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RESTREINT UE

PRIOR CONSENTS FOR THE TRANSFER OF FIRE ARMS

(EU INPUT? ENTRIES 2001)

COUNTRY OF DESTINATION	AMOUNT			INDIVIDUALS			TOTAL		
	DOC. EXPE	AMOUNT OF WEAPONS	AMOUNT OF PIECES	DOC. EXPE	AMOUNT OF WEAPONS	AMOUNT OF PIECES	DOC. EXPE	AMOUNT OF WEAPONS	AMOUNT OF PIECES
GERMANY	361	36.134	1.031	57	125	0	418	36.259	1.031
AUSTRIA	33	5.469	755	8	13	0	41	5.482	755
BELGIUM	23	4.641	1.500	10	17	0	33	4.659	1.500
DENMARK	3	7	0	4	12	0	7	19	0
FINLAND	11	1.638	0	4	5	0	15	1.643	0
FRANCE	73	777	0	77	105	1	150	882	1
GREECE	0	0	0	0	0	0	0	0	0
IRELAND	0	0	0	0	0	0	0	0	0
ITALY	155	84.946	10-395	33	62	0	188	85.008	10.395
LUXEMBOURG	1	1	0	2	9	0	3	10	0
NETHERLANDS	4	13	0	3	19	0	7	32	0
PORTUGAL	43	9.324	0	9	15	0	52	9.339	0
UNITED KINGDON	37	3.482	0	38	99	0	75	3.581	0
SWEDEN	2	5	0	4	12	0	6	17	0
TOTALS	746	146.437	13.681	249	493	1	995	146.930	13.682

RESTREINT UE

PERMITS FOR FIRE ARMS STRANSFER

(EU OUTPUTS YEAR 2001)

COUNTRY OF DESTINATION	AMOUNT			INDIVIDUALS			TOTAL		
	DOC. EXPE	AMOUNT OF WEAPONS	AMOUNT OF PIECES	DOC. EXPE	AMOUNT OF WEAPONS	AMOUNT OF PIECES	DOC. EXPE	AMOUNT OF WEAPONS	AMOUNT OF PIECES
GERMANY	405	12396	1254	5	7	0	410	12403	1254
AUSTRIA	49	189	2	3	5	0	52	194	2
BELGIUM	86	885	33	3	7	0	89	892	33
DENMARK	30	177	0	2	2	0	32	179	0
FINLAND	34	128	0	1	1	0	35	129	0
FRANCE	597	7300	134	39	139	0	636	7439	134
GREECE	28	1197	188	0	0	0	28	1197	188
IRELAND	26	920	63	1	2	0	27	922	63
ITALY	82	511	129	5	9	0	87	520	129
LUXEMBOURG	10	15	0	0	0	0	10	15	0
NETHERLANDS	12	35	13	1	3	0	13	38	13
PORTUGAL	972	3801	0	18	30	0	990	3831	0
UNITED KINGDON	193	1655	2	3	3	0	196	1658	2
SWEDEN	17	33	0	1	1	0	18	34	0
TOTALS	2541	29242	1818	82	209	0	2623	29451	1818

RESTREINT UE

VI. Issuing of Visas/Consular co-operation

115.- What/which authority(ies) in your country is/are competent of the issuing of visas?

According to article 27.1 of the Ley Orgánica 4/2000 –as amended by the Ley Orgánica 8/2000- “visas will be requested at and issued by the diplomatic missions and the consular posts of Spain... Exceptionally, visas for short stay (up to three months) can be requested and issued at the established frontier checkpoints. The criteria to issue visas at the border is very restricted (sailors disembarking from a boat at a Spanish port...) The authorities to issue the visas are therefore the Consuls, the heads of consular sections of the Embassies and the Chief of Police at the border control or their substitutes.

116.- To what extent are diplomatic missions and consular posts equipped and able to implement Schengen and issue Schengen visas in terms of

availability of Schengen visa stickers

Access to SIS (consultation terminals, CD roms...)?

- (a) Visa stickers are provided to each Consulate or consular section of an Embassy in accordance with their needs and at their request (after checking the stock). No case of a consular post being run out of stickers can be recalled.
- (b) All Consulates and consular sections in the Embassies have access to SIS “on line”. In each consultation terminal there is a server which contains the updated SIS list of article 96. It is consulted before issuing a visa.

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What equipment is there to detect forged documents?

Ultra violet and infra red lamps are provided to Consulates or consular sections of Embassies in countries where forgeries or alteration of public documents happen to be a problem.

117.- What security measures have been taken with regard to Schengen visa stickers?

All Consulates and consular sections in the Embassies have strongboxes suitable to keep visa stickers safe. Access to the strongbox and to the room where it is located is restricted to the Consul or Head of the consular section and to the Vice-Consul or Chancellor. In addition, the security measures to protect the consular premises should be taken into account.

The visa stickers are sent from the Ministry for Foreign Affairs to the consular abroad by diplomatic bag.

RESTREINT UE

118.- How are the diplomatic post and consular missions of your country briefed on the Consular Common Instructions on Visas and prepared to apply them?

Instructions to apply the CCI are delivered, when appropriate, to the Consulates or consular sections via the written “órdenes” which provide the relevant legal texts (i.e. an updated CCI) and contain specific instructions elaborated at the Dirección General de Asuntos Consulares for the application of the CCI and the home rules.

The organisation of work in each Consulate or consular section depend on the Consul or Head of the consular section. However, as far as the implementation of the CCI rules by the clerical staff vis-à-vis the petitioner is concerned, the usual consular practice is to train the staff locally to follow a set of rules, drafted by the Consul, into which the CCI rules have been adjusted.

119.- How is the data transmission from your country’s diplomatic and consular missions to the respective central authorities processed (with special reference to consultation)?

From the terminals at the consular posts, the data is sent to Madrid (Subdirección General de Informática at the Ministry for Foreign Affairs) via a telephone line by means of a 56k modem. The data is compressed.

From the central computer the data is then forwarded to the competent authorities via Red Vision.

120.-How would you characterise the consular cooperation between your country’s diplomatic and consular missions and those of other Schengen States?

A very positive attitude can be considered the characteristic, on the Spanish side, as far as consular co-operation is concerned on a regular basis (i.e. exchange of visa information) as well in the participation in consular meetings or any extraordinary activities (i.e. participating in common errand before the local authorities). Several instructions from the Dirección General de Asuntos Consulares have been delivered to the consular posts urging them full co-operation and to perform this task in such an active and co-operative way as circumstances may require.

It must be remembered that good consular co-operation depends on the performances of all partners and, in particular on the initiative of the Presidency’s Consulate.

121.- How is your country participating in the automatic consultation process set out under article 17(2) of the Convention (Vision Network)?

The national Visa Application performs automatically the consultation process as set out under article 17 of the Vision Networks Convention. The computer checks the nationality of the petitioner and, if his nationality is included under Annex 5B, it starts the consultation proceeding and does not allow to issue the visa until the established lapse of time has gone by without any response.

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122.- What is the total volume of visa applications received by your country in the last three years? (by continent or by main regions of the world). What are the most significant developments?

See annex for detailed figures. The total of visas issued in 1999 was 542.710; in 2000, 670.949 and in 2001 737.845. The data refers only to issued visas. For refused visas see following question.

Looking at it geographically, the high figures of some South American countries (Cuba, Perú, República Dominicana, etc) are easily explained by its close links to Spain, while the opposite cases (i.e. Argentina with only 211 visas issued in 2002) is due to the exemption of visas for Argentinean nationals; the same applies to other South American countries.

In North Africa, the high figures of Morocco, as happen to those of Algeria, come from its neighbouring links with Spain, while in the Middle East the figures of Saudi Arabia and Kuwait are due to the trade and tourism generated in those very wealthy countries.

In Europe, the figures in Russia are of course a reflection of the opening up of such a big and populated country.

Secondly, how many consultations did your country request from its Schengen partners? In how many cases was your country consulted by its Schengen partners?

YEAR 2000

Messages received: 632.818

Messages sent : 128.849

YEAR 2001

Messages received: 704.841

Messages sent : 130.377

YEAR 2002 (unfinished)

Messages received: 545.617

Messages sent : 116.887

123.- The number of refusals of visa applications- if not statistics are available, please the number in percentages or an estimated number.

The files of refused visa applications are kept at the consular posts where they are submitted and its figures are nor processed. However, after consultations with some Consulates, it seems that a percentage of refusals between 15% and 25% would apply.

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124.- Have the bodies responsible for the exceptional issue of visas at the border, pursuant to Article 17(3) of the Schengen Convention and Part II , Section V, and Annex 14 of the Common Manual, been briefed on the relevant Schengen arrangements and prepared to apply them? Which authorities will be responsible for it?

The Cuerpo Nacional de Policía is the body in charge of issuing visas at the border (according to the “Encomienda de Gestión” of 4th June 1998, by virtue of which the Ministry For Foreign Affairs entrusted the Ministry for Home Affairs with this function) All its members are briefed at the School Police on this issue. Moreover, the members of police posted at the border have a specific “Guía para Visados”, where clear instructions are set out . Besides the “Dirección General de la Policía” organises annually courses on this subject It should be added .that the visas issued at the border are controlled and authorised by the “Comisaría General de Extranjería y Documentación”

125.- Do the authorities of the territories outside mainland Spain have the possibility to issue visas at the border?

The fact that some territories are outside the Peninsula (Canary Isles, Balearic Isles, Ceuta and Melilla) does not alter the competence to issue visas as established by the Ley Órganica 4/2000 (see question 115): the Cuerpo Nacional de Policía is always the competent body

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ANNEX

*VISAS FOR AIRPOT TRANSIT (A), TRANSIT(B), SHORT STAYS (C) AND RESIDENCE (D)
IN 1999*

*VISAS FOR AIRPOT TRANSIT (A), TRANSIT (B), SHORT STAYS (C) AND RESIDENCE (D)
IN 2000*

*VISAS FOR AIRPOT TRANSIT (A), TRANSIT (B), SHORT STAYS (C) AND RESIDENCE (D)
IN 2001*

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TABLA V.4
VISADOS EXPEDIDOS: DISTRIBUCIÓN POR OFICINAS CONSULARES ESPAÑOLAS Y CLASES DE VISADO
EN 1999

PAÍSES	CLASES DE VISADOS				TOTAL
	A - TRÁNSITO AEROPORTUARIO	B TRÁNSITO	C ESTANCIA	D RESIDENCIA	
Alemania	2	4	71	192	269
Andorra.....	-	289	222	90	601
Angola.....	-	15	189	39	243
Arabia Saudí.....	-	-	5.309	29	5.337
Argelia.....	-	368	21.072	455	21.895
Argentina.....	1	26	164	1.850	2.041
Australia.....	-	6	122	192	320
Austria.....	-	-	74	129	203
Belgica.....	-	3	37	31	71
Bolivia.....	-	8	93	174	272
Brasil.....	4	36	343	1.850	2.233
Bulgaria.....	-	523	4.429	494	5.506
Camerún.....	-	1	436	56	543
Canadá.....	-	84	436	293	835
Chile.....	8	13	130	1.400	1.549
China.....	-	309	8.243	2.116	10.668
Colombia.....	-	3	530	2.433	2.996
Corea.....	-	1	23	178	202
Costa de Marfil.....	-	26	594	44	1.064
Costa Rica.....	5	3	337	129	604
Croacia.....	-	1	871	68	970
Cuba.....	5	1.152	10.623	3.919	15.764
Dinamarca.....	-	107	1.425	25	1.538
Ecuador.....	1	14	42	3.830	3.893
Egipto.....	2	664	5.651	87	6.404
El Salvador.....	-	3	20	181	184
Emiratos Árabes Unidos.....	-	54	2.776	23	2.853
EE.UU.....	8	223	9.242	10.397	19.870
Etiopía.....	-	1	203	25	229
Filipinas.....	-	3.042	3.104	716	6.862
Finlandia.....	-	49	780	17	846
Francia.....	-	2	112	396	510
Gabón.....	-	1	189	20	210
Ghana.....	80	83	409	55	607
Gran Bretaña.....	11	313	15.422	184	15.930
Grecia.....	20	29	71	3	123
Guatemala.....	6	32	241	173	452
Guinea Ecuatorial.....	37	912	2.481	600	3.630
Haití.....	-	-	39	5	44
Holanda.....	-	4	25	38	68
Honduras.....	-	38	229	101	368
Hungría.....	-	10	919	170	1.099
India.....	-	519	2.310	727	3.556
Indonesia.....	-	1.193	915	64	2.172
Irán.....	41	1	2.295	44	2.381
Irlanda.....	-	13	327	12	352
Israel.....	2	26	176	83	287
Italia.....	-	-	113	- 97	210
Jamaica.....	1	100	391	- 24	516
Japón.....	-	4	297	1.120	1.411
Jerusalén.....	-	23	233	49	305
Jordania.....	56	41	2.054	66	2.217
Kenia.....	1	2	230	31	314
Kuwait.....	2	5	3.350	10	3.667
Líbano.....	-	9	3.942	57	4.008
Libia.....	2	7	847	20	876
Luxemburgo.....	-	-	1	1	2
Malasia.....	-	16	1.175	17	1.208
Marruecos.....	2	1.300	56.500	9.109	66.911
Mauritania.....	-	74	4.750	145	4.969

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TABLA V.4

VISADOS EXPEDIDOS: DISTRIBUCIÓN POR OFICINAS CONSULARES ESPAÑOLAS Y CLASES DE VISADO EN 1999

PAÍSES	CLASES DE VISADOS				TOTAL
	A - TRÁNSITO AEROPORTUARIO	B TRÁNSITO	C ESTANCIA	D RESIDENCIA	
México	-	7	238	2.377	2.620
Mozambique	4	--	234	37	352
Namibia	-	13	147	1	161
Nicaragua	1	14	89	110	214
Nigeria	4	8	911	83	1.004
Noruega	-	140	1.021	9	1.170
Pakistán	4	13	480	533	1.030
Panamá	-	-	-	-	-
Paraguay	-	1	35	108	147
Perú	8	497	7.749	3.865	12.115
Polonia	-	8	554	1.065	1.627
Portugal	4	9	167	625	799
Puerto Rico	4	6	230	131	371
República Checa	-	6	825	510	1.341
República Dominicana	1	57	7.061	3.365	10.484
R. F. Yugoslava	-	14	1.557	35	1.606
Rumanía	-	181	7.396	737	8.294
Rusia	-	4.381	166.922	1.100	172.403
Senegal	10	264	3.786	1.129	5.201
Siria	12	25	1.980	96	2.093
Sudáfrica	5	112	10.777	56	10.950
Suecia	-	95	2.065	31	2.191
Suiza	9	25	5.293	840	6.167
Tailandia	1	102	3.491	87	3.661
Taiwan	-	11	5.922	170	6.103
Tanzania	-	3	235	3	241
Túnez	-	637	5.653	64	6.564
Turquía	2	635	16.637	86	17.563
Ucrania	3	1.004	26.551	412	27.970
Uruguay	1	51	16	236	304
Venezuela	-	2	205	1.525	1.732
Zimbabue	-	16	282	6	304
TOTALES	368	20.217	457.861	64.264	542.710

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TABLA V.4
VISADOS EXPEDIDOS EN EL AÑO 2000:
DISTRIBUCIÓN POR PAÍSES Y TIPOS

PAÍSES	CLASES DE VISADOS				TOTAL
	A - TRÁNSITO AEROPORTUARIO	B TRÁNSITO	C ESTANCIA	D RESIDENCIA	
Alemania	1	2	90	160	253
Andorra	—	283	230	27	540
Angola	11	138	639	70	858
Arabia Saudí	—	—	5.411	438	5.849
Argelia	34	228	23.227	528	24.017
Argentina	17	7	242	2.678	2.944
Australia	2	11	151	213	377
Austria	—	—	12	23	35
Bélgica	—	1	14	50	65
Bolivia	7	2	66	294	369
Bosnia-Herzegovina	—	1	2.051	14	2.066
Brazil	48	148	283	2.072	2.529
Bulgaria	18	567	5.095	1.492	7.173
Camerún	2	1	491	71	665
Canadá	—	19	828	357	1.004
Chile	34	33	189	1.802	2.058
China	720	408	10.095	2.867	14.088
Colombia	120	8	627	3.926	4.681
Corea	—	—	20	228	248
Costa de Marfil	—	31	706	50	787
Costa Rica	2	—	55	140	197
Croacia	1	1	140	97	239
Cuba	22	1.483	11.048	4.821	17.174
Dinamarca	1	110	1.180	127	1.398
Ecuador	788	1	69	11.640	12.476
Egipto	6	727	6.669	94	7.496
El Salvador	3	1	10	193	207
Emiratos A.U.	2	32	2.658	14	2.706
Eslovenia	—	7	14	19	40
EE.UU.	18	144	9.408	11.606	21.074
Puerto Rico	2	7	293	164	416
Etiopía	1	2	208	7	218
Filipinas	187	2.781	4.242	1.340	13.550
China Taiwán	—	13	7.958	159	8.130
Finlandia	—	37	730	22	789
Francia	1	4	109	159	273
Gabón	—	1	158	13	172
Ghana	31	126	817	86	760
Grecia	—	6	67	3	76
Guatemala	1	6	282	246	535
Guinea Ecuatorial	81	1.100	2.400	699	4.280
Haití	—	—	164	19	183
Honduras	8	7	314	142	469
Hungría	4	4	467	233	908
India	86	867	2.826	807	4.376
Indonesia	1	1.392	1.047	46	2.485
Irán	47	34	2.067	51	2.199
Irlanda	—	7	605	16	628
Israel	2	10	198	109	319
Italia	2	—	118	162	280
Jamaica	—	91	562	28	681
Japón	3	16	307	1.178	1.504
Jerusalén	—	27	860	60	947
Jordanía	16	76	2.258	39	2.388
Kazajistán	—	—	120	2	122
Kenia	1	4	445	47	497
Kuwait	1	2	4.085	4	4.072
Líbano	—	9	4.181	66	4.236
Libia	—	27	962	19	1.008
Luxemburgo	—	—	2	4	6

TABLA V.4
VISADOS EXPEDIDOS EN EL AÑO 2000:
DISTRIBUCIÓN POR PAÍSES Y TIPOS

PAÍSES	CLASES DE VISADOS				TOTAL
	A - TRÁNSITO AEROPORTUARIO	B TRÁNSITO	C ESTANCIA	D RESIDENCIA	
Malasia	—	—	1.621	23	1.644
Marruecos	1.302	519	66.781	13.905	82.507
Mauritania	5	143	3.301	117	3.566
México	5	8	285	3.267	3.565
Mozambique	4	37	245	33	319
Namibia	—	27	175	10	212
Nicaragua	3	30	96	116	244
Nigeria	7	20	825	119	971
Noruega	—	68	1.049	8	1.125
Países Bajos	—	1	9	24	34
Pakistán	91	12	573	716	1.383
Panamá	7	41	621	162	831
Paraguay	—	—	37	117	154
Perú	660	536	7.730	6.980	15.926
Polonia	61	12	632	1.199	1.904
Portugal	7	34	235	76	351
Reino Unido	19	294	21.161	184	21.658
República Checa	3	1	786	713	1.503
República Democrática del Congo	11	14	136	66	217
República Dominicana	344	93	8.661	4.866	13.844
República Eslovaca	—	6	82	177	274
Rumania	120	468	14.137	2.378	17.103
Rusia	9	3.847	192.595	1.175	197.626
Senegal	40	288	2.031	1.019	3.378
Siria	7	65	2.761	116	2.949
Sudáfrica	2	405	14.025	82	14.914
Suecia	—	81	2.325	40	2.446
Suiza	7	16	6.256	771	7.050
Tailandia	—	161	3.216	83	3.460
Tanzania	1	13	222	8	244
Túnez	2	528	4.962	73	5.565
Turquía	—	643	25.356	133	26.132
Ucrania	12	1.203	38.211	1.362	40.778
Uruguay	3	52	38	453	546
Venezuela	7	7	209	2.001	2.224
Vietnam	—	3	124	6	133
R. F. Yugoslavia	2	51	4.222	119	4.394
Zimbabue	—	2	273	4	279
TOTALES	5.056	25.654	546.920	94.399	670.949

OFICINAS CONSULARES	TOTAL	CLASE DE VISADOS			
		A-TRÁNSITO AEROPORTUARIO	B-TRÁNSITO TERRITORIAL	C ESTANCIA	D RESIDENCIA
TOTAL	737.845	384	24.866	575.236	137.359
SP. ECONÓMICO EUROPEO	25.390	31	1.104	23.031	1.224
Alemania.....	269	—	2	82	185
Austria.....	37	—	10	6	21
Bélgica.....	70	—	—	26	44
Dinamarca.....	353	—	20	124	209
Finlandia.....	246	—	28	192	26
Francia.....	293	—	—	114	179
Grecia.....	28	1	2	22	3
Irlanda.....	1.071	—	15	1.021	35
Italia.....	260	—	14	129	117
Luxemburgo.....	7	—	—	1	6
Noruega.....	153	—	8	140	5
Países Bajos.....	35	1	1	7	26
Portugal.....	815	16	530	199	70
Reino Unido.....	21.383	13	455	20.669	245
Suecia.....	370	—	19	299	52
RESTO DE EUROPA	343.603	5	6.450	320.081	17.067
Andorra.....	610	—	381	211	18
Bosnia-Herzegovina.....	1.296	—	3	1.248	45
Bulgaria.....	4.223	—	219	1.067	1.937
Croacia.....	82	—	—	12	70
Eslovenia.....	94	—	1	42	51
Hungría.....	1.087	—	8	776	303
Polonia.....	2.755	—	11	1.263	1.481
República Checa.....	1.427	2	1	914	510
Rep. Eslovaca.....	556	—	2	100	454
Rumanía.....	22.656	1	603	15.767	6.288
Rusia.....	251.597	—	3.479	246.482	1.636
Suiza.....	7.172	2	18	6.433	719
Turquía.....	15.552	—	472	14.910	170
Ucrania.....	29.869	—	1.191	26.393	2.285
Yugoslavia.....	4.627	—	61	4.463	103
AFRICA	161.944	113	4.100	133.206	24.525
Angola.....	738	9	85	598	46
Argelia.....	23.902	1	81	23.027	793
Camerún.....	563	—	1	505	62
Costa de Marfil.....	1.326	—	22	1.231	73
Egipto.....	7.094	—	412	6.552	130
Etiopía.....	158	—	7	134	17
Gabón.....	261	—	2	252	7
Ghana.....	802	1	56	581	164
Gine Ecuatorial.....	4.348	63	1.094	2.766	425
Kenia.....	478	4	6	426	42
Libia.....	823	—	8	797	18
Marruecos.....	89.301	11	402	68.354	20.534
Mauritania.....	2.611	2	96	2.354	159
Mozambique.....	383	7	31	317	28
Namibia.....	301	—	35	263	3
Nigeria.....	1.539	2	6	1.316	215
Rep. Dem. del Congo.....	243	—	23	141	79
Senegal.....	3.596	6	387	1.712	1.491
Sudáfrica.....	16.164	5	1.098	14.950	111
Tanzania.....	344	2	3	332	7
Túnez.....	6.610	—	238	6.266	106
Zimbabwe.....	354	—	7	332	15

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TABLA VII.1
VISADOS EXPEDIDOS SEGÚN OFICINAS CONSULARES POR CLASE
2001

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OFICINAS CONSULARES	TOTAL	CLASE DE VISADOS			
		A - TRÁNSITO AEROPORTUARIO	B - TRÁNSITO TERRITORIAL	C ESTANCIA	D RESIDENCIA
IBEROAMÉRICA	99.559	89	2.307	29.053	68.100
Argentina	5.545	4	7	211	5.323
Bolivia	590	1	1	42	548
Brasil	2.466	39	40	222	2.165
Chile	2.475	18	28	205	2.229
Colombia	11.346	3	88	1.692	9.563
Costa Rica	217	—	1	49	167
Cuba	13.833	1	1.295	8.436	4.101
Ecuador	20.724	4	3	55	20.662
El Salvador	257	16	—	28	213
Puerto Rico	393	1	5	198	189
Guatemala	447	—	1	235	207
Haiti	289	—	—	266	23
Honduras	466	—	9	257	200
Jamaica	719	—	54	647	18
Méjico	4.403	8	10	327	4.068
Nicaragua	183	—	20	48	115
Panamá	452	4	33	228	187
Paraguay	159	—	1	11	147
Peru	17.158	3	563	7.327	9.265
Rep. Dominicana	14.236	6	78	8.363	5.787
Uruguay	1.040	—	64	26	950
Venezuela	2.161	—	6	176	1.979
AMÉRICA DEL NORTE	23.795	46	142	10.789	12.818
Canadá	879	—	8	570	301
Estados Unidos	22.916	46	134	10.219	12.517
ASIA	83.066	90	10.702	66.884	13.390
Arabia Saudi	6.657	—	1	5.795	861
China	16.011	37	315	8.611	7.048
Corea	173	—	—	17	156
Emir. Arabes Unidos	2.709	—	35	2.655	19
Filipinas	12.236	1	7.853	2.904	1.478
Taiwán	9.385	—	2	9.222	161
India	4.982	14	739	3.293	936
Indonesia	3.089	—	1.398	1.626	65
Irán	2.588	30	12	2.503	43
Israel	300	—	17	155	128
Japón	1.472	—	10	338	1.124
Jerusalén	857	—	23	794	40
Jordania	2.182	4	39	2.066	73
Kazajstán	1.487	—	1	1.443	43
Kuwait	4.498	—	—	4.475	23
Libano	5.206	—	11	5.117	78
Malasia	875	—	1	669	5
Pakistán	1.246	2	4	398	842
Siria	3.557	2	65	3.338	152
Tailandia	3.343	—	140	3.097	106
Vietnam	413	—	36	368	9
OCEANÍA	488	—	61	192	235
Australia	488	—	61	192	235
TOTAL	737.845	384	24.866	675.236	137.359

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VII. READMISSION

126. What readmission agreements are there with

- (a) Other Schengen States?
- (b) Third States?

(a) France, Portugal, Italy

(b) Morocco, Romania, Bulgaria, Algeria, Latvia, Estonia, Lithuania, Slovakia, Nigeria, Poland, Switzerland

127. How many people have been returned annually since 1996 as a result of these agreements?

COUNTRY	YEAR	PERSONS RETURNED
FRANCE	2001	9,730
	2000	9,175
	1999	4,304
	1998	1,346
	1997	784
	1996	892
TOTAL		26,912
PORTUGAL	2001	132
	2000	74
	1999	282
	1998	355
	1997	431
	1996	376
TOTAL		1,650
ITALY	2001	9
ROMANIA	2001	2
MOROCCO	2001	0
	2000	0
	1999	0
	1998	1
	1997	25
	1996	45
TOTAL		71

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128. What is the percentage of foreigners readmitted (per State figures)

(a) to other Schengen States?

France: 97.5%

Portugal: 95%

Italy: 100%

(b) to neighbouring States?

Morocco: 0.10 %

(c) to the returned person's country of origin?

Romania: 100%

How many total cases were there?

35,379

What countries of origin were involved?

Morocco, Romania, India, Algeria, Pakistan, Nigeria, Guinea-Conakry, Senegal, Ghana, Guinea-Bissau, Zaire, Liberia, Somalia, Moldavia, Sierra Leone.

129. What legal and practical measures have been adopted to assure the expulsion of illegally residing foreign nationals?

Pursuant to "Ley Orgánica" 4/2000 of 11 January on the rights and freedoms of Third Country nationals in Spain and their social integration, amended by "Ley Orgánica" 8/2000, once notification has been made of the expulsion resolution, the Third Country national must abandon national territory within the time period established that in no case may be inferior to seventy-two hours except in very specific cases in which the expulsion order is given preferential treatment which means that it is to be carried out immediately. In the event of non-compliance, the individual is detained and accompanied to the point of departure at which the expulsion order is to be made effective. If it were not possible to enforce the expulsion order within a period of seventy-two hours, the Judge of the location where the detention was made could order the Third Country national who is subject to the expulsion order to be held in a non-penitentiary internment centre. The stay at such internment centre cannot be prolonged for more time than is absolutely necessary to expel the individual and under no circumstances may it exceed forty days.

A request for release of the Third Country national should be filed with the judicial authority when, prior to the expiration of this time period, there are indications that the expulsion order cannot be carried out.

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Pursuant to the law there are two procedures that can be followed in the enforcement of expulsion resolutions: ordinary and preferential. The ordinary procedure is followed when serious or very serious infractions have been committed against Third Country national legislation and in the event that the Third Country national has been convicted, either in or outside of Spain, of criminal behaviour that in our country constitutes a crime punishable with a prison sentence of more than one year.

The preferential proceeding, more expedient and concise, is followed in those cases stipulated under Art. 109 of the Regulation passed by Royal Decree 864/2001.

Implicit in a resolution of expulsion is the prohibition of entering Spanish territory for a minimum of three years and a maximum of ten. This prohibition of entry applies to those States with which Spain has concluded an agreement on this matter. The expulsion resolution also automatically nullifies any authorisation that the foreign national may have acquired to reside in Spain.

According to statistics, 1,226 expulsions were performed in the year 2000, a figure that rose to 3,187 in 2001. In the first several months of this year that figure has reached 10,229 expulsions therefore indicating that the measures adopted can be considered effective in comparative terms. Further measures are being adopted to achieve greater collaboration with the illegal immigrants' countries of origin and this will undoubtedly increase the effectiveness of expulsion procedures.

130. What measures have been adopted with regard to accommodations for Third Country nationals that, for whatever reason, cannot be expelled?

Do these same measures apply to individuals who have entered the country illegally without seeking asylum?

For Third Country nationals that find themselves in a vulnerable situation or who run the risk of social exclusion, a public network of migration centres has been established to provide Third Country nationals with attention, refuge, social intervention and, if need be, referral.

Admission in a migration centre entails being issued a personal and non-transferable form with a photograph of the holder. This document contains the holder's personal information, nationality, Third Country national identification number (if assigned) and the date of expiration of authorised stay in the centre.

What measures are adopted by the Spanish authorities to help an Third Country national that must abandon the country in order to procure travel documents or is this the exclusive responsibility of the Third Country national?

During the time that a person is awaiting expulsion in a non-penitentiary centre, the Spanish authorities, pursuant to Art. 127.3 of Royal Decree 864/2001 of 20 July by virtue of which the Regulation on the enforcement of the "Ley Orgánica" on the Rights and Freedoms of Third Country nationals in Spain was passed, shall make the necessary arrangements for the procurement of the documentation needed to carry out the expulsion.

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In cases in which an expulsion resolution has not been delivered, the Third Country national should procure his/her own travel documents.

131. Is spontaneous refusal of entry a legal possibility in the case of Third Country nationals who are detected while trying to illegally enter the country or does it apply immediately after having crossed the border?

Spanish law envisions the return of illegal Third Country nationals to the country of origin or to the last country of transit when they are intercepted at the border or in the vicinity of the border and they are in transit or en route to national territory without having met entry requirements.

Refusal of entry and subsequent return shall be decided when the Third Country national approaches an authorised border post and is denied entry into national territory for failing to meet the legal requirements established for entry authorisation.

132. Is there a central institution responsible for issuing repatriation travel documents? What experience has been gained in this field? Are other (non-centralised) authorities involved in the procurement of repatriation documents?

EU travel documents valid for one-way travel for repatriation purposes are issued by the Commissariat-general for Third Country national Affairs and Documentation, an institution dependent upon the Directorate-General for the Police, Home Ministry.

The Provincial Third Country national and Documentation Brigades are also involved in the procurement of these documents.

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VIII. ENTRY

133. What administrative and criminal sanctions are envisioned in your national legislation for:

Those who enter national territory illegally?

Those involved in aiding illegal immigration?

Those that illegally employ a Third Country national resident?

1 – Administrative Sanctions:

Third Country nationals who seek to enter the country illegally or that, having been expelled, violate the prohibition on returning to Spain, will be subject to a return measure to be decided by the governing authority (Art. 58 of “Ley Orgánica” 4/2000).

It is considered a very serious offence “to, as a member of a for-profit organisation, induce, promote, foster or facilitate the clandestine immigration of persons in transit through or whose final destination is Spain as long as the facts of the case do not constitute a crime”. (Art. 54-b of “Ley Orgánica” 4/2000).

The sanction imposed for this conduct is a fine of from 1,000,001 to 10 million pesetas (6,010.13 to 60,101.21 euros) (Art. 55-1 c) of “Ley Orgánica” 4/2000).

The hiring of Third Country national workers without the proper work permit is considered a very serious infraction. Moreover, each worker illegally hired is considered an individual infraction (Arts. 54-1 d) of “Ley Orgánica” 4/2000).

The sanction imposed for this offence is the same as the one described above.

2 – Criminal Sanctions

Illegal trafficking in labour is envisioned in the applicable Criminal Code and is punishable by prison sentences of between two and five years and a fine of between six and twelve months (Art. 312 Criminal Code).

The promotion, fostering or facilitation of illegal trafficking in human beings from, in transit through or destined for Spain is also envisioned. This offence is sanctioned with a prison sentence of six months to three years and a fine of between six and twelve months (Art. 318 bis-1 of the Criminal Code).

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Those who commit the offences described above for profit or with the use of violence, intimidation or deceit or who take advantage of the victim's situation of need, shall be punished with prison terms of between two and four years and fines of twelve to twenty-four months (Art. 318 bis- 2 of the Criminal Code).

The sentences envisioned in the sections above shall be made more severe if, during the commission of the crime, the perpetrator put the life, health or integrity of people at risk or if the victim is a minor (Art. 318 bis – 3 of the Criminal Code).

134. Has Spain already signed or ratified the additional protocols to the United Nations Convention against transnational organised crime as concerns trafficking in human beings and contraband of migrants?

Spain has already ratified both protocols. This was done on 1 March 2002 and they are currently pending entry into force.

135. What measures have been adopted for the application of Convention Art. 27 against those that aid a Third Country national in illegally entering the territory of one of the other Schengen States?

Art. 54.1.b) of Law 4/2000 of 11 January considers it a very serious infraction “to, as a member of a for-profit organisation, induce, promote, foster or facilitate the clandestine immigration of persons in transit through or whose final destination is Spain as long as the facts of the case do not constitute a crime”.

The sanction imposed for this conduct could be a fine of from 1,000,001 to 10 million pesetas (6,010.13 to 60,101.21 euros) (Art. 55 1.c) of Law 4/2000 of 11 January) or expulsion from national territory if the perpetrator is a Third Country national.

Moreover, Art. 59 of the above-mentioned law envisions the possibility for facilitating stay or residency in Spain for those Third Country nationals who collaborate with the authorities in the fight against illicit trafficking in human beings when they themselves have been victims, have suffered damages or have witnessed an act of this nature.

136. Are criminal sanctions envisioned against those that help a person leave a country allowing him/her to enter illegally in another?

Art. 218 bis of the Criminal Code envisions prison sentences of between six months and three years and a fine of between six and twelve months applicable to those that promote, favour or facilitate the illegal trafficking of persons from, in transit through or destined for Spain.

Those who commit the offences described above for profit or with the use of violence, intimidation or deceit or who take advantage of the victim's situation of need, shall be punished with prison terms of between two and four years and fines of twelve to twenty-four months.

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Art. 515 of the aforementioned Code states that illicit associations promoting illegal trafficking in human beings are punishable under the Law and Art. 518 sets the punishment for such offence as a prison term of one to three years, a fine of twelve to twenty-four months and disqualification from public employment or office for a period of one to four years. These articles are applicable to those that, with their economic cooperation or cooperation of any other relevant sort, foster the founding, organisation or activity of such associations.

137. Pursuant to Art. 26 of the Convention, does the law call for sea or air passenger transport companies or the operators of international bus lines to take the necessary steps to assure, at the point of departure, that a Third Country national is in possession of the travel documents required for entry into the territories of the signing countries?

Art. 30.5 of Royal Decree 864/2001 of 20 July by virtue of which the Regulation on the enforcement of “Ley Orgánica” 4/2000 of 11 January was passed, amended by “Ley Orgánica” 8/2000 of 22 December on the rights and freedoms of Third Country nationals in Spain and their social integration, calls for land passenger transportation companies to adopt the measures deemed necessary to verify the documentation of all Third Country nationals that board outside of the territory of the countries in which the Convention implementing the Schengen Agreement of 14 June 1985 is in force.

Point 6 of the above-mentioned article states that: “When passengers board outside of the territory of the countries in which the Convention implementing the Schengen Agreement of 14 June 1985 is in force, the person or persons so designated by the transportation company should require all Third Country nationals to show their passports, travel papers or pertinent identity cards in order to verify their identity and assure that they apparently meet necessary requirements. The transportation company shall see to it that the personnel in charge of these tasks has the proper training allowing them to detect whether documents are missing, expired or are clearly forgeries”.

That same Art. 6 goes on to state that in general terms, if entry into Spanish territory is denied to a Third Country national due to deficiencies in the documentation required for border crossing, the transport company that brought the Third Country national to such border by air, sea or land is under obligation to take immediate responsibility for him/her. This means that the transport company must be certain that the Third Country national’s documentation is complete at the point of departure.

138. Does the law provide for any coercive or criminal measures for failure to meet this obligation?

“Ley Orgánica” 4/2000 of 11 January, amended by “Ley Orgánica” 8/2000 qualifies the following infractions as very serious:

- a) The transport of Third Country nationals by air, sea or land to Spanish territory by those responsible for said transport without having first verified the validity and the applicability of the passport, travel papers or pertinent identification card and, if required, the corresponding visa, that said Third Country nationals are required to have in their possession.

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- b) The transportation company's failure to meet the obligation of taking immediate responsibility for the Third Country national who, due to deficiencies in the above-mentioned documentation, was not authorised to enter into Spanish territory.

This type of infraction qualified as very serious carries a fine of from 1,000,001 to 10 million pesetas (6,010.13 to 60,101.21 euros).

Moreover, the transposition process is under way to include European Council Directive 2001/51/EC of 28 June 2001 into the Spanish legislative system. Said Directive rounds out the provisions of Art. 26 of the Convention implementing the Schengen Agreement of 14 June 1985 on the obligations of transport companies.

139. Are transport companies legally bound to return Third Country nationals that are not in possession of the required documentation?

As was pointed out at the end of section 137, Art. 30.3 of the above-mentioned Regulation on the enforcement of "Ley Orgánica" 4/2000 of 11 January states that: if entry into Spanish territory is denied to a Third Country national due to deficiencies in the documentation required for border crossing, the transport company that brought the Third Country national to such border by air, sea or land is under obligation to take immediate responsibility for him/her. Upon request by the authorities in charge of controlling entry, the transportation company must return the Third Country national to the State from which he/she was transported, to the State that issued the Third Country national's alleged travel document or to any other third State assuring his admission".

140. Does data exist on sanctions that have been levied and how many were actually paid?

The Government Deputy-delegate or the Government Delegate in both single and plural provinces Communities is the competent authority responsible for the imposition of sanctions for administrative infractions established under "Ley Orgánica" 4/2000 of 11 January amended by "Ley Orgánica" 8/2000 of 22 December.

No data is available on sanctions imposed.

141. Is a person who is apprehended crossing the border at a non-authorised area subject to criminal or administrative sanctions?

In accordance with Art. 58.2 of "Ley Orgánica" 4/2000 amended by "Ley Orgánica" 8/2000, individuals that seek to illegally enter the country shall be returned without having to initiate official expulsion procedures and without the application of criminal or administrative sanctions.

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142. What law enforcement bodies are involved in combating illegal immigration within the territory and what are their exact competence and the legal means and practices available to them to carry out their tasks?

The Directorate-General for Police is responsible for the control of the departure and entry of individuals through ports and airports, the processing of documents regarding stays and residence status (in provinces where there are no Immigration Offices), the processing of a Third Country national sanctioning files, the enforcement of expulsion resolutions and collaboration and co-operation with international organisations and with other States.

The Directorate-General for Police is also in charge of the creation of units specially focusing on immigrants as well as investigation and intelligence actions for the persecution of crimes related to immigration and the co-ordination of labour and social security inspections, the State's law enforcement bodies, the Public Prosecutor's Office and the judicial bodies involved in the fight against illegal trafficking in foreign labour.

As for the fight against illegal immigration networks, specialised police units are being created for the prevention and dismantling of such networks and for the detection and persecution of any Third Country national-abuse in national territory regardless of whether it is labour, sexual or of any other sort. These units also strive to gather, process, analyse and make good use of all and any information that is generated in this field both on the national as well as the international level.

Surveillance of the coastline and the border area and the external safekeeping of ports and airports are competences of the Directorate-General for the Civil Guard. This includes the creation of specific units focusing on immigrants as well as the implementation of an Integrated External Surveillance System which amounts to the successive and progressive installation of sensors, radars and optronics, command and control centres and communication teams. It also involves strengthening the interception units at Spain's different external border points. This systems seeks to provide coverage for the coastline and external borders to prevent and control irregular immigration and to fight against organised crime and transnational delinquency.

143. Have copies of the residence documents included in Annex 4 of the Common Consular Instructions been distributed to the passport control units with a view to facilitating their job? How often are updates of this information distributed?

Annex 11 of the Common Manual on Border Control that corresponds to Annex 4 of the CCI was distributed to all border posts. A notice is also sent out to all border posts every time that a Member Country communicates any modification.

The Document Forgery Patrol of the Commissariat-general for Immigration and Documentation has samples of residency permits of the type issued by Schengen States. These permits, which have been exchanged in the Schengen Border Group, authorise their holders to cross external borders without a visa. This Patrol provides instruction regarding these residency permits and answers questions that may arises with respect to their validity and authenticity.

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144. What methods are used to maintain standardisation levels of entry and departure stamps?

The entry and departure stamps used for the control of persons crossing external borders are manufactured by one company and feature all of the technical characteristics and security measures that are called for in the Schengen Executive Committee Decision. Complete standardisation is thus achieved.

145. What methods and time frames are used to change the numerical security codes for standardised entry/departure stamps?

Each external border post authorised for the crossing of persons unilaterally decides what security code to use on each entry and departure stamp as well as the frequency with which such codes are modified. The most common practice is to change them every fifteen to thirty days. This information is registered with and co-ordinated by Central Services of the Commissariat-General for Immigration and Documentation.

146. Is there a memorandum that directs the co-ordination among the competent authorities involved in the fight against illegal immigration within your country?

On matters of immigration, jurisdiction is in the hands of the Government Delegation for Immigration, the high-level management body with the rank of State Secretariat under the auspices of the Home Ministry.

Its functions include the management, encouragement and co-ordination of the actions of other directive bodies of the Department. It is also responsible for providing impetus and co-ordination for actions taken by Ministries with competence in immigration, Third Country national affairs and right to asylum and especially concerning land borders with third countries.

When deemed necessary it may co-ordinate, with authority delegated by the Secretary of State for Security, the actions of the State's Law Enforcement Units with jurisdiction in this area and the actions initiated by such units with other services whose specific competence could have repercussions on the fight against illicit trafficking in human beings.

Moreover, it directs and co-ordinates the action of the Government Delegations and Sub-delegations on issues related with immigration, Third Country national affairs and the right of asylum.

The 17 April 2001 Resolution of the Government Delegation for Immigration called for the publication of the 30 March 2001 Agreement reached by the Council of Ministers approving the Global Regulation and Co-ordination Programme for Third Country national affairs and Immigration in Spain.

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147. How many illegal immigrants have been detected and what were their countries of origin?

(2002 data last updated on 18 November)

COUNTRY	2000	2001	2002
Algeria	19	48	102
Angola			3
Bangladesh			6
Benin	23	1	34
Bhutan			1
Burkina Faso		4	31
Burundi		1	18
C. African Rep.		1	5
Cameroon	5	78	256
Cape Verde			1
Chad		2	17
China	9		6
Congo	2	11	391
Djibouti			2
Egypt			1
Equatorial Guinea	3		365
Ethiopia			1
Gabon	1		3
Gambia	5	93	485
Ghana	26	33	487
Guinea-Bissau	31	298	176
Guinea-Conakry		139	
Iraq	1	6	1
Ivory Coast	3	25	64
Kenya		1	12
Liberia	7	40	270
Libya			1
Macedonia	22		
Malawi			19
Mali	3	351	1,658
Mauritania	10	35	92
Morocco	11,041	12,403	7,432
Mozambique			1
Namibia			1
Niger		1	116
Nigeria	2,294	1,140	702
Pakistan	61		2
Palestine			7
Philippines	4	6	
Russia		2	

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Rwanda		4	4
Senegal	12	7	30
Sierra Leone	1,597	2,322	585
Somalia		1	35
South Africa		1	3
Sudan		300	146
Tanzania			14
Togo	1	9	42
Tunisia	12	4	2
Uganda		2	15
Ukraine		1	
Upper Volta		1	8
Yemen			1
Zambia			4
Zimbabwe		1	37
Unknown		1,145	740
Total	15,195	18,517	14,435

148. How many Third Country nationals have sought asylum?

Year	Applications
1996	3,521
1997	4,975
1998	6,764
1999	8,405
2000	7,533
2001	9,528
2002	5,711*

* Figure last updated on 18 November

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IX. POLICE CO-OPERATION

149. With which countries have agreements been concluded or are agreements being prepared in matters of police cooperation?

REPLY:

With France, Portugal, the Netherlands and Italy, apart from other agreements entered into with non-Schengen countries such as Morocco, Ecuador, Colombia, etc., in immigration-related questions.

150. With which Schengen States have agreements been concluded, or are these agreements in preparation or under study in matters of police cooperation in border zones under the provisions of Article 39(4) of the Convention (see Executive Committee Decision SCH/Com-ex (98) 51 Rev. 3 of 16.12.1998)? Describe the cooperation.

REPLY:

France, Italy and Portugal.

Police Cooperation includes the fight against illegal immigration, drug-trafficking, mobile controls, data exchange, etc., and particularly bilateral Readmission Agreements.

151. With which other Schengen States has the exchange of liaison officers been agreed (Articles 7 and 47 of the Convention)?

REPLY:

Germany, Belgium, France, Italy, the Netherlands and Portugal.

152. How have police officers been trained, or how are they being trained in the application of the provisions of the Convention? Have instructions, administrative provisions, etc. been prepared with a view to the entry into force of the Convention?

REPLY:

They are trained in specialised courses convened from time to time by the Training Division in the Directorate-General of Police, and any instructions are also distributed to all the Units in charge of aliens which they may need to be familiar with as part of their operation, whether from national legislation or an EU-derived provision

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**153. Have your country's police officers been briefed on the Handbook on Cross-Border Police Co-operation and prepared to implement it?
Is the Handbook available and in use in all police units?**

Lectures have been held at all Provincial Police Headquarters of the National Police Force during which aspects referring to police co-operation between the Schengen States, as reflected in the Handbook on Cross Border Police Co-operation, as well as the possibilities that the Convention offers to police officers in carrying out their duties and the opportunity they have to address requests for police co-operation, within the framework of the Convention, and procedures foreseen in the aforesaid Handbook, were mentioned.

The Spanish SIRENE Bureau has issued a publication, containing the aforesaid Handbook, which has been circulated amongst different police units and services.

Likewise, the Handbook has been included in the official publication (General Order dated 1st April 1996), issued, on a periodic basis, by the Directorate-General for the Police, to which all officers of the National Police Force have access.

154. Within the framework of cross-border co-operation pursuant to Article 39(1-3) of the Schengen Convention, does national law empower your police services to authorise and execute, without the involvement of the judicial authorities, the measures listed in the document adopted by the Executive Committee of Schengen on 28th April 1999 (SCH/Com-ex (99) 18; SCH/I (98) 75 rev. 5) on principles for police co-operation in the prevention and detection of offences? If not, what measures are the police not authorised to take?

In general, all police operations listed in the document (SCH/Com-ex (99) 18 SCH/I (98) 75 rev. 5) may be carried out directly by our police services, without the involvement of our judicial authorities.

155. What additional measures, if any, are the police authorities in your country authorised to take, without the involvement of the judicial authorities, which are not mentioned, in this Executive Committee Decision?

No other additional measures, other than those foreseen in the aforesaid document, exist.

156. Where the police authorities do not have the power to deal with requests, do they forward them pursuant to Article 39(1), sentence 2 to the competent judicial authorities? Do the judicial authorities accept requests to the police for legal assistance forwarded in this way?

Whenever requests for police co-operation, which fall within the domain of the judicial authorities, are received they are sent to the latter, unless such authorities inform us that the request must be effected by means of an international rogatory commission.

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157. Do the judicial authorities accept requests for authorisation according to Article 39(2) of the Schengen Convention by fax or e-mail, as provided for in the Executive Committee's decision (SCH/Com-ex (99) 18)?

Judicial authorities do accept requests by fax or e-mail, provided the signature of the judge requesting the co-operation is not required. Rogatory commissions do require the signature of the requesting judge and hence only sending them via fax or ordinary mail is acceptable.

May – according to national provisions on judicial assistance and/or data protection – information forwarded to non-Schengen countries through police channels be passed on to judicial authorities there and used as evidence in legal proceedings or does this require the explicit consent of the judicial authorities in your country, similar to Article 39(2) of the Schengen Convention?

In effect, information forwarded through police channels may not be used as evidence without the authorisation of our judicial authorities. The SIRENE Bureau, entrusted with dealing with the police co-operation foreseen in Article 39 of the Schengen Convention does not deal at all with co-operation with third countries since this falls within the domain of OCN INTERPOL.

158. Which clauses restricting the purposes for which data may be used are employed by your police authorities in international dealings in relation to Schengen/non-Schengen States?

Please refer to answer to previous question. SIRENE is not competent for police co-operation with non-Schengen States. Up to now, clauses have not been in use.

159. Is there an obligation to inform the national central body, if in an urgent case the direct channel pursuant to Article 39(3), sentence 2 of the Schengen Convention is used?

Police co-operation requested by other Schengen States must be channelled via the Sub-Directorate General for Operations, through this SIRENE Bureau, since, according to the Handbook, it appears as the national central authority responsible for Police Co-operation, as foreseen in Title III of the Convention. But, if reasons of urgency so require, requests may be addressed directly to the police unit that is due to implement it, but this Office must be informed subsequently.

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160. How many cross-border surveillance operations pursuant to Article 40 of the Schengen Convention have the competent authorities in your country carried out over the last three years (broken down by year, by Schengen State, by normal case/urgent case and by offence giving rise to the observation).

Art 40.1

Requested by Spain

1999: 1- Requests to France for death threats (blackmail)

2000: 1- Requested to Italy and transit through France for robbery with violence, trafficking with art works

2001: 2- One to Portugal and France, the other to France. Both for drug trafficking.

Requested to Spain

1999: 19 from France- 1 from Italy- 1 from Germany

2000: 35 from France, for drug trafficking in the majority of cases

2001: 17 from France, 4 from Italy

Art 40. 2

Requested by Spain

None during these three years

Requested to Spain

1999: 6 from France

2000: 4 from France, 1 from the Netherlands and 1 from Italy

2001: 5 from France

161. Which measures has your country taken/which provisions must be observed regarding the use of technical means in cross-border surveillance?

(To be replied by the General Police Headquarters for Aliens & Documentation).

162. Under national law is an attempted offence sufficient for measures to be taken pursuant to Article 40(1) and (2)/Article 41(1) and (2) of the Schengen Convention?

According to our legislation, once commission of an offence has commenced, regardless of the state of execution thereof, it is punishable and, thus, if it complies with the requirements and prerequisites of the aforesaid Articles 40 and 41 the police actions foreseen in such Articles may be carried out.

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163. Except in cases of hot pursuit pursuant to Article 40(2) of the Schengen Convention, where it is obviously not possible to seek the prior authorisation of the corresponding central authority designated in Article 40(5), are the officials of the Schengen States authorised to conduct cross-border surveillance also allowed to carry their service weapons in your country for standard surveillance operations pursuant to Article 40(1) as provided for under Article 40(3)(d) of the Schengen Convention?

Spain maintains the principle of reciprocity when authorising the carrying of certain weapons in Spanish territory in cases of hot pursuit or cross-border surveillance carried out by police officers of the Schengen States.

164. Is information on the type and number of service weapons required, and if so, what? Does your country place restrictions in this connection on observation teams from other Schengen States, and if so, what are they?

With reference to firearms to be carried in surveillance operations or cross-border hot pursuit, information requirements are studied on a case-by-case basis, considering the specifics of each operation, the seriousness of the offence involved, the degree of dangerousness of the person under surveillance, etc.

As far as observation teams are concerned, we refer to the reply to be provided on this by the General Police Headquarters for Aliens & Documentation.

165. How many cross-border hot pursuits pursuant to Article 41 of the Schengen Convention have the competent authorities in your country carried out over the last three years (broken down by year, by neighbouring Schengen State(s) and by offence giving rise to the pursuit)?

Requested by Spain:

1999: 0

2000: 3 to Portugal

2001: 3 to Portugal

Requested to Spain

None during the 3 years.

166. If so, which solutions are under consideration and which tactical and operational requirements from the common catalogues of requirements of the Schengen States, set out in the Executive Committee Decision of 28th April 1999 (SCH/Com-ex (99) 6), could be met?

(To be replied by the General Police Headquarters for Aliens & Documentation since these are technical questions pertaining to communications in border regions or areas).

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X. DRUGS

167. What organisational measures have been adopted at the external borders (land, air and sea) to combat drug trafficking?

A) NEW STRUCTURES

Responsibility for control and surveillance matters at external borders and customs services in Spain is divided between the Civil Guard and the National Police Corps, both under the auspices of the Home Ministry and the Deputy-Directorate for Customs Supervision of the Department of Customs and Special Taxes of the Ministry of Finance.

They are assigned jurisdiction over the surveillance and control of all of the European Union's external borders in Spain that include 8,250 km. of coastline, a 70 km. land border with Andorra, a 19 km. land border with Morocco in the Autonomous Cities of Ceuta and Melilla and a 2 km. land border with Gibraltar.

Within the scope of the Customs Authorities, exchange of analytical information is carried out within the framework of the World Customs Organisation, RILO (Regional Intelligence Liaison Office) and MARINFO (database containing commercial information on shipping companies).

The organisational structure of these bodies as regards the fight against illegal drug trafficking and concerning the control and surveillance of customs and borders is as follows:

1.1 National Police Corps

Pursuant to "Ley Orgánica" 2/1986 on Law Enforcement, the National Police Corps has jurisdiction over the arrival to and departure from national territory of both Spaniards and foreign nationals.

In compliance with Royal Decree 1449/2000 establishing the basic structure of the Home Ministry, the Commissariat-General for Alien Affairs and Documentation is in charge of the arrival to and departure from national territory of Spaniards and foreign nationals, the prevention, persecution and investigation of illegal immigration networks and the police regime as regards alien issues, refugees, asylum and immigration.

In compliance with the 10 September 2001 Ministerial Order developing the organic structure and functions of the central and peripheral services of the Directorate-General for Police, the Central Unit for Frontiers and matters relating to Foreigners and their Documentation (UFADE), under the Commissariat-General for Alien Affairs and Documentation, is responsible for the coordination and

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control of the arrival to and departure from national territory of Spaniards and foreign nationals and the border regime as well as everything related to the documentation of foreign nationals in Spain. Border posts are defined and located at the points at which either permanent or roving control functions of arrivals and departures of individuals to national territory are carried out and are responsible for the internal security of airports when headquarters are established therein. Ports, airports and land borders that are recognised or may be recognised in future as external Schengen borders are also considered as border posts. The Joint Police Stations are also set up to develop police co-operation in the border area with those States that share a common border with Spain. The duties of documentation control and roving checks at the border area are assigned to the Alien and Documentation Unit as is the processing of actions against Spanish and foreign nationals.

The Border Posts as well as the Joint Police Stations and the Alien and Documentation Units are integrated into the organic structure of their respective territorial authorities although, when it comes to co-ordinated operations, they are under the Commissariat-general for Alien Affairs and Documentation.

With respect to the specialised units operating on the national, regional or local levels against drug trafficking, there are units within the National Police Corps that are specialised in the investigation of drug-related offences and organised crime (Spanish acronym UDYCO) (illegal drug trafficking, organised crime and money laundering) throughout different geographical areas of our country.

The UDYCO units focus their investigations on the fight against organised crime as defined by European Union indicators on this concept and is categorised into the areas of: drug trafficking, money laundering, illegal trafficking in cultural heritage, etc.

These Units are organised on different levels into Local Units the purpose of which is to investigate small-time and middle-level trafficking and to act as antennae picking up information for the higher level units, Provincial or Regional Units, co-ordinators of Local Units and the Central Unit (the Central Narcotics Unit UDYCO – CENTRAL). This latter Unit is responsible for operational co-ordination on the national level and maintains operational bases in certain geographical areas of our country where the phenomenon of organised crime as relates to drug trafficking and money laundering is more prevalent.

All of the information generated by these Units is subsequently analysed by the Central Analysis and Information Processing Unit (Spanish acronym UCATI).

1.2 Civil Guard

The Civil Guard is responsible for the surveillance and safekeeping of the coastline, borders, ports and airports pursuant to Art. 12.1.B.d of Organic Law 2/1986 on Law Enforcement. Within this framework it does surveillance and control work tailored to the fight against drug trafficking.

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As part of its operational deployment, subordinate to the Sub-directorate General for Operations, the Civil Guard has what is known as the Fiscal and Border Authority created by Royal Decree 1449/2000 and developed by the 29 October 2001 Order issued by the Ministry of the Presidency. This body is under the auspices of the Sub-directorate General for Operations and is authorised for the safekeeping and surveillance of the coastline, borders, ports, airports and territorial seas as well as the fight against narcotics trafficking. Missions are operationally structured into the following units:

a) Central Units

- Fiscal Service
- Maritime Service
- Coast and Border Service

b) Peripheral Territorial Units

- Port, Coast and Border Patrols.
- Fiscal Receipt Units at land, maritime and air Customs.
- Risk Analysis Offices together with Customs Services.

Other Units:

a) Investigation Units

- Central Anti-drug Unit (forming part of the Central Operational Unit UCO).
- Central money laundering Unit (forming part of the UCO)
- Technical Judicial Police Unit (analysis).
- Organised Crime and Anti-drug Teams (EDOAS integrated into all of the territorial units).

b) Air Service

c) Cynological Service (dogs trained in drug detection)

1.3 Deputy Directorate for Customs Supervision

The Deputy Directorate for Customs Supervision is under the Department of Customs and Special Taxes of the Ministry of Finance. From among its specific functions mention should be made of the discovery, persecution and repression of smuggling infractions throughout all national territory, jurisdictional waters and air space. It also carries out fiscal customs receipt duties, fights against organised fraud and money laundering and works at uncovering the black economy. Given the nature of its missions, its territorial deployment and resources at its disposal, it is also involved in matters of external border control and surveillance, mostly maritime borders and at customs posts, and therefore confiscates significant amounts of drugs.

Within its organic structure it has a Sub-directorate General for Operations that oversees its Regional Operational Units that are comprised of:

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a) Territorial Units

- Air-sea Regional Units
- Terrestrial Operational Units
- Maritime Bases

b) Investigation Units

- Narcotics and Precursor Investigation Units.
- Contraband Investigation Units.
- Money Laundering Investigation Units.
- Central Unit for Risk Analysis.
- Container Control Unit.
- Territorial Units for Risk Analysis at Customs.

B) PERSONNEL DEPLOYED

Personnel and technical resources earmarked for the control and surveillance of external borders is also provided by the Law Enforcement corps mentioned in the preceding section as well as by their respective bodies and Ministries.

1. National Police Corps

There are approximately 2,500 National Police Officers assigned to border duty but it should be noted that in many cases these officers are supported by other units when events or situations call for such support.

As concerns the investigation units involved in the fight against drug trafficking, a total of 1,335 police officers are assigned to the UDYCOs and another 94 work at higher levels in which the UDYCOs are not incorporated. Nearly 90% of these highly qualified professionals work in the investigation of drug trafficking or organised crime related to this illegal activity.

2. Civil Guard

- Surveillance and control services at borders and customs: 5,697
- Maritime Service: 954
- Air Service: 896
- Cynological Service: 425
- Investigation Units: 1,625
- Risk Analysis Offices: 86

It should also be mentioned that, thanks to their integral training, the rest of the Civil Guard personnel can also take part in border control and surveillance activities as well as action against the trafficking of illicit drugs. Occasionally and under special circumstances, certain reserve units take action at critical locations such as the border with Andorra and the border with Morocco in the Autonomous Cities of Ceuta and Melilla.

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3. Deputy Directorate for Customs Supervision

The Department of Customs and Special Taxes is comprised of 3,788 civil servants. Of these, a little over half (2,131) perform tasks directly related with what could be called trade customs (management and inspection of customs duties and special taxes, management of customs posts and laboratories). Operational and investigative duties are performed by 1,657 civil servants who make up the staff of the Deputy Directorate for Customs Supervision distributed as follows:

- Land services personnel: 893
- Maritime services personnel: 705
- Communications personnel: 59

This personnel, in turn, is grouped into different specialities in the areas of investigation, navigation, propulsion and communications.

4. Personnel Training

A concerted effort has been made in the field of training. In the studies curriculum and as part of integrated training for all ranks of new recruits, both the National Police Corps as well as the Civil Guard include specific information modules and basic actions in the prevention of narcotics use, the fight against illicit drug trafficking and general actions related to control and surveillance services at borders, specific border posts, customs, ports and airports. Thus, any given member of the State's law enforcement officials is prepared to take specific action on any of these matters without prejudice to subsequent follow-up by more specialised units.

In addition to this general sort of training, specialised and highly specialised courses are taught focusing on the fight against narcotics trafficking, criminal organisations, money laundering and border control for those officers assigned to units that specifically deal with these types of initiatives.

Moreover, at the Delegation of the National Drug Plan, courses and seminars are also given to National Police Corps and Civil Guard officers of the units specialised in the fight against narcotics trafficking.

C) Creation of new specialised monitoring services

As regards maritime borders

1. Integrated External Monitoring System (SIVE)

In light of the problem that exists at the southern border of the European Union with regard to irregular immigration as well as the smuggling of hashish that has benefited by organised crime's use of new technologies and the foreseeable future evolution of these types of crimes, the Civil Guard has designed a specific action programme for this geographical area allowing for coastal monitoring and control increasing efficiency and getting maximum yield out of available resources.

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The SIVE is based upon the following action principles:

- Advance presence on the coast.
- Early detection
- Single command
- Organisational flexibility
- Assurance of confidentiality

In compliance with these principles, the aim is to move surveillance away from the coastline, advancing into territorial seas and establishing a permanently guarded zone at a distance sufficient to allow for the detection, identification and assessment of an encroachment with enough time to react with proper resources and to intercept the intrusion. In line with the single command, the monitoring and interception resources are put under the same command with a view to achieving maximum coordination of the actions of units with different characteristics and organisational structures provided with resources allowing them to take action on land, sea and air. Information is obtained and orders given by means of encrypted communication systems.

System design:

- Fixed and roving sensor stations equipped with radar and two cameras; one for night vision and the other for day vision.
- Command and control centres where information from the sensor stations is received, an assessment is made of the detected incursion and orders are sent to the interception device (sea, land or air).
- The encrypted communications systems allows for communication between the sensor stations and the command centres and between the latter and the single command. It also allows for the remote control of monitoring devices.
- Monitoring and control equipment incorporated into the land, air and sea interception devices.

Territorial deployment:

PHASE I: Coastal deployment in the Province of Cadiz. Already in operation.

PHASE II: Deployment extended to the coasts of the provinces of Malaga and Granada.

PHASE III: Deployment extended to the coasts of the provinces of Huelva and Almeria.

PHASE IV: New investments are foreseen up to 2004 for the purchase of new boats, all-terrain vehicles and QUAD intrusion detection and transmitting systems and an update of communication and computer systems.

2. Automatic number plate reading system (SIAM)

This device reads vehicle number plates by means of a circuit of fixed cameras that transmit the image to a central computer that, in turn, digitalises the number plate, checks it against a series of data bases and sets off alarms in accordance with the control parameters introduced into the system.

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Territorial deployment:

This system is set up and fully operational in the Port of Algeciras and will soon be installed in the Ports of Cadiz, Ceuta, Melilla, Malaga, Almeria and Alicante.

3. Specific data bases

- Boats: This database records all boat movements arriving and departing from coastal commercial and sporting ports. The personnel comprising coast and border controls are in charge of this mission.
- Strait: Contains data on all vehicles that cross the Strait of Gibraltar. This database is now incorporated into the SIAM.
- Operfis: Database recording all operations under way for illegal drug trafficking and money laundering. It is used for analysis, investigation and detection of duplicity.
- Basefis: Support mechanism for investigation of illegal drug trafficking and money laundering.

D, E and F) Maritime, air and land borders

4. Government Delegation for the National Drug Plan

As part of the National Drug Plan, two computer-based projects are being developed in relation to statistics on the control of the drug supply and co-ordination of relevant anti drug-trafficking operations. Both projects will commence operations in 2003.

a) National Statistical System on Drugs and Analysis (SENDA)

By means of the SENDA computer system, data will be collected on seizures, arrests and other drug-related initiatives taken by State Law Enforcement Officials of the Deputy Directorate for Customs Supervision and the Autonomic Police with jurisdiction in the fight against narcotics trafficking. This data is then centralised at the Government Delegation for the National Drug Plan that draws up statistics, reports, studies and analyses in this field to facilitate the decision-making process and to help achieve a more rational allocation and distribution of means and resources.

The aim is not to simply build a system for statistical purposes to replace the current one but rather to develop a broad-based information system that, in addition to meeting statistical objectives, allows for all types of analyses of the information contained therein and is capable of integrating other types of information currently contained in the data bases of the Government Delegation for the National Drug Plan or other future data bases.

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b) Investigation Registration System (SRI)

The purpose of the SRI computer system is to provide the Government Delegation for the National Drug Plan with a summary list of investigations that are under way for narcotics trafficking and money laundering carried out by State Law Enforcement officials, the Deputy directorate for Customs Supervision and other bodies with jurisdiction in these matters. The data shall be provided by the acting Bodies and then transferred automatically to the SRI that, in turn, carries out a detailed check of variables in order to detect possible duplicity in investigations being carried out by more than one law enforcement body. This detection of duplicity would then set off the corresponding coordination action implemented by the Government Delegation for the National Drug Plan with a view to preventing duplication, reiteration of efforts and unwanted interferences that could give rise to failure in important operations against narcotics trafficking.

G) Do customs authorities have boats or planes (speedboats, planes, and helicopters) for the detection of illegal vessels?

This question is answered in the technical resources list found in point 168 and the new services (Integrated External Monitoring System – SIVE or the Automated Plate Number Units Reading System – SIAM).

168. TECHNICAL MEANS

A) Specific measures and tactical methods adopted at the border to combat drug trafficking.

1. The National Police Corps

The National Police Corps in charge of border control has the following technical means at its disposal:

- **Docubox:** This device is used for the detection of forged documents and uses different sources of lighting such as ultraviolet light, direct and retro-reflexive infrared light, filters and zoom optics that allow for on-the-spot check for changes made to documents and the detection of false documents.
- **Photophone:** This is a work tool that allows for the sharing of graphic information and permits instantaneous checks of suspicious-looking documents between two police offices without having to move personnel or materials.
- **Analyser Kit:** This is a portable set of equipment with basic instruments for the examination of documents containing a thread counter, ultraviolet lamp, a small microscope and a retro viewer magnifying glass.

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All of the units stationed at border areas also have the necessary computer devices at their disposal to check police databases both at the control stations themselves as well as at the other police stations.

They also have the vehicles needed in each case for police operability, special mention being made of the following:

- Vans equipped with a folding table for a computer, analyser kit, UV lamp, etc.
- Electrically powered vehicles in the principal airports for movements within the airport itself and for security missions.

The number of these vehicles depends upon the traffic flow and importance of the border area in question.

Border areas receive needed air support by means of the following:

- BO-105 Helicopters (15)
- F-120-B Helicopters (2)

The following are the data bases used for customs control and the fight against drug trafficking and money laundering:

- GATI: Information analysis and processing.
- OCNE: Statistical processing of actions against drug trafficking and money laundering.
- National Europol Office.
- Sirene Office (Schengen Area).
- National Interpol Office.
- General Archive.

The following databases are under the control of the Commissariat-general for Alien Affairs and Documentation:

- National Identification Document.
- Passports.
- Alien issues.

2. Civil Guard

Coastline Surveillance

Van-mounted portable thermal cameras equipped with thermal contrast nocturnal infrared viewfinders. These devices are capable of identifying objects at a distance of 10 kilometres. They are used for night-time coastal surveillance or in low-visibility conditions caused by fog or heavy rain.

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Portable thermal cameras also equipped with thermal sensor infrared vision effective at distances of up to 5 kilometres. These are used for night-time coastal surveillance and under low-visibility conditions caused by adverse meteorological conditions.

Medium-reach night-vision devices operated by active intensification of residual light in the focus zone with a reach of up to 800 metres. Used for walking, driving and discovering people and objects at that distance without the use of artificial lighting.

Van mounted portable radar with radar sensors and thermal infrared vision optronic equipment. This radar can detect the presence of objectives with sufficient advance warning and the camera is able to recognise objects at a distance of 8 kilometres. This equipment is designed to detect, locate, identify and recognise the presence of suspicious vessels in coastal waters and communicate this information to interception units.

Land border surveillance

Portable thermal cameras with the same features as those used for coastal surveillance.

Short and middle-distance night-vision devices operated by active intensification of residual light with a reach of between 200 and 800 meters.

Closed circuit TV with a low-light CCD sensor fixed-camera system controlled from a monitor console located in the operational centres and set up along the entire border perimeter with Morocco in the Autonomous Cities of Ceuta and Melilla.

Fence sensors that operate by means of vibration detectors connected to a central alarm system are also installed along the border with Morocco.

Territorial sea surveillance

Solid, light-weight, twelve-meter, four-man patrol boats (14) equipped with radar, GPS and a magnetic compass designed for night-time navigation or in conditions of zero visibility; used for surveillance purposes in the 12 jurisdictional miles from the coastline. These boat have an operational capacity of 24 hours.

Halfi-rigid, lightweight, 12.5-metre, four-man patrol boats (46) with an operational capacity of 12 hours. These are mostly used in the Strait of Gibraltar area for the prevention and repression of narcotics trafficking.

Solid, mid-size, 16.5-metre, seven-man patrol boats (15) equipped with radar, GPS and a magnetic compass designed for night-time navigation or in conditions of zero visibility and with a radiogoniometer for location of radio broadcasts. Used for surveillance of the 12 miles of jurisdictional waters, these boats have an operational capacity of 72 hours.

High-seas, 11-man patrol ships (5), 26-30 metres in length equipped with radar, GPS and a magnetic compass designed for night-time navigation or in conditions of zero visibility and with a radiogoniometer for location of radio broadcasts. Used for week-long surveillance missions of the 12 miles of jurisdictional waters.

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Surveillance of air space.

Eurocopter helicopters BO-105 (28) for a crew of five equipped with meteorological radar for the detection of surface targets and GPS receiver prepared for optronic sensor installation with infrared camera and transmission equipment for radio-intercepted images. Used for all types of services related to the fight against narcotics trafficking, illegal immigration and contraband.

Eurocopter helicopters BK-117 (8) for a crew of 11 equipped with meteorological radar for the detection of surface targets and GPS receiver prepared for optronic sensor installation with infrared camera and transmission equipment for radio-intercepted images. Used for all types of services related to the fight against narcotics trafficking, illegal immigration and contraband as well as for the expedient transfer of personnel to critical zones.

Customs, port and airport surveillance

The following means of control are found in these places:

- Scanners mounted on luggage transport belts.
- Scanners for hand-luggage.
- Portable scanners installed in vans.
- Fixed scanners for package inspection.
- Dogs trained to detect different types of drugs.

3. Deputy directorate for Customs Supervision

Air

- Aviocar type planes C-212 (6).
- MBB Eurocopter helicopters BO-105 (4).
- MBB Eurocopter helicopters BO-117 (1).

Sea

- Sixty-four metre high-sea patrol boat (1).
- Middle-size, 21 - 32 metre high-sea patrol boats (18).
- High-speed, 6.3 - 17 metre patrol boats (23).
- Lightweight, 12 – 17 metre patrol boats (6).

Land.

- Lorries (2).
- Different types of vans (29).
- All-terrain vehicles (33).
- Automobiles (426)
- Motorcycles (15)

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Electronic resources

- Radio network

- Principal HF-BLU Network with fixed and mobile channels for middle and long-distance links.
- Emergency HF-BLU Network, parallel to the above and with the same number of channels.
- HF/ARQ Teletype radio network guaranteeing message confidentiality.
- UHF/VHF nation-wide network using linked boosters. All mobile devices have equipment for this network.
- Satellite mobile telephony in all patrol vehicles.

- Navigational aids

All patrol vehicles are equipped with high-definition radar, electronic probes, satellite position control systems, plotter navigational systems, giro compasses, electronic compasses and electronic slides.

- Radio location systems

Patrol vehicles are equipped with coded location systems providing naval operations with real-time knowledge of where each patrol vessel is located.

- Special systems

Different types of communication, location, night vision and thermal camera equipment.

Specific databases

- CargoInfo: for air traffic
- Balkaninfo: for road traffic
- MarYtachInfo: for maritime traffic
- Import/Export: for the control of precursor chemical substances

B) What measures have been introduced to guarantee the proper choice of objectives?

The most important objective selection measures are based on information received and investigation carried out by the specialised units and acquisition of the means for observation and surveillance; mostly the SIVE and SIAM systems.

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C) What new methods have been introduced to procure relevant information?

Information is also obtained, studied and analysed in the units specialised in the fight against narcotics trafficking. The fundamental method used is based on the databases on organised crime, drug trafficking and money laundering that undergo constant development. In light of their capacity for co-ordination among all of the law enforcement bodies and the breadth of their data bases, special mention should be made of the data bases currently being developed as part of the National Drug Plan: SENDA and SRI.

D) Agreements with international transport companies.

Pursuant to recommendations made by the World Trade Organisation (WTO), a concerted effort is being made to establish Protocols and Memoranda of Understanding with a view to gaining access to international transport company databases through which relevant information may be obtained on activities that are suspect of illicit narcotics trafficking.

E) Spain has ratified the three United Nations Conventions on matters of drugs:

- The 1961 Convention on Narcotic Drugs amended by a 1972 protocol.
- The 1971 Convention on Psychotropic Substances.
- The 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

169. What measures have been adopted at external borders to detect drugs entering the country illegally thorough land, sea and air borders? Indicate the type and number of detection methods employed and the frequency with which they are used distinguishing among the following:

- A) Dogs:** 235 dogs trained in the detection of narcotics are used on a daily basis for all flights and shipping lines considered “high risk”.
- B) X-ray machines:** X-ray devices for drug detection are installed in all Spanish airports and seaports. Their installation is permanent in the case of baggage transport belts and mobile units are used for the inspection of passengers, commodities, vehicles and baggage stored in the plane’s luggage compartment. These devices have not been quantified because no unified inventory has been done given that this equipment has been acquired by a number of different entities such as the Directorate-General for Customs, AENA, Civil Guard, National Police Corps, etc.
- C) Permanent equipment for the control of maritime and air traffic containers:** There is no x-ray equipment for this type of transport in Spain today. Studies have been made, however, on possible installation in the Port of Algeciras.

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D) Mobile Instruments. Id. Section B)

E) Endoscope. Civil Guard and the Deputy directorate for Customs Supervision have equipment of this type in Customs offices for inspection of hidden or hard to reach spaces.

F) Urine analysis systems for the detection of drugs hidden in the human body: The security forces do not have these resources. Analyses and check-ups of this nature are carried out through the corresponding medical services.

G) Other technical means: The SIVE and SIAM systems mentioned above.

170. Measures taken to obtain information within the framework of international co-operation

A number of agreements and conventions, within the framework of international co-operation, have been adopted between Spain and other countries and organisations that focus on the procurement of information as well as the setting up of protocols for the purpose of sharing such information with a view to improving, on the bilateral and international levels, actions against narcotics trafficking, money laundering and the effective surveillance of Customs and borders.

A) Bilateral agreements that include co-operation in the repression of illegal drug trafficking have been signed with the following countries:

Morocco, France, Italy, Portugal, Slovakia, the Russian Federation, Ecuador, Brazil, Costa Rica, Chile, Israel, Mexico, Bolivia, El Salvador, Venezuela, Panama, Uruguay, Cuba, Malta, Bulgaria, Colombia, Peru, Argentina, Guatemala, Honduras, Dominican Republic and China.

B) Participation in international working groups.

With regard to participation in international working groups, the law enforcement bodies (National Police, Civil Guard, Deputy directorate for Customs Supervision) as well as the National Drug Plan participate in the following international working groups addressing this problem:

- ❖ Customs Co-operation Group of the European Union Council.
- ❖ Council of Europe's Pompidou Airport Control Group.
- ❖ European Union Council's Multi-disciplinary Group on Organised Crime.
- ❖ Border Area within the Schengen Agreements.
- ❖ The Financial Action Task Force on Money Laundering (FATF) and its regional sub-groups CFATF and the Eastern and Southern African Money Laundering Group.
- ❖ Police Co-operation Group of the European Union Council.

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C) Communication and Information Systems

Communication and information systems within the framework of international co-operation are supported by shared databases within the Schengen area and are set up in the Offices of each one of the signing countries and at the headquarters of their law enforcement bodies.

Furthermore, information sharing also takes place within the framework of Europol and Interpol.

C) Criminal Tactics

Criminal tactics are studied and combated by the respective specialised anti-drug investigation operational units of the Law Enforcement bodies:

➤ Civil Guard

Central Anti-drug unit (forming part of the Central Operational Unit-UCO).
Central Money-laundering unit (forming part of the UCO).
Technical Judicial Police Unit (analysis).
Organised Crime and Anti-drug Teams (EDOAS integrated into all of the territorial units).
Risk Analysis Offices (ODAIFI).

➤ National Police

Drug and Organised Crime Units (UDYCO)

➤ Deputy directorate for Customs Supervision

Narcotics and Precursors Investigation Units.
Contraband Investigation Units.
Money-Laundering Investigation Units.
Central Risk Analysis Unit.
Container Control Unit.
Territorial Customs Risk Analysis Units.

171. Results achieved regarding seizures at land, sea and air borders.

A) NATURE AND VOLUME OF MATERIAL SEIZED

The following table shows the different substances seized between the years 1997 and 2001 by Law Enforcement bodies. It should be noted that only the material confiscated at the external land, sea and air borders of the European Union in Spain are reflected in this table.

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AMOUNTS CONFISCATED AT THE BORDERS															
LAND						SEA					AIR				
Substance/ year	1997	1998	1999	2000	2001	1997	1998	1999	2000	2001	1997	1998	1999	2000	2001
Cannabis Kg.	29,731	34,776	37,845	30,909	39,398	172,64 2	228,944	250,383	284,205	322,811	349	298	199	447	799.3
Cocaine Kg.	1,942	2,257	295	1,563	6,256	6,111	1,590	320	1,613	3,627	1,665	1,573	1,042	1,217	1,895
Heroin Kg.	2.56	33.5	9.7	123.8	5.7	0	0	0	0	0	29.13	38.62	23.6	36.5	49.6
MDMA and others (Doses)	4,965	16	41,960	46,380	29,853	0	10	0	337	149	1,248	14,648	9,996	162,385	162,060

Seizures made within national territory or in international waters are not included in these figures.

Source: Annual Statistics of the Commissariat-General of Judicial Police (OCNE).

◆ COUNTRIES OF ORIGIN

* Cannabis

Cannabis that is seized at the Spanish border comes from Morocco, the country where the plant is grown and then processed for consumption. The amounts seized originating in America or Asia are insignificant. 85% of this drug seized in Spain comes from Morocco.

* Cocaine

The majority of the shipments of this drug seized in Spain come from Central and South America especially from Colombia, Venezuela, Brazil and Ecuador. The Caribbean coast countries are being used every more frequently as stopovers and transfer points in the maritime shipment of cocaine to the Iberian Peninsula. Sea and air routes to Spain have remained virtually unchanged over the last several years.

* Heroin

Eighty percent of the land-transported heroin seized in Spain comes from Turkey via the Balkan route. Smaller quantities transported by air come from Holland, Iran, Pakistan and Thailand.

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* MDMA (ecstasy) and other designer drugs

The mostly clearly defined point of origin of these drugs seized has been Amsterdam (Holland) and Germany. Our air border (Madrid-Barajas) is being used as a stopover en route to the USA.

◆ DESTINATIONS

* Cannabis

With regard to the shipments seized at our sea border, Spain is the first stop in the redistribution network to the rest of the European countries.

* Cocaine

Traditionally the Iberian Peninsula (Spain and Portugal) has been considered as the port of entry for cocaine from Latin America. As is the case with cannabis, it is here that drugs arriving to our sea and air borders are redistributed. Over the last several years, Spanish airports have served as a stopover point in the transport of cocaine from America to Africa.

* Heroin

Drugs intercepted at the border are destined for the illicit internal market located in the large cities (Madrid, Barcelona and Seville). Internal movement has been identified in Spain's island airports.

* MDMA (ecstasy) and other designer drugs

Land Customs posts in the Catalan Pyrenees have confiscated drugs destined for the illegal national market. Miami and Chicago (USA) were the final destination of important seizures made at Barajas Airport during the course of the last two years. This Airport has also served as a stopover and final destination in the distribution of this substance from the Netherlands.

◆ Means of transport

* Cannabis

Given the magnitude of the shipments, trafficking in these substances is done principally by sea. Containers and lorries are the most common means used to transport the merchandise in the ships crossing the Strait. Also, given the geographical proximity to the African coast, smugglers use recreational speedboats, sailboats, fishing vessels, etc. Clandestine sport and recreational aircraft have also been used to transport these substances.

* Cocaine

The transport of large shipments of cocaine is sent by ship from the American continent to Europe. Commercial airlines are also very commonly used by the *couriers* of the narcotics trafficking organisations that, making use of a number of different techniques, are able to blend in and retrieve their drugs under the guise of normal cargo.

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* Heroin

This substance is usually transported by road and mostly by passenger vehicles that, departing from Germany and Holland, arrive to our land borders at Irun and La Junquera. To a lesser degree TIR regime lorries have been used, as have tourist buses and campers. Air transport is used on an ongoing basis by a large number of couriers carrying small amounts.

* MDMA (ecstasy) and other designer drugs

Road transport is the option used by traffickers to smuggle amphetamine-type stimulants into our country in private passenger cars and rented self-driven automobiles. Regular commercial flights are being used to re-channel these substances to the USA.

◆ Tactics used by narcotics traffickers to conceal their goods

* Cannabis

Given the magnitude of the shipments, sea or land transport is normally used in cannabis trafficking. Practically all of the hashish seized in Spain comes from Africa. It often arrives in containers with hidden spaces or under the guise of legitimate merchandise. Seizures have also been made with the drug hidden on fishing boats, recreational sailboats, speedboats and other forms of sea transport.

As regards road transport, the most commonly used concealment method has been false bottoms in lorry cargo areas and in expertly constructed spaces in the bodywork of passenger cars. As regards ferry passengers crossing the Strait, it is quite common to conceal the drugs inside one's own body. False bottoms in suitcases is the most common concealment method used in air travel.

In 1999 and 2000 seizures were made of shipments transported in small aircraft making clandestine flights taking off from and landing in non-authorised areas.

* Cocaine

Different concealment methods have been used to bring large shipments of cocaine into our country. The drug is transported via international waters from the production areas in large ships until reaching the vicinity of Spanish jurisdictional waters. From that point the drug is transported to the coast in speedboats.

Another concealment method used in sea travel is in conventional cargo containers where the drug is hidden alongside legitimate commercial merchandise. This is sometimes done by falsifying cargo documents or by concealing the drug in spaces expertly prepared in the container or among its contents.

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In the case of middle-sized or small shipments, the traffickers turn to air transport using smugglers as passengers on board commercial flights. As regards concealment at customs: false bottom in luggage, change of appearance and nature simulating some other legitimate product or mixing it with other substances (usually some sort of drink), inside one's body and recently there has been a proliferation in the use of postal services.

The complicity of airline employees has allowed for the camouflage of the drug in the structure of commercial aircraft.

* Heroin

The concealment method of choice used by international organisations transporting heroin by land to our country is the false bottom in: fuel tanks, vehicle floors and roof, spare tyres, etc. On a smaller scale, this drug may be hidden in the suitcases or hand luggage of smugglers travelling on commercial flights.

* MDMA (ecstasy) and other designer drugs

Strapped to one's body or hidden in suitcases has been the concealment method of choice for this drug detected at our borders both in the case of import from Central European countries and export to the USA. At land borders the drug has been found behind the panels and upholstery of doors and sides of passenger cars. The large demand for these substances will certainly lead to more sophisticated methods of concealment for border crossing purposes.

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XI. DATA PROTECTION

172 Who in your country is the national supervisory authority within the meaning of Article 114 of the Convention?

The Data Protection Agency.

173. Has the supervisory authority used its right of access to the national part of the SIS? Is access occasional or frequent?

Yes, in 1996, 1998 and 2000, inspection visits were carried out on a general basis. Access is implemented according to claims received from the public.

174. Is this right of access used in situ? Has any supervision been organised in parallel (one person in the SIRENE Bureau and the other with the final user)?

Yes, in both the Spanish office assigned maintenance of the SIS (N-SIS) and in the competent police services. The SIRENE office is visited only when necessary.

175. When there is access on the basis of Article 109 of the Schengen Convention, does the national supervisory authority also play a supervisory role or does it simply act as the authorised representative of the applicant? What exactly does the national supervisory authority supervision over an alert relate to: the legality of the procedure or also the validity of the grounds for the alert?

The Spanish legislation grants citizens the possibility to exercise their right of access directly and without charge before those in charge of the files, so that the Agency does not intervene in case of such requests. However, if the person concerned considers that any of its rights have been breached, they may file a claim with the Agency. Once received, it is delivered to the person responsible for the file in order to formulate the arguments considered appropriate. The Agency Director eventually resolves the claim, delivering the decision to those concerned after receiving submissions, reports and evidence, and following other investigative actions, which include examination of the files, should that be necessary, and also including submissions from the party concerned and from the person responsible for the file.

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- 176. How is cooperation between your national supervisory authority and other national supervisory authorities if it transpires that another Schengen country has recorded a person and your national SIRENE Bureau does not have the complete file?**

The Agency's cooperation with other countries is subject to the directives issued on the matter by the Common Schengen Control Authority.

- 177. Is every tenth transmission of personal data recorded for the purposes of supervising the admissibility of the query?**

Yes.

- 178. What rules are applied for retaining data in the national system? What happens to the paper files relating to the SIS alert? Are they archived? Are they destroyed? After how long?**

The national legislation is applied, allowing storage for a year. That is done in an IT support: there are no paper archives.

- 179. Has the list of authorities authorised to consult the SIS been amended recently?**

No.

- 180. Do the authorities responsible for recording vehicle registrations have access to the SIS?**

At present, no; an application is being developed for direct SIS access(chassis number).

- 181. How do you resolve the conflict between the transparency of public action and the protection of data entered in the SIS? How many people have asked to be informed of data concerning them? In how many cases did corrections have to be made?**

A publicity campaign was run in July 1998 about the existence of the Data Protection Agency, the SIS, and the possibilities granted citizens under the Protection of Personal Data Act to exercise their right to know and to amend and cancel data.

The following are the numbers of requests for information:

	1998	1999	2000	2001	2002
Through N.SIS / SIRENE	3	24	21	25	61

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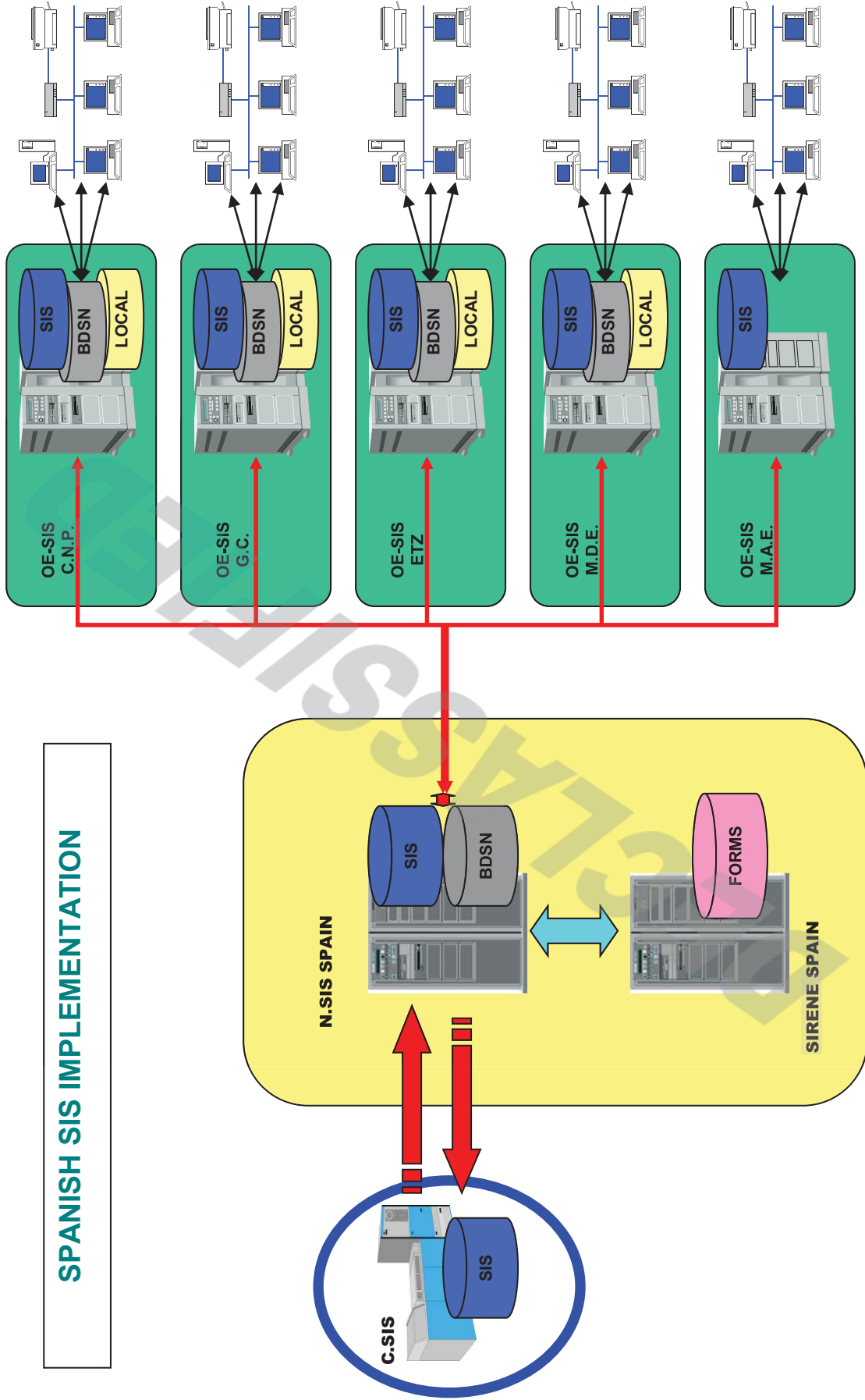
182. How is access to the SIS supervised by local staff in the consulates?

Supervision is in place of the procedures implemented to facilitate consulate access to the SIS and, if necessary, Agency personnel go to the consular offices to run the appropriate checks.

183. Have rules been established concerning duplication of SIS data? Is there a technical copy or a copy "for technical purposes" which would allow user services to access the SIS?

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ANNEX 1



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