033750/EU XXVI. GP
Eingelangt am 06/09/18

Council of the
European Union

Brussels, 6 September 2018
(OR. en, fr)

11447/02
DCL 1

SCH-EVAL 18
COMIX 481

DECLASSIFICATION

of document:	ST11447/02 RESTREINT UE/EU RESTRICTED
dated:	26 September 2002
new status:	Public
Subject:	Replies from Luxembourg to the questionnaire put forward to the Benelux countries with a view to the evaluation of the application of the Schengen Acquis (doc. 8240/02 SCH-EVAL 12 COMIX 282)

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

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

www.parlament.gv.at

COUNCIL OF
THE EUROPEAN UNION

Brussels, 26 September 2002

11447/02

RESTREINT UE

SCH-EVAL18
COMIX 481

DECLASSIFIED

NOTE

from :	the Luxembourg delegation
to :	the Working Party on Schengen Evaluation
Subject :	Replies from Luxembourg to the questionnaire put forward to the Benelux countries with a view to the evaluation of the application of the Schengen Acquis (doc. 8240/02 SCH-EVAL 12 COMIX 282)

I. Control and surveillance of external borders 2

A. Airports 17

B. Sea ports 19

C. Internal land borders 20

II. Schengen Information System 20

III. Vision network 43

IV. Judicial cooperation 45

V. Legislation on firearms 47

VI. Issuing of visas / consular cooperation 49

VII. Readmission 52

VIII. Entry 54

IX. Police cooperation 58

X. Drugs 63

XI. Data protection 71

www.parlament.gv.at

I. Control and surveillance of external borders

1. Which are the authorities charged with protecting/controlling borders in your country? Which Ministry do they come under and how are the authorities structured?
   How is the coordination taking place between the different bodies?

   The Ministry of Justice is responsible for migration matters, and in particular for the protection and control of the border.

   The migration control missions are executed by the Grand-Ducal Police. More precisely, two central services of the Grand-Ducal Police are in charge. First, the SPJ "*Service de Police Judiciaire*" (Criminal Investigation Service) and secondly, the SCA "*Service de Contrôle à l'Aéroport*" (Airport Control Service) execute their migration / border control missions under the authority of the Ministry of Justice. From an administrative point of view, both of them are services of the Grand-Ducal Police, Administration which belongs to the Ministry of the Interior ("*Ministère de l'Intérieur*"). Migration control at the airport Luxembourg-Findel, which is the only external border of Luxembourg, is the main mission of the SCA. The SPJ is in charge of repatriations ("*refoulements*", "*Zurückführungen*"), re-admissions, asylum and other applications. The SCA is also in charge of airport security under the authority of the Ministry of Transport and the Ministry of the Interior. For missions of Customs, reference is made to question 14.

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?

   The Section "Police des Etrangers et des Jeux" of our Service de Police Judiciaire has national authority, concerning illegal immigration. The Section Police des Etrangers centralises all information brought by territorially police, referring problems dealing with foreigner, illegal immigration, false documents, etc.

DECLASSIFIED

The strategies on illegal immigration inside the country and on cross border crime (at internal borders) are mostly handeld by he Section Police des Etrangers of the Service de Police Judiciaire. Organized crime, such as trafficking of human beings, may also be handled by the Section "Organized crime" of our Service de Police Judiciaire.

The Police des Etrangers participates in the "Early warning system" implemented by the CIREFI. This system does diffuse informations about vessels or other transportation modes, carrying refugiees to European countries. Even the very good cooperation between neighbouring states such as Germany, France or Belgian and Netherlands, contributes to an effective anti illegal-immigration working modus.

Regarding our unique external border (airport of Luxembourg) our "Service de Contrôle à l'Aéroport – SCA is also collecting information about illegal immigration. This assessment is principally based on the travel documents. This cases are mostly treated in tight cooperation with the Police des Etrangers, defined as national contact office between our Ministry of Justice and the territorially competent police offices.

The SCA is collecting information about illegal immigration at the external border and does a general risk assessment. In order to establish a "profiling" of illegal immigrants, this assessment is principally based on the travel documents. The strategy about illegal immigration inside the country, the strategy against cross-border crime (at internal borders) and organised crime is handled by the SPJ. At the airport the SCA also executes general police missions, in coordination with the SPJ when appropriate.
The SCA receives information through a close cooperation with other services of the Grand-Ducal Police. Information flows also through a police intranet (RCDFO-messaging). Information is also received by a close cooperation with neighbour States.

DECLASSIFIED

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?*

   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? (Commissions proposal)

www.parlament.gv.at

Il s'agit de la loi modifiée du 28 mars 1972 concernant l'entrée et le séjour des étrangers, complétée par des instructions du Ministre de la Justice.

Au Luxembourg, il n'existe pas de "zone de frontière interne".

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?

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

   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?

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

   The only external border is the airport Luxembourg-Findel. The staff present at this only external border crossing point is the staff of the SCA.
   The organisation of the SCA :
   The SCA is placed under the leadership of the Director of the SCA and counts currently 26 officers.
   Beside the Director, there is a Chief of the service and another police officer in charge of secretary work and staff management.
   17 officers control the border (in the first line, in the control booths), helped when necessary by 6 other police officers. Their working plan is organised in several shifts covering 24 hours. Their section is called SCF – "Service de Contrôle frontalier" (Border control service). SCF officers are working in two control booths (one for 2 officers, one for 1 officer) at the arrival and also in two control booths (each for 1 officer) at the departure.
   Second line border control and travel documents analysis are done by two permanent police officers. Their section is called SDV – Service Documents de Voyage (Travel document service).

DECLASSIFIED

www.parlament.gv.at

Five officers are working on security matters and are ready for police interventions. Concerning the level of detection, in 2001, 129 irregular cases of all kinds (false documents at entry or exit, alerts on SIS, lack of all or of the appropriate documentation, …) are recorded statistically.

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

SCA police officers have got four kinds of training.

1. Each police officer of the Grand-Ducal police gets a basic training at the Police School ("*Ecole de Police*") for two years, including a course on travel documents.

2. After 6 years in duty, each police officer can pass the "*examen de promotion*" in order to obtain the quality of an OPJ – "officier de police judiciaire". The OPJ has got different powers in judicial inquiries than the APJ ("*agent de police judiciaire*").

3. In order to become a police officer of the SCA, the candidates, who must have the OPJ-quality, have to pass an exam. The success in the "*examen de promotion*" is one of the conditions to be admitted to this exam. The questions in the (theoretical) exam for admission to the SCA are about the Schengen agreement, the Convention implementing the Schengen agreement and immigration laws. Second part of this exam is a test of the language skills in German, French and English.

4. For the SCA officers there is continuous training consisting in:

- continuous training on travel documents (Edison, Docucenter) with a permanent update of new information in a special folder;

- participations on seminars, conferences on fraudulent documents (for instance ODYSSEUS);

- participations on exchange programs within ODYSSEUS;

- and continuous training organised by the Police School.

DECLASSIFIED

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

A copy of the Common Manual is in the office of the SCF (border control service) at disposal at any moment to every police officer. Each newly recruited police officer of the SCA is made familiar to the Common Manual and is applying it in his daily work.

www.parlament.gv.at

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.

There is no such concept.

8. What technical equipment is available at the border crossing-points? What equipment has recently been introduced, for instance:
   - terminals for consulting SIS (fixed or mobile),
   - Schengen entry and exit stamps,
   - equipment for checking documents?

(a) Equipment of SCF (Border control service):

1. In each control booth:

a fixed SIS terminal, magnifier, retro-check with UV-light and with a white light, Schengen entry or exit stamp.

Machine readers for machine-readable travel documents are planned to be installed.

2. In the office of the SCF:

two fixed SIS terminals, microscope, magnifier, "confirm verifier" (3M laminate check), UV-light,

3. Access to the SDV office with possibility to use the SDV equipment

(b) Equipment of SDV (Travel document service):

Docucenter 3000 with spectroscopy (since January 2001) connected to a computer, EDISON-System (computer based software with pictures and descriptions of more than 1500 worldwide travel documents), collection of specimen of passports and ID-cards from Europe and the rest of the world, an internet-computer, and access to the Interpol-site.

DECLASSIFIED

www.parlament.gv.at

9. What technical equipment has been made available to the forces responsible for controlling green and blue borders, for instance:
   - helicopters/aeroplanes,
   - ships/boats; how many patrol boats are available for monitoring sea borders [by category according to length and maximum speed in knots],
   - night vision/infrared detection equipment?

   Recently, the Luxembourg police authorities signed a "air – cooperation" with Belgian police, allowing Belgian and Luxembourg police helicopters to cross the bilateral border.

   This helicopters are equipped with night vision and infrared cameras.

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

    The monitoring of land border can be operated by police helicopter.

    Luxembourg does not have any sea border but does have a small river border with Germany. This border also can be controlled by a bilateral operated custom-ship.

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

    /

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)?

    /

DECLASSIFIED

www.parlament.gv.at

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?

/

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

/

14. Do customs services also take part in border controls? What is their role? What is the availability of staff? How does the cooperation and the coordination of actions with border control authorities work?

At the air border, in general, only the SCA is in charge of traveller's controls, while as Customs are in charge of controls of goods carried by the travellers.
At the green border, Customs are participating in the checks at the internal borders when these checks are decided (article 2.2 of the Convention implementing the Schengen Agreement). In that case, Customs and the SPJ work closely together.
Border controls by customs services concern mainly traffic and shipments of goods; besides, certain national legal dispositions confer different general police attributions to customs officers. These general police attributions are normally carried out by the same staff available for fiscal border controls. Supplementary staff may be requested by the government for greater general police operations at the national borders. The cooperation and coordination of such border police actions are generally executed under patronage of the Ministry of Justice.

Les services douaniers participent activement à la surveillance des frontières quelles soient extérieures (Aéroport de Luxembourg) ou intérieures conformément à l'article 2 de la Convention d'application de l'Accord de Schengen.

Les attributions de l'Administration des Douanes et Accises dans l'exercice des contrôles aux frontières sont de nature économique, sanitaire, fiscale ou policière.

DECLASSIFIED

www.parlament.gv.at

La coopération avec les autres services répressifs chargés de la surveillance des frontières, en l'occurrence la Police Grand-Ducale, est jugée efficace.

Des opérations communes de la police et de la douane peuvent être décidées ponctuellement sur initiative du Ministère Public ou sur initiative des services concernés. Ces interventions en commun entre la police et la douane impliquent notamment des concertations préalables entre les services policiers et douaniers compétents pour déterminer l'établissement d'équipes mixtes de contrôle et pour planifier le déroulement des opérations.

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).

2001, 158 refusal of entry the Luxembourg territory were notified. The main nationalities were: Yugoslavia, Cap Verde, Brazil, Albania, Marocco, Russia, Guinea-Bissau, Equator, Russia, Ukraine, Algeria, Tunisia.

DECLASSIFIED

DETAIL STATISTIQUE DES MESURES DE POLICE DES ETRANGERS DE L'ANNEE 2001

Janvier 2001

Refus d'entrée et de séjour

Nom	Prénom	Nationalité	Date	Nombre
		Cap-Verdienne	05.01.2001	3
		Cap-Verdienne	11.01.2001	
		Cap-Verdienne	10.01.2001	
		Yougoslave	11.01.2001	2
		Yougoslave	23.01.2001	
		Roumaine	05.01.2001	1
		Pakistanaise	05.01.2001	1
		Algérienne	08.01.2001	1
		Macédonienne	09.01.2001	1
		Marocaine	05.01.2001	1

www.parlament.gv.at

Nom	Prénom	Nationalité	Date	Nombre
		Bolivienne	05.01.2001	1
		Bulgare	11.01.2001	1
		Albanaise	11.01.2001	1
		Ukrainienne	23.01.2001	1
		Tunisienne	25.01.2001	1

Février 2001

Refus d'entrée et de séjour

Nom	Prénom	Nationalité	Date	Nombre
		Yougoslave	01.02.2001	3
		Yougoslave	20.02.2001	
		Yougoslave	13.02.2001	
		Albanaise	06.02.2001	2
		Albanaise	01.02.2001	
		Algérienne	15.01.2001	1
		?	?	1
		Hongroise	02.02.2001	1
		Cap-Verdienne	01.02.2001	1
		Macédonienne	02.02.2001	1
		Portugaise	06.02.2001	1

Mars 2001

Refus d'entrée et de séjour

Nom	Prénom	Nationalité	Date	Nombre
		Russe	30.03.2001	1
		Cap-Verdienne	15.03.2001	1
		Polonaise	15.03.2001	1
		Canadienne	20.03.2001	1

DECLASSIFIED

www.parlament.gv.at

Avril 2001

Refus d'entrée et de séjour

Nom	Prénom	Nationalité	Date	Nombre
		Brésilienne	03.04.2001	15
		Brésilienne	03.04.2001	
		Brésilienne	03.04.2001	
		Brésilienne	03.04.2001	
		Brésilienne	03.04.2001	
		Brésilienne	03.04.2001	
		Brésilienne	03.04.2001	
		Brésilienne	03.04.2001	
		Brésilienne	03.04.2001	
		Brésilienne	03.04.2001	
		Brésilienne	03.04.2001	
		Brésilienne	03.04.2001	
		Brésilienne	03.04.2001	
		Brésilienne	03.04.2001	
		Brésilienne	03.04.2001	
		Cap-Verdienne	03.04.2001	4
		Cap-Verdienne	03.04.2001	
		Cap-Verdienne	03.04.2001	
		Cap-Verdienne	23.04.2001	
		Equatorienne	12.04.2001	2
		Equatorienne	18.04.2001	
		Roumaine	18.04.2001	1
		Guinée-Bissau	03.04.2001	1
		Yougoslave	19.04.2001	1
		Chinoise	13.04.2001	1

DECLASSIFIED

www.parlament.gv.at

Mai 2001

Refus d'entrée et de séjour

Nom	Prénom	Nationalité	Date	Nombre
		Yougoslave	31.05.2001	5
		Yougoslave	03.05.2001	
		Yougoslave	03.05.2001	
		Yougoslave	03.05.2001	
		Yougoslave	03.05.2001	
		Brésilienne	30.05.2001	2
		Brésilienne	08.05.2001	
		Portugaise	12.05.2001	1
		Congolaise	16.05.2001	1
		Roumaine	14.05.2001	1
		Equatorienne	18.05.2001	1
		?	?	1
		Ukrainienne	02.05.2001	1
		?	?	1
		Cap-Verdienne	04.05.2001	1
		?	?	1
		Croate	18.05.2001	1

Juin 2001

Refus d'entrée et de séjour

Nom	Prénom	Nationalité	Date	Nombre
		Brésilienne	14.06.2001	17
		Brésilienne	14.06.2001	
		Brésilienne	14.06.2001	
		Brésilienne	14.06.2001	
		Brésilienne	14.06.2001	
		Brésilienne	14.06.2001	
		Brésilienne	14.06.2001	
		Brésilienne	14.06.2002	
		Brésilienne	14.06.2001	

DECLASSIFIED

www.parlament.gv.at

Nom	Prénom	Nationalité	Date	Nombre
		Brésilienne	14.06.2001	
		Brésilienne	14.06.2001	
		Brésilienne	14.06.2001	
		Brésilienne	14.06.2001	
		Brésilienne	14.06.2001	
		Brésilienne	14.06.2001	
		Brésilienne	14.06.2001	
		Brésilienne	14.06.2001	
		Cap-Verdienne	14.06.2001	6
		Cap-Verdienne	14.06.2001	
		Cap-Verdienne	14.06.2001	
		Cap-Verdienne	14.06.2001	
		Cap-Verdienne	14.06.2001	
		Cap-Verdienne	14.06.2001	
		Angolaise	14.06.2001	2
		Angolaise	14.06.2001	
		Guinée-Bissau	14.06.2001	2
		Guinée-Bissau	16.06.2001	
		Camerounaise	14.06.2001	1
		Roumaine	08.06.2001	1

DECLASSIFIED

Juillet 2001

Refus d'entrée et de séjour

Nom	Prénom	Nationalité	Date	Nombre
		Brésilienne	18.07.2001	16
		Brésilienne	18.07.2001	
		Brésilienne	19.07.2001	
		Brésilienne	18.07.2001	
		Brésilienne	18.07.2001	
		Brésilienne	19.07.2001	
		Brésilienne	17.07.2001	
		Brésilienne	17.07.2001	
		Brésilienne	18.07.2001	

www.parlament.gv.at

Nom	Prénom	Nationalité	Date	Nombre
		Brésilienne	18.07.2001	
		Brésilienne	19.07.2001	
		Brésilienne	18.07.2001	
		Brésilienne	18.07.2001	
		Brésilienne	18.07.2001	
		Brésilienne	18.07.2001	
		Brésilienne	18.07.2001	
		Cap-Verdienne	18.07.2001	
		Cap-Verdienne	?	9
		Cap-Verdienne	18.07.2001	
		Cap-Verdienne	18.07.2001	
		Cap-Verdienne	18.07.2001	
		Cap-Verdienne	19.07.2001	
		Cap-Verdienne	19.07.2001	
		Cap-Verdienne	17.07.2001	
		Cap-Verdienne	05.07.2001	
		Yougoslave	04.07.2001	
		Yougoslave	05.07.2001	3
		Yougoslave	05.07.2001	
		Tunisienne	05.07.2001	1
		Indienne	04.07.2001	1
		Guinée-Bissau	19.07.2001	1
		Bosniaque	14.07.2001	1
		Mozambicaine	19.07.2001	1

DECLASSIFIED

www.parlament.gv.at

Août 2001

Refus d'entrée et de séjour

Nom	Prénom	Nationalité	Date	Nombre
		Algérienne	24.08.2001	1

Septembre 2001

Refus d'entrée et de séjour

Nom	Prénom	Nationalité	Date	Nombre
		Yougoslave	05.09.2001	3
		Yougoslave	05.09.2001	
		Yougoslave	24.09.2001	
		Cap-Verdienne	05.09.2001	2
		Cap-Verdienne	05.09.2001	
		Libanaise	25.09.2001	1
		Française	03.09.2001	1

Octobre 2001

Refus d'entrée et de séjour

Nom	Prénom	Nationalité	Date	Nombre
		Equatorienne	15.10.2001	2
		Equatorienne	15.10.2001	
		Yougoslave	23.10.2001	2
		Yougoslave	03.10.2001	
		Portugaise	24.10.2001	1
		Ukranienne	31.10.2001	1
		Irakienne	21.10.2001	1
		Belge	24.10.2001	1
		Française	24.10.2001	1
		Bosniaque	03.10.2001	1
		Russe	21.10.2001	1

DECLASSIFIED

www.parlament.gv.at

Novembre 2001

Refus d'entrée et de séjour

		Nationalité	Date	Nombre
		Française	08.11.2001	2
		Française	06.11.2001	
		Cap-Verdienne	27.11.2001	1
		Polonaise	13.11.2001	1
		Croate	13.11.2001	1

Total des mesures de Police des Etrangers de l'année 2001

EXPULSIONS:	11
REVOCATION D'ASP:	0
REFUS D'ENTREE ET DE SEJOUR:	158
REFUS DE CARTE D'IDENTITE D'ETRANGER:	2
REFUS DE RENOUVELLEMENT DE LA CARTE D'IDENTITE D'ETRANGER:	0
RETRAIT DE LA CARTE D'IDENTITE D'ETRANGER:	0
L'ARRETE REFUS DE CARTE D'IDENTITE A ETE REPORTE:	1
L'ARRETE D'EXPULSION A ETE REPORTE:	1
L'ARRETE REFUS D'ENTREE ET DE SEJOUR A ETE REPORTE:	4

Before 2002, our statistics give indications about all kinds of false travel documents. Since the statistics' format changed in the beginning of 2002, our statistics also give information on refusals of entry. As this information is not yet available, the question will be answered to the visiting expert group.

16. How are the Netherlands dealing with exceptional situations like in: St. Maarten/St Martin, Antilles?

/

DECLASSIFIED

www.parlament.gv.at

17. Are the cargo boats controlled by the authorities when they enter territorial waters? Under which conditions and procedures does the control take place?

/

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

/

A. Airports

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

Departures

The separation of extra- and intra-Schengen travellers is done by infrastructure and by different gates. The gates for extra-Schengen departures are together and separate from the intra-schengen departure gates.

The passengers travelling intra-Schengen are passing on special gates without a border control (gates 1 to 6).

Passengers exiting Schengen are passing the border control of the SCA and board on different gates (gates 7 to 9).

Arrivals

There are two different entries for passengers entering the terminal. They do not mix before the border control line. Intra-Schengen passengers arrive on the left hand side of the terminal and Extra-Schengen passengers arrive on the right hand side of the terminal.

Generally, the parking area for the aircrafts ("*le tarmac*") is divided into the Schengen area (left hand side of the terminal) and the Extra-Schengen area (right hand side of the terminal). Otherwise the passengers are transported by bus to the accurate entry gate.

DECLASSIFIED

www.parlament.gv.at

20. 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?
On how many airports has the separation been operated by physical means?

At Luxemburg-Airport a separation between Schengen- and Extra-Schengen flights at the departure as well as at the arrival is done.
Separation of persons covered by Community law and third countries nationals is not realized. Signs are at disposal of the officers for distinguishing a UE control booth and a non-UE control booth. This method is not functioning and therefore these signs are not used. A possible explanation is that there are only very few non-UE passengers.
We made in the past the experience that it is quite difficult to line up the travellers before the right control booth. If you handle it in a strict way, passengers have often to change the line to present them in the adequate line. In order to avoid permanent discussions with the arriving passengers and in a customer friendly way, this distinction is not made.

21. How do the Netherlands deal with particular flights of origin, like the Antilles?

/

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

There is a special area for non-admissible passengers ("transit room"). Non-admissible passengers leave with the next flight in order to return to their origin. Until their departure they stay in this special area for a maximum period of time of 24 hours. This area is situated in the terminal.
If this room is vacant, it can be used for the search of the hand luggage of asylum seekers. An asylum seeker normally does his claim at on of the control booths. Whenever a person requested asylum, the SPJ is immediately informed by the SCA and the person is guided to the office for asylum seekers outside of the airport in Luxembourg City.
There is no special area for asylum seekers at the airport.

DECLASSIFIED

www.parlament.gv.at

B. Sea ports

23. 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)?

/

24. 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?

/

25. 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 during their stay in ports?

/

Do your country have national administrative regulations regarding the concept of controls with reference to the different types of 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?

/

DECLASSIFIED

www.parlament.gv.at

C. Internal land borders

26. With reference to Article 2(2) of the Schengen Convention, are border controls still carried out at the land borders with other Schengen States? If so, how and to what extend and how does your country justify temporary reintroduction of border controls under Article 2(2) of the Schengen Convention, which is designed for exceptional situations lasting for a limited period of time?

Contrairement à d'autres Etats Schengen, le Luxembourg n'effectue pas de contrôle systématique en rapport avec l'article 2 (2) de la Convention de Schengen. Les derniers contrôles ont été opérés entre décembre 2001 et janvier 2002 pour des motifs de sécurité en relation avec l'introduction de l'Euro. Dans le passé, d'autres contrôles très sporadiques ont pu être effectués dans le cadre de la lutte contre l'immigration clandestine.

II. Schengen Information System.

A. Schengen Information System

- **Organizational conditions**

27. Geographical location of the N.SIS.

The NSIS Luxembourg is located at the building of the Police Grand-Ducale, rue Pierre et Marie Curie, L – 2957 Luxembourg.

DECLASSIFIED

www.parlament.gv.at

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

The NSIS Lu is composed of a technical section and an operational one and together with SIRENE the NSIS depends on the Direction de l'Information of the Police Grand-Ducale under the orders of the Ministry of Interior.
NSIS is at this point of view not an independent administrative structure in itself, but rather a functional unit. This structure is submitted to the same procedures and ways of functioning as those normally applied by all national administrations.
The technical staff is composed today of 4 police engineers.

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

The head of SIRENE is a senior officer with the rank of a Premier Commissaire Divisionnaire who is at the same time Director of the Division of Information of the police.

30. 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?

Of course the list is in accordance with article 1001. According to the list updated on January 2002 the following services have access to the SIS data:

Police, Customs,	**all categories**
Ministry of Justice (alien section),	**article 96**
and the Ministry of Foreign Affairs (Visa section),	**article 96**
2 Prosecutors offices	**articles 95, 97, 98, 99**

- **Technical conditions**

31. 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;
    Input function only possible at Sirene Office
    700 terminals for consultation

DECLASSIFIED

www.parlament.gv.at

(b) the border control authorities;

4 terminals for consulting only (airport)

(c) diplomatic missions and consular posts;

no direct access to NSIS

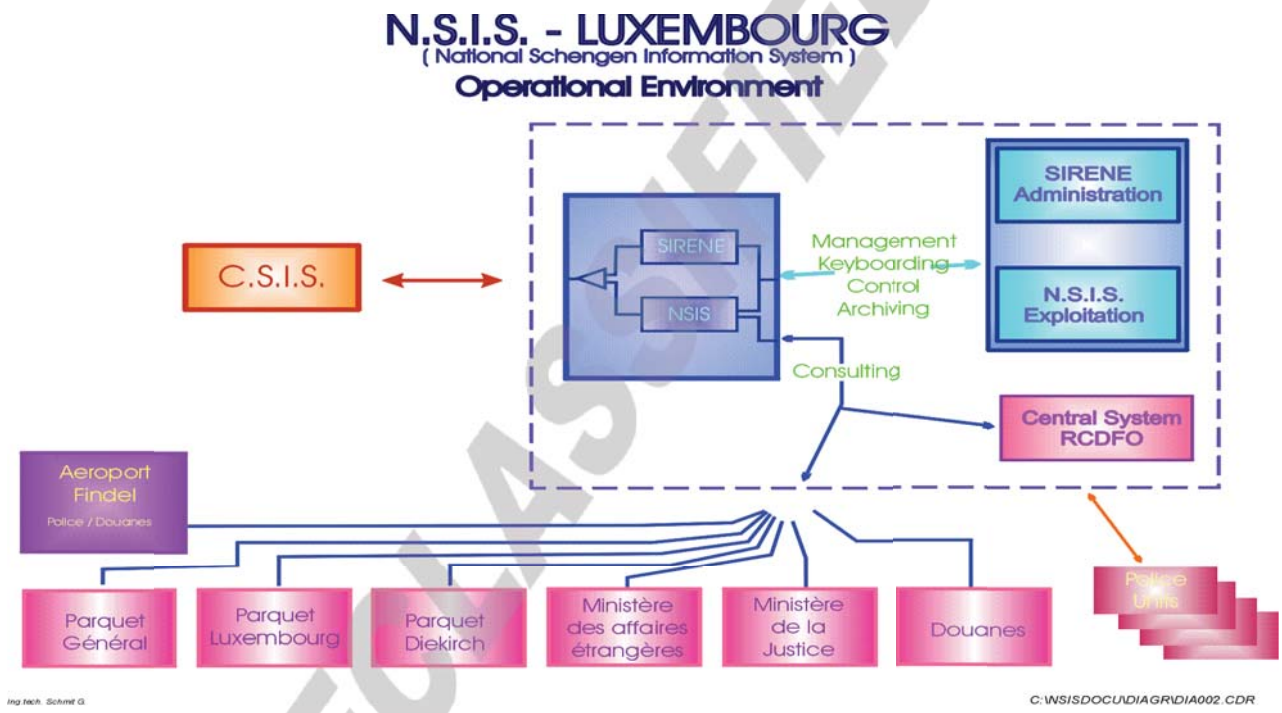
(d) the authorities responsible for aliens and asylum;

2 terminals for consulting only

(e) customs authorities?

X terminals for consulting only.

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



DECLASSIFIED

33. 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.

There is no automatical dataflow between national systems and the NSIS. As legislation prohibits computerized connection between personal data bases, it was decided that every system has to be feeded individually. This is possible due to the fact that very few records go to SIS. SIRENE makes all inputs and controls.

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

The end user addresses a request through the national police system (RCDFO) to the NSIS, the response is returned the same way to the end user.
Only a few end users (border control at the airport, ministry of justice and ministry of foreign affairs) have a direct access to NSIS.

35. 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?

Consultation of SIS data by end users can be made to the national intervention centre of the police by radio, or directly by terminals located at every local police station. Procedure is the same for every police end user.

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

If there is a control on the road, the police officers contact by radio the national intervention centre in order to control personal data. The intervention centre checks as well the SIS as the national data base. When control are operated at the ocal police station, the officer can consult the SIS or the national systems by his own.

DECLASSIFIED

www.parlament.gv.at

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

- **Total number of consultations done by all users in 2001, 180.000 for a total of 764 users having used the SIS**
- **Statistics show that range of frequency of use go from 18.785 requests for a single user to only one request for other users.**
- **Number of consultations done by local police users 133.000,**
- **Ministry of Justice 2.000,**
- **Ministry of Foreign Affairs 17.000, and**
- **border control on the airport 28.000.**

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

In 2001 there have been 180.000 requests and per category:

BK	135
DB	4.000
FA	215
ID	67.000
VE	17.000
WP	91.000

rounded figures

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

Both systems have to be consulted separately, a modification is planned in a near future.

DECLASSIFIED

www.parlament.gv.at

40. Accessibility of the database for end users: location and number of access points, current response times measured on national systems and response time for N.SIS consultations.

Some 85 access points in the police (police stations and services), 5 in customs, 1 in ministry of justice, 1 in ministry of foreign affairs, 2 in prosecutors offices
For simple queries the response time is less than 5 seconds.
The response time for other queries depends on the degree of complexity of the query. But is less than 1 minute.

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

No data are transmitted directly by electronic means to and from the NSIS database inside Luxembourg. Manuel input of 5 – 10 records per day by SIRENE (see question 18).

42. How do the consular posts of your country access the SIS?

Consular posts have no direct access to SIS.
They have to put in a request directly to the Ministry of Foreign Affairs in Luxembourg which has access to SIS.
Informations are exchanged either by the normal diplomatic channel or in case of urgency via crypto fax.

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

n.a.

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

n.a.

- **Data**

DECLASSIFIED

www.parlament.gv.at

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

2001	
Art. 95	**109**
Art. 96	**329**
Art. 97	**184**
Art. 98	**327**
Art. 99	**1**
Art. 100	**6.345**

46. Entering SIS alerts

(a) Do the competent authorities enter the alerts centrally or locally?

Centrally in SIRENE after postal transmission by authorities.

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

n.a.

(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?

n.a.

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

Alerts are inserted in function of the requirements of the judicial inquiries or the police searches. There isn't any and there will not be any system of quoats.

(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?

n.a.

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

Yes, manually.

(g) If so, are data synchronised locally or centrally?

Centrally

DECLASSIFIED

www.parlament.gv.at

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

No, until now there has been any need for doing it on take-up rates.

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

At SIRENE level

The measures consist of controls applied to all sort of alerts:

Legal check by legal advisor in SIRENE

Detection of "doublons" and compatibility rules ,

Detection of abnormalities concerning the validity of information

Filtering of art. 95 alerts,

Filtering of art. 99 alerts.

49. 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 Ministry of Justice invites the different judicial levels to make as often as possible use of the SIS. But according to the regulations of acces to information systems, it is the local magistrate who decides whether to use or not to use the SIS. But the magistrate can decide on his own to use only Interpol or Schengen channel, or both at the same time. Numerous actions of formation and information have been taken by the director of Information of the Police in order to convince the magistrates to use the Sirene channel as often as possible.

This usage is getting better and better.

DECLASSIFIED

www.parlament.gv.at

50. Management of SIS alerts

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

Alerts are entered centrally and so one list is kept centrally.

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

Classification can be done on alert category or on date of entry or on authority.

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

Centrally by operators and with the help of SIRENE application.

(d) Are these lists compiled centrally or locally?

Centrally.

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

The operator in charge of alert has the obligation to guarantee the deletion of former alerts. Systematic control is operated periodically by comparing the automatically computed lists of existing alerts and operated hits.

(f) What kind of checks are carried out?

Manually and computer operated checks.

(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)

Deletion is operated once all measures have been taken and the magistrate/or the authority in charge of the affair advises the SIRENE office to delete the alert (Art. 95, 97, 98 and for all objects in a judicial procedure = responsible magistrate, art. 96 = Ministry of Justice).

(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)?

Comparison of data on alerts and data of hits, automatically operated as well as manually operated ones. Responsibility of the operators.

DECLASSIFIED

www.parlament.gv.at

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

If on the central level (Sirene office) such a situation is detected, report is immediately made to the competent authority and it is asked to give formal instructions in order to delete immediately the alert. Until now, this procedure had to be adopted only once in cas of an article 96 alert.

- **Data protection and other legislation**

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

A lot of legislative and regulatory provisions are applicable concerning data protection in relation with NSIS:

- Loi du 9 août 1993 modifiant la loi du 31 mars 1979 réglementant l'utilisation des données nominatives dans les traitements informatiques,

(basic data protection law – to be changed in the next months)

- Règlement grand-ducal du 9 août 1993 relatif à l'organisation et au fonctionnement de l'autorité de contrôle prévue par la loi du 31 mars 1979 réglementant l'utilisation des données nominatives dans les traitements informatiques

- Règlement grand-ducal du 9 août 1993 autorisant la création d'une banque de données nominatives constituant la partie nationale du système d'information Schengen (NSIS),

- Règlement grand-ducal du 9 août 1993 modifiant le règlement du 2 octobre 1992 relatif à la création et à l'exploitation d'une banque de données nominatives de police générale.

52. Security measures at the N.SIS's pursuant to Article 118 of the Schengen Convention.

Controls on:

(a) entry;

Acces is limited to authorised personal only (electronic and physical control at the entry of police building, electronic identification before entering NSIS)

Card reader access to SIRENE premises foreseen.

(b) data carriers;

Operations only available on personal and limited login and password.

No download of SIS records to external disks possible.

DECLASSIFIED

www.parlament.gv.at

(c) users;

Consultation of worm entries, end users only can consult the data, it is technically impossible to have changes operated on the file by an end user.

(d) access;

Control on worm disks.

All actions on SIS by users are logged since the beginning.

(e) transmission;

Control on worm disks.

(f) input.

Only SIRENE members based on their job description.

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

Access to these premises are limited to authorized persons only, controlled by electronic identification to the building. Card reader access to SIRENE premises foreseen.

54. 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?

Login and password procedure

Regular changes requested by system

For NSIS National control authority enforced to indicate for each request a reason of request. This field is compulsory, without introducing reason of request, the system doesn't give any answer. A list by each user of requests and reasons is computerized regularly and controlled by the national control authority based on the traces .

55. Control of computerised access to SIS data.

Login and password procedure.

Regular changes requested by system.

All actions on SIS by users are logged since the beginning.

DECLASSIFIED

www.parlament.gv.at

56. 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.

The liberty of access and the range of accessible data is controlled by password, according to the password access is denied or authorized to certain categories of data.
Police and customs membres have access to all categories.
All actions on SIS by users are logged since the beginning.

- **Education and information**

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

All new operators get specific theoretical training and are under supervision of an experienced operator for at least 2 months. Specific trainings on special topics are organized everytime this seems necessary.

58. Training and information for end users. In particular:
   - Are newly-recruted policemen given training in the use of SIS? If so, how many hours?
     Newly recruited policemen are given training in the use of SIS. This training consists in a theoretical part of 8 hours and a practical part (visit of Sirene Luxembourg) of 4 hours.

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

Yes, normally continuing training in the use of SIS is organized at least once a year for about 4 hours in form of a compulsory course for all policemen having reached the level of inspector. For all higher rank officers, senior officers or other user of the system, seminars or conferences of about 4 hours are organized at least once a year about different topics including SIS.

DECLASSIFIED

www.parlament.gv.at

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

Promoting of new users by experienced users and operators.

60. 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?

- **specific training,**
- **common training (see question 30) also by multiplier effect**
- **regularly published internal notes and police monthly newspaper.**

61. 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?

At the moment the Convention entered into practice, the Ministry of Justice together with the persons responsible on national police level published several notes presenting the different working methods of judicial and police cooperation forseen by the treaty. During initial and continuing training of the magistrature, the Director of Information of the police who also is head of Sirene regularly gives conferences or seminars on the SIS and its advantages/differences to Interpol.

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

The Director of Information of the police or the Sirene office only can stress on the opportunity and importance of using SIS, but the final decision to use the Schengen or the Interpol channel is up to the magistrate taking responsibility.

DECLASSIFIED

www.parlament.gv.at

B. SIRENE

- Organizational conditions

62. Geographical location of the SIRENE Bureau.

The Sirene office is situated in the same building as NSIS, but on the second floor, rue Pierre et Marie Curie, L – 2957 Luxembourg.

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

The Sirene office is composed of the head of Sirene (Director of Information) a judicial adviser and 12 staff members, these members are police and customs officers.
The office is on duty 24 hours a day.
During the night shift only urgent matters are treated directly - One operator
During office hours there is always a system administrator present who is working together with 2 operators.
During night time there is always a system administrator on duty and he can easily been reached in case of emergency.
There is no specialisation in the work of operators. Every operator should be able to take any case.
All information exchange is stored automatically with a summary of the situation.

DECLASSIFIED

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

The only competence of an end user is that of consulting the SIS. The Sirene operators are the only ones authorized to create, modify or delete alerts on requests given by the responsible authorities.

www.parlament.gv.at

65. What practical steps have been taken 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?

The judicial advisor of the Sirene office has the task, in cooperation with the prosecutors' office, to control if every new art. 95 alert is in conformity with the existing rules, and determine the actions to be taken on national level. He has competence to appose a flag and guarantees that all procedures in relation with extradition are respected.
No official priority is given to SIS records.

66. 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 Ministry of Justice, department of foreigners is in charge of issuing article 96 alerts.

(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?
As all information is entered centrally it is Sirene office which inserts all article 96. The Ministry of Justice transmits all necessary information to the Sirene office which puts the information into form. The channels are officially defined since 1995

(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?
Normally if there is a decision which is not recorded in SIS, Sirene office has no direct access to this sort of information but can or may ask the ministry of Justice to get this information, but in this case it will last longer than in article 96 cases, normal administrative procedures have to be respected.

DECLASSIFIED

www.parlament.gv.at

(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?
The Sirene office as a "liaison office " for the ministry of justice .

67. 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 an alert on a missing minor)? If not, are steps being taken to this end?
Sirene operators are allowed to enter data in the national police system.
For example Sirene office runs itself the national database on stolen vehicles and on missing persons in order to have a complete overview of stolen cars and persons in all systems; national, Schengen and Interpol.

(b) Is the Sirene Bureau able to access and enter data into other databases (vehicle registration databases, aliens' registers, population register), is there coordinated and effective cooperation with the corresponding departments?
There is a coordinated and effective cooperation but the Sirene office is not allowed to change any information in those databases.

(c) Is the Sirene Bureau well-known to and accepted by the national police? Does information mostly come through quickly and effectively? Can the Sirene Bureau give instructions or does it have any other ways of influencing cooperation? Does police training cover the Sirene Bureau?
Generally the Sirene office is well accepted by the national police and all information is let up to Sirene office quickly and efficiently by all police stations. Cooperation is fairly good not only due to intervention of Sirene office, but although due to a strong will of the police stations to work effectively with the Sirene office. Sireen matters are part of trianing courses given by SIRENE responsibles.

DECLASSIFIED

www.parlament.gv.at

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

Regarding article 39, the Sirene office can forward directly all sorts of informations to which it has a direct access, but normally all art. 39 requests are transmitted to the competent service, Sirene office only acts as a coordinator between the requesting Sirene Office and the competent services.

68. Working relations between the Sirene Bureaux, 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)?

Until now Sirene Luxembourg thinks that the time taken to respond is generally quite good but certainly depends on the sort of alert, more adequate in the case of article 95 than in case of an article 25.2 consultation.

Delays for article 96 informations could be better .

Language is still a barrier

(b) Is the substance of the responses given when processing hits on the whole found to be good / acceptable / inadequate

variable depending on the alert category concerned / unacceptable for certain alert categories (state which categories)?

Up to now responses given were good and in case of problems these were handled in a bilateral pragmatic way.

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

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?

As the structure of Sirene is very central, small, easy and thus comprehensive, outsiders have no problems in understanding the tasks of Sirene.

All operators know their duties

Staff members have a good knowledge of police or legal affairs,

language skills are good, (German, French and English for everybody)

furthermore, they know very well the Schengen convention and functioning of SIS.

DECLASSIFIED

www.parlament.gv.at

There always have been basic and specialized training courses.

Since the beginning of this year, an exchange program on Sirene level has been started.

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

The staff is informed about all developments/changes that will have an influence on the daily work of the Sirene office.

(e) Is such joint training desirable?

Joint training and exchange programs are of importance for Sirene Luxembourg in order to get an overview of all existing procedures in the different Sirene offices, but also to forge more personal and direct relations between operators of the different Sirene.

Sometimes you also get some hints about tricks or new technologies.

69. 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 to the Sirene Bureaux are not the same (other Ministries, other police services) in the exchange of information, clashes in areas of competence and responsibility).

As in Luxembourg both staffs, Schengen and Interpol are merged in the same office, it is easy to get information from one to the other.

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

Good but clearly depends on reactiveness of the officers on duty.

70. 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)

DECLASSIFIED

www.parlament.gv.at

Judicial authorities are very flexible, they normally transmit and ask for further information through the Schengen channel; but if the authorities of the country in which there has been a hit on an alert, requires an answer through the Interpol channel it well get an answer through this channel.
They request the documents to be in French, German or English.

- **Technical conditions**

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

UPS

- **Data**

72. Follow-up action

(a) Are hits following alerts recorded manually or by computer?
The hits are recorded in a database by operators for follow up and statistics

(b) If they are recorded by computer, how is this done?
The hits are recorded in a database by operators

(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?
No.

(d) Is the number of SIS searches at central or local level logged?
All searches are logged and the data are provided to the National Supervisory Authority every 3 months.

(e) Are the results analysed and used as a basis for policy evaluation?
Yes, e.g. use of terminals, peek hours etc.

(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

DECLASSIFIED

www.parlament.gv.at

Schengen Convention?

No but this percentage must be around 95% because our airport is the only external border which means a single entry point easy to control.

- **Data protection and other legislation**

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

No specific SIRENE regulation but

- **Règlement grand-ducal du 9 août 1993 autorisant la création d'une banque de données nominatives constituant la partie nationale du système d'information Schengen (NSIS),**
- **was accepted by control authority as basis for SIRENE**
  - **Règlement grand-ducal du 9 août 1993 modifiant le règlement du 2 octobre 1992 relatif à la création et à l'exploitation d'une banque de données nominatives de police générale.**

74. Security measures at the SIRENE Bureaux pursuant to Article 118 of the Schengen Convention. Controls on:

(a) entry;

Access is limited to authorised personal only (electronic and physical control at the entry of police building, electronic identification before entering NSIS)

(b) data carriers;

Operations only available on personal and limited login and password.

(c) users;

Consultation of worm entries, end users only can consult the data, it is technically impossible to have changes operated on the file by an end user.

(d) access;

Control on worm disks.

(e) transmission;

Control on worm disks.

DECLASSIFIED

www.parlament.gv.at

(f) input.

Only sirene members can make inputs. see question 24

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

Access is only allowed to authorized persons (electronic check at the entry)
Card reader access to SIRENE premises foreseen.

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

Sirene members are authorized and mandated to execute all tasks on the Sirene application .
Two responsibles have the authorisation to go into the system administration of the Sirene application.
End users only have the right to query the system based on their profile for the different categories.

77. 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

Access profiles pre-defined.
Access by login and password.
All activities logged.

For NSIS a "reason for request" had to be added.
Sirene and NSIS security are managed in the same way.

78. Control of computerised access to Sirene files.

Only SIRENE members have acces to Sirene files who turn on a secluded platform
Sirene application is detached from all other national systems and databases.

DECLASSIFIED

www.parlament.gv.at

79. 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.

The liberty of access and the range of accessible data is controlled by password, according to the password access is denied or authorized to certain categories of data.
Police and customs membres have access to all categories.
All actions on SIS by users are logged since the beginning.

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

Autorité de contôle foreen by art 12-1 of "loi du 31 mars 1979 réglementant l'utilisation des données nominatives dans les traitements informatiques."

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

Procedural measures.
Responsible – head of sirene.

- **Education and information**

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

All new operators get specific theoretical training and are under supervision of an experienced operator for at least 2 months. Specific trainings on special topics are organized everytime this seems necessary.

83. 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?

DECLASSIFIED

www.parlament.gv.at

Fairly good because they are informed by the head of sirene in an 8 hour course and through the monthly police magazine.

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

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

Newly recruited policemen are given training in the use of SIS. This training consists in a theoretical part of 8 hours and a practical part (visit of Sirene Luxembourg) of 4 hours.

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

Yes, normally continuing training in the use of SIS is organized at least once a year for about 4 hours in form of a compulsory course for all policemen having reached the level of inspector. For all higher rank officers, senior officers or other user of the system, seminars or conferences of about 4 hours are organized at least once a year about different topics including SIS.

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

About 4 hours a yaer for every policeman (1300 I total).

Less for customs membres and ministry members.

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

Promoting of new users by experienced users and operators.

86. 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 differences between national police forces?

- **specific training,**
- **common training (see question 30) also by multiplier effect,**
- **regularly published internal notes and police monthly newspaper.**

DECLASSIFIED

www.parlament.gv.at

87. 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?

At the moment the Convention entered into practice, the Ministry of Justice together with the persons responsible on national police level published several notes presenting the different working methods of judicial and police cooperation forseen by the treaty. During initial and continuing training of the magistrature, the Director of Information of the police who also is head of Sirene regularly gives conferences or seminars on the SIS and its advantages/differences to Interpol.

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

The Director of Information of the police or the Sirene office only can stress on the opportunity and importance of using SIS, but the final decision to use the Schengen or the Interpol channel is up to the magistrate taking responsibility.

DECLASSIFIED

III. Vision network

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

La consultation des autres partenaires se fait à partir du système national visas qui est lié au système vision.

89. What is the estimated response time for consultation?

Il n'y a qu'un seul état membre qui répond avant le délai des sept jours.

90. Under which circumstances do the consuls of ~~the~~ your country consult their authorities?

En principe chaque demande de visa est soumise au service national. A l'heure actuelle cette consultation se fait par fax. A partir de l'année prochaine cette consultation se fera via le système national visas.

www.parlament.gv.at

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

Le Luxembourg n'est pas consulté par les autres partenaires.

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

Les postes s'en tiennent strictement aux instructions en la matière. La délivrance d'un VTL constitue une rare exception.

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

No.

At the airport there is since January 2001 a "Docucenter 3000" with Spectroscopy, all connected to a computer with adequate software. (See answer to question 8).

94. Is any specialised training given in the detection of false documents?

Les agents consulaires assistant périodiquement à des formations offertes localement par un autre poste du Benelux.

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

No.

At the airport: EDISON is a computer-based software with pictures and descriptions of more than 1500 documents of the world. Furthermore there is a collection of specimen passports and ID-cards from Europe and the rest of the world and additionally several kinds of handbooks with pictures and descriptions of documents of the whole world.

DECLASSIFIED

www.parlament.gv.at

IV. Judicial cooperation

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

- Concernant l'article 49 Schengen

Il ne semble pas y avoir eu à ce jour ni transmission, ni réception de demandes d'entraide dans les domaines couverts par l'article 49 Schengen.

- Concernant l'article 50 Schengen

Le Luxembourg reçoit de manière régulière des demandes d'entraide en provenance d'Etats membres sur base de l'article 50 Schengen, et plus particulièrement en matière de TVA, d'accises et de douanes.

Les autorités judiciaires luxembourgeoises ne semblent pas encore avoir transmis de demande d'entraide à d'autres Etats membres sur base de l'article 50 Schengen.

97. What is the current situation regarding application of the rules on compliance with requests and the granting of authorisations in accordance with Article 50(3) of the Convention?

Le Luxembourg soumet les demandes d'entraide basées sur l'article 50 tout comme les autres demandes d'entraide au respect par l'Etat requérant de la règle de la spécialité, telle que cette règle de spécialité est reprise à l'article 50,3. Schengen. Le Luxembourg ne peut évidemment guère contrôler par la suite si la règle de spécialité a effectivement été respectée par l'Etat requis. A ce jour, le Luxembourg n'a cependant eu connaissance que de rares affaires dans lesquelles cette règle n'aurait pas été respectée par l'Etat requis alors même que le Luxembourg y avait assujetti l'entraide.

DECLASSIFIED

www.parlament.gv.at

En pratique, il arrive souvent que dans le cadre de demandes d'entraide envoyées sur base de l'article 50, l'Etat requis demande par la suite l'extension de la règle de spécialité à d'autres faits (qui sont normalement des faits nouveaux qui ont été découverts entre-temps). Le Luxembourg renonce alors à la règle de la spécialité à raison de ces faits nouveaux si les conditions de l'entraide sont également remplies pour ceux-ci.

98. Has application of Article 52(2) of the Convention caused problems of any kind?

A notre connaissance, l'article 52 (2) n'a pas donné lieu à problèmes en pratique.

99. 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?

Concernant les canaux de transmission, il est renvoyé à la déclaration de bonnes pratiques dans l'exécution des demandes d'entraide judiciaire en matière pénale, telle que cette déclaration a été formulée par le Luxembourg en vertu de l'article 1 de l'action commune du 19 juin 1998 adoptée par le conseil sur la base de l'article K.3 du traité sur l'Union européenne *relative aux bonnes pratiques d'entraide judiciaire en matière pénale*. Une copie de cette déclaration est jointe à la présente.

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

Le répertoire des villes des autres Etats Membres est à la disposition des autorités judiciaires.

DECLASSIFIED

www.parlament.gv.at

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

L'outil statistique actuellement utilisé par les services compétents ne permet pas de distinguer parmi les extraditions accordées par le Luxembourg celles qui l'ont été sur base de l'article 66 des Accords de Schengen.

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

Le formulaire visé à la question 102 n'est ni distribué, ni utilisé par le service du casier judiciaire.

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

Il ressort des informations transmises par les autorités judiciaires que les possibilités sont généralement utilisées de manière satisfaisante, à l'exception de la transmission directe, qui pourrait aux dires de ces autorités être utilisée de manière plus efficiente par certains Etats membres.

V. Legislation on firearms

104. 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?

The EU Directive 91/477 has been transposed into national legislation by the Grand-ducal Regulation of 30th November 1995 concerning the introduction of the Europen firearms pass into the national legislation of the Grand-Duchy of Luxembourg.

DECLASSIFIED

www.parlament.gv.at

No further transposing measures were necessary as the Luxembourg firearms Act of 15th March 1983 was corresponding already to the further requirements of the Directive.

Furthermore, the European firearms pass delivered by the Ministry of Justice since the Grand-ducal Regulation of 30th November 1995 is corresponding to the model introduced by the Commissions recommendations 93/216/CEE and 96/129/CE.

105. 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 application of the EU Directive, as far as the Ministry of Justice is concerned, needed no specific measures in terms of organisation as the existing Department could have absorbed the surplus of administrative work due to the implementation of the Directive.

106. 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?

Almost the entire exchange of information on firearms purchases concerns firearms acquired in Luxembourg in order to be exported to one of the adjacent EU member States of Luxembourg, i.e. France, Belgium or Germany. In order to ensure a quick transmission of the information, these are generally transmitted directly to the competent territorial authorities, i.e. the *département* in France, the *Kreisverwaltung* in Germany and the local Police authorities or the Ministry of Justice in Belgium. According to the nature of the information, the exchange is realized by postal mail, telephone, or e-mail.

DECLASSIFIED

www.parlament.gv.at

The firearms Department has no exact statistics at its disposal, However, it can be considered that the firearms Department delivers weekly approximately 250 to 300 authorisations (all categories of authorisations merged, as first deliveries and renewals of possessing or bearing permits to residents, exportation and transfer authorisations, etc.) and that the exchange of information with EU member States and the delivery of European firearms passes to Luxembourg residents is representing at the most 10 % of the delivered authorisations.

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

According to the 1st article of the Firearms Act of 15th March 1983, any firearm, which can legally and reasonably be used in Luxembourg by hunters and marksmen are subject to authorization to deliver by the Ministry of Justice, except sports bows.

Hence, there are no firearms to which the derogation of article 12 (2) of the Directive may apply, according to article 12 (2), 2nd paragraph of the Directive.

108. 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?

All firearm importation to the Grand Duchy of Luxembourg needs the consent of the Ministry of Justice.

VI. Issuing of visas / consular cooperation

109. What/which authority(ies) in your country is/are competent of the issuing of visas?
Ministère des Affaires Etrangères, Service des Visas.

DECLASSIFIED

www.parlament.gv.at

110. To what extent are diplomatic missions and consular posts equipped and able to implement Schengen issue Schengen visas in terms of
(a) availability of Schengen visa stickers, **(Voir sous 111**)
(b) Access to SIS (consultation terminals, CD-roms...)?
Pas d'accès à l'heure actuelle Toutes les demandes de visas sont traitées par le service central à Luxembourg qui procède aux consultations nécessaires (SIS, Consultation vision, consultation des données fournies par d'autres états membres sur support informatique).

What equipment is there to detect forged documents? **Pas d'équipement disponible.**

111. What security measures have been taken with regard to Schengen visa stickers?
Les vignettes visas sont envoyées, avec accusé de réception, aux postes par courrier diplomatique ou par courrier sécurisé. Une comptabilité informatisée sur les vignettes envoyées est tenue au service central de sorte que chaque vignette peut être retracée. Dans les postes les vignettes sont stockés dans des coffres-forts.

112. How are the diplomatic posts and consular missions of your country briefed on the Common Consular Instructions on Visas and prepared to apply them?
Avant d'être envoyé aux postes les agents reçoivent une formation au service des visas à Luxembourg.

113. How is the data transmission from your country's diplomatic and consular missions to the respective central authorities processed (with special reference to consultation)?
A l'heure actuelle les demandes de visas sont transmises par fax au service central à Luxembourg. Il est prévu que tous les postes seront raccordés au système national visas au début de l'année prochaine.

114. How would you characterise the consular cooperation between your country's diplomatic and consular missions and those of other Schengen States?
Selon les rapports reçus par nos postes cette coopération dépend largement de l'initiative prise par les présidences respectives. Dans la plus part des capitales où le Luxembourg est représenté la coopération fonctionne assez bien.

DECLASSIFIED

www.parlament.gv.at

115. How is your country participating in the automatic consultation process set out under Article 17(2) of the Convention (VISION network)?
Dans le cadre de la politique commune Benelux en matière de visas le Luxembourg a inscrit un certain nombre de pays dans l'annexe 5A des ICC. Par contre le Luxembourg n'a pas inscrit de pays dans l'annexe 5B. Les consultations des autres états membres sont faites sur la base de l'annexe 5B par le service central à Luxembourg.

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

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

117. The number of refusals of visa applications – if no statistics are available, please indicate the number in percentages or an estimated number.

118. Have the bodies responsible for the exceptional issue of visas at the border, pursuant to Article 17(3)(c) of the Schengen Convention and Part II, Section 5, 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 this?
L'unique point de délivrance de visas à la frontière est l'aéroport de Luxembourg, La délivrance de ces visas se fait en contact direct avec le service central.

119. Do the authorities of the Antilles have the possibility to issue visas at the border?

DECLASSIFIED

www.parlament.gv.at

VII. Readmission

120. What readmission agreements exist with
   (a) other Schengen States?
   (b) third countries?

   Outre un accord de réadmission entre les États Benelux du 28 juin 1967, ces mêmes États ont conclu des accords de réadmission avec la France, l'Allemagne, l'Autriche, la Pologne, la Slovénie, la Roumanie et la Hongrie. Un accord est en cours de finalisation avec la République Fédérale Yougoslave.

121. How many persons have been sent back every year since 1996 under these agreements?

   Ces données ne sont pas disponibles.

122. What is the percentage of foreigners readmitted (figures per State)
   (a) to other Schengen States?
   (b) to neighbouring States?
   (c) to the countries of origin of the persons concerned?

   How many cases were studied in total? What were the countries of origin involved?

   Ces données ne sont pas disponibles.

123. What legal and practical measures have been taken to ensure the expulsion of illegally resident aliens? Are these measures effective?

   La loi du 28 mars 1972 concernant l'entrée et le séjour des étrangers telle que modifiée en 1993 et 1995 permet au Ministre de la Justice, lorsque l'exécution d'une mesure d'expulsion ou de refoulement est impossible en raison de circonstances de fait, de placer l'étranger en séjour irrégulier dans un établissement approprié pour une durée d'un mois, prorogeable à deux reprises. A cet effet, le Gouvernement luxembourgeois est en train d'aménager une aile spécifique au Centre Pénitentiaire de Luxembourg destinée à éviter tout contact entre les personnes en séjour irrégulier et les détenus et prévenus de droit commun.

DECLASSIFIED

www.parlament.gv.at

124. What are the residence arrangements for foreigners who, for various reasons, cannot be expelled?

La loi modifiée du 28 mars 1972 concernant l'entrée et le séjour des étrangers prévoit dans son article 14 que « l'étranger ne peut être expulsé, ni éloigné à destination d'un pays s'il est établi que sa vie ou sa liberté y sont gravement menacées ou qu'il y est exposé à des traitements contraires à l'article 3 de la Convention européenne de la sauvegarde des droits de l'homme et des libertés fondamentales du 4 novembre 1950, ou à des traitements au sens des articles 1er et 3 de la Convention des Nations-Unies contre la torture et autres peines ou traitements cruels, inhumains ou dégradants ». Même si la loi ne prévoit qu'un simple empêchement au refoulement, dans la pratique, ces personnes se voient accorder une autorisation de séjour limitée dans le temps, renouvelable.

En outre, l'article 13 de la loi modifiée du 3 avril 1996 portant création 1° d'une procédure relative à l'examen d'une demande d'asile ; 2° d'un régime de protection temporaire prévoit que si l'exécution matérielle de l'éloignement d'un demandeur d'asile débouté de sa demande s'avère impossible en raison de circonstances de fait, le Ministre de la Justice peut décider de la tolérer provisoirement sur le territoire jusqu'au moment où ces circonstances de fait auront cessé.

125. Is instant refoulement a legal possibility in the case of foreigners detected upon entering the country illegally or immediately after crossing the borders?

Cette possibilité de refoulement des personnes qui ont pénétré irrégulièrement sur le territoire luxembourgeois est possible au moment de l'entrée irrégulière ou bien immédiatement après en vertu de l'article 12 de la loi modifiée du 28 mars 1972 concernant l'entrée et le séjour des étrangers.

DECLASSIFIED

www.parlament.gv.at

126. Is there some central body responsible for issuing travel documents for repatriation? What experience does it have in this field?

En principe, des documents de voyage (laissez-passer) en vue du rapatriement d'une personne en séjour irrégulier sont émis par les autorités compétentes du pays d'origine. Ce n'est que dans le cadre des rapatriements de personnes de nationalité yougoslave à destination du Kosovo, que le Ministre de la Justice utilise le laissez-passer européen en vue du rapatriement.

VIII. Entry

127. What administrative and criminal-law penalties have been introduced under your national legislation for

(a) persons entering the national territory illegally?

La législation luxembourgeoise ne prévoit pas de peines contre l'entrée irrégulière sur le territoire, exception faite de l'article 31 de la loi modifiée du 28 mars 1972 concernant l'entrée et le séjour des étrangers qui prévoit une peine d'emprisonnement de 15 jours à six mois contre les personnes expulsées qui sont retournées au Luxembourg sans autorisation préalable (infraction à arrêté d'expulsion).

(b) persons involved in assisting illegal immigration?

L'article 33.-2. de la loi du 28 mars 1972 précitée prévoit que "sont punis d'un emprisonnement d'un mois à trois ans et d'une amende de 20.000 à 5.000.000.- LUF ou d'une de ces peines seulement, ceux qui par aides directes ou indirectes et notamment par suite de transport, logement ou hébergement, même à titre gratuit, auront sciemment facilité l'entrée ou le séjour irréguliers d'un étranger".

(c) persons using labour made up of illegally resident aliens?

L'article 34 de la loi du 28 mars 1972 précitée prévoit qu'"est puni d'une amende de 10.001 à 1.000.000 LUF et d'un emprisonnement de huit jours à six mois ou d'une de ces peines seulement l'employeur qui embauche un travailleur non muni d'un permis de travail et d'un document en tenant lieu lorsque le travailleur est soumis à l'obligation du permis de travail.

DECLASSIFIED

www.parlament.gv.at

128. What measures are applied for the application of Article 27 of the Convention against those who assist an alien to enter the territory of one of the other Schengen States illegally?

Au cours des trois dernières années ni la paragraphe 2, ni le paragraphe 3 de l'article 27 de la Convention d'application de l'Accord de Schengen n'ont été d'application au Luxembourg.

129. Are criminal-law penalties envisaged against those who assist a person to leave a country allowing them to enter another one illegally?

cf. 127. (b)

130. In accordance with the provisions of Article 26 of the Convention, does the law oblige sea or air carriers or operators of international coach services to take all the necessary measures to ensure that an alien is in possession at the point of departure of the travel documents required for entry into the territories of the Contracting Parties?

L'article 33.1. de la loi modifiée du 28 mars 1972 précitée dispose que "l'entreprise de transport aérien qui a amené dans le Grand-Duché un passager dépourvu d'un document de voyage et, le cas échéant, du visa requis, doit le transporter ou le faire transporter dans le pays d'où il vient ou dans tout autre pays où il peut être admis. Le transporteur visé à l'alinéa premier est, en outre, solidairement tenu avec le passager qui n'a pas été autorisé à entrer dans le Grand-Duché, de payer les frais d'hébergement, de séjour, de soins de santé et de rapatriement de ce passager".

131. Have criminal-law or coercive measures been introduced in the case of non-compliance with this duty?

cf. 130

DECLASSIFIED

www.parlament.gv.at

132. Are carriers legally obliged to return aliens who are not in possession of the required documents?

cf. 130

133. Are there figures on how many penalties were imposed and how many were effectively applied?

Ces peines n'ont jamais été appliquées dans la pratique.

134. Is a person crossing a border outside the authorised border crossing-points liable to criminal-law or administrative penalties?

Question sans objet pour le Luxembourg.

135. Which are the forces involved in combating illegal immigration inside the territory, and what are their exact powers and the legal and practical means at their disposal to carry out their tasks?

The combat against illegal immigration is a general task of police forces in Luxemburg.

However, the section Police des Etrangers, included this combat as main priority in his task. Through their national competence and the well structured relation with foreign police forces, the law enforcement agents of the Police des Etrangers have become an efficient implement to fight illegal immigration.

DECLASSIFIED

www.parlament.gv.at

136. Have photocopies of the residence documents contained in Annex 13 to the Common Consular Instructions been circulated to the Passport Control Services in order to facilitate passport controls? How often is this circulation updated?

Beside photocopies of the residence documents, the SCA have several documentation with colour pictures of different documents and specimen. The updates of the Common Manual arrive to the SCA, directly from the EU-Council working group "*Frontiers*", in which the SCA represents Luxembourg. The latest paper version of the Common manual is SN1312/01, from 16 mars 2001. More recently, two CD-ROM (Doc 13751 Front 61 09NOV2001 and Doc 13145 Front 57 12NOV2002 Confidential) were distributed in the working group meeting. This version was immediately delivered to the border control officers.
As there is only one external border and as the border control service participates in the "Front" meetings, the delivery of the updates of the Common manual to the border control officers is very fast.

137. What method is used for keeping uniform entry/exit stamps?

All stamps used have the layout that is defined by the Common Manual (part II).

138. What are the methods and times for changing the numerical security codes for uniform entry/exit stamps?

The numerical security codes are changed every night. Beside the date in 6 digits there is a control number with 2 digits. An algorithm, which is different for arrival and exit, calculates this 2 digits control number.

139. Is there a memorandum governing cooperation between the competent authorities involved in combating illegal immigration within the country?

No.

DECLASSIFIED

www.parlament.gv.at

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

See answer to question 15.

As this information is not yet available, the question will be answered at the latest to the visiting expert group.

141. How many aliens have sought political asylum?

année	**demandeurs d'asile**	**demandes d'asile**
1996	**263**	**144**
1997	**431**	**283**
1998	**1709**	**893**
1999	**2921**	**1425**
2000	**628**	**365**
2001	**686**	**423**

DECLASSIFIED

IX. Police cooperation

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

Germany 24/10/95
Belgium 4/6/96
France 15/10/2001,

143. 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.

www.parlament.gv.at

With Germany, Belgium and France an agreement has been found to install in Luxembourg a regional police cooperation unit composed of French, German, Belgian and Luxembourg officers who will coordinate article 39, 40 and 41 operations .
This centre is ought to be operational in October 2002 .
With Belgium a specific agreement has been signed in May 2002 for the common use of a helicopter.

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

None.

145. 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?

Yes , in 1994 specific instructions have been established and every policeman got an 8+4 hours training .
Policemen in "article 39,40,41, 46" got intense training mainly for the actions to be taken during 40 and 41 operations.

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

Yes, see question 145, specific units (airport , sirene, operations centre have gotten more intensive training and documentation.
The basic police units have been given excerpts of all the different hand books
Every 5 years the training is repeated for all policemen in the frame of normal schedules.

DECLASSIFIED

www.parlament.gv.at

147. Within the framework of cross-border cooperation 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 28 April 1999 (SCH/Com-ex (99) 18; SCH/I (98) 75 rev. 5) on principles for police cooperation in the prevention and detection of offences?

Yes , following written instructions of the ministry of justice of February 2000.

If not, what measures are the police not authorised to take?

Only for the identification of drivers of vehicles, Luxembourg police has to follow the normal judicial cooperation paths.

148. 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?

None.

149. 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?

Yes.

Do the judicial authorities accept requests to the police for legal assistance forwarded in this way?

Yes.

DECLASSIFIED

www.parlament.gv.at

150. 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)?
Yes if they are coming through the Luxembourg national entry point.

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?
This does clearly require the explicit consent of the judicial authorities.

151. 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?

/

152. 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?

Yes, or the local police station will transfer the request to the national central unit or they will send a copy of their communications to the central unit.
The size of our country makes it possible that all the contacts between all police units are very easy and fast.

153. 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).

DECLASSIFIED

www.parlament.gv.at

(In = in Luxembourg, out = out of Luxembourg territory)
for one same observation request more than countries can be requested !
1999 14 in (by DE 6, by BE 2 , by NL 5, by FR 1) 5 out (FR 4, DE 2, BE 2)
2000 23 in (by DE 9, by BE 4 , by NL 7, by FR 3) 6 out (BE 4, Fr 2, NL 2, DE 1, IT 1)
2001 18 in (by DE 10, by BE 5, by NL 2, by IT 1) 9 out (BE 7, FR 2 ,DE 2, NL 3)
2002 8 in (by DE 2, by FR 2, by BE 3, by NL 1) 3 out (DE 2, BE 1)

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

These measures are decided case by case by the (observation) units working on the case together with the magistrate in charge.

155. 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?

This will be decided case by case by the magistrate in charge.

156. 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?

Yes.

157. Is information on the type and number of service weapons required, and if so, what?

Yes, number and type used.

DECLASSIFIED

www.parlament.gv.at

Does your country place restrictions in this connection on observation teams from other Schengen States, and if so, what are they?

Luxembourg always puts a local observation to "suport" the incoming teams.

158. 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)?

1999	**0 in**	**2 out (France and Germany)**
2000	**1 in by Belgium**	**1 out to Belgium**
2001	**1 in by France**	**0 out**
2002	**2 in (by France and Germany)**	**2 out (France and Germany)**

159. 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 28 April 1999 (SCH/Com-ex (99) 6), could be met?

Please specify the question.

X. Drugs

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

(a) New structures

Rappelons que l'Aéroport de Luxembourg est la seule frontière extérieure du Luxembourg.

Si les structures n'ont pas fondamentalement changé depuis 1998, la lutte contre le trafic de drogue a cependant pu être renforcée par l'augmentation récente des effectifs et l'acquisition d'équipement spécifique.

DECLASSIFIED

www.parlament.gv.at

A l'instar de la brigade d'intervention compétente en matière de lutte anti-drogues sur le territoire national, les brigades d'observation et canines ont été rattachées hiérarchiquement en 1999 à la division anti-drogues et produits sensibles de la direction des douanes et accises.

(b) Staffing measures

L'effectif total des fonctionnaires des douanes chargés du contrôle des passagers et du fret aérien à l'Aéroport de Luxembourg se chiffre actuellement aux environs de 113 unités (dont 17 agents affectés aux brigades d'observation et canine).

(c) Creation of new customs services specialised in surveillance

Création en 2000 d'une brigade canine ayant comme mission la détection de stupéfiants tant de manière active que passive ainsi que la recherche et la détection d'explosifs.

Dans le cadre de ses missions, la brigade canine figure au nombre des moyens opérationnels de lutte contre la fraude mis à disposition des bureaux de recette et des brigades motorisées de l'Administration des Douanes et Accises 24/24 heures.
En cas de besoin cette brigade est également à disposition d'autres autorités nationales.

(d) at the sea borders

/

(e) at the air borders

En matière de lutte anti-drogues, les brigades d'observation et canines de l'Administration des Douanes et Accises regroupent actuellement 17 agents (dont 9 maîtes-chiens) spécialisés dans le ciblage et la surveillance ponctuelle du trafic des voyageurs et du fret aérien.

DECLASSIFIED

www.parlament.gv.at

(f) at the land borders

/

(g) Do the customs authorities have any vessels or aircraft (launches, planes, helicopters) for detecting illegal shipments?

Non.

161. Technical aspects

(a) What specific measures and tactical methods have been adopted at the external borders to combat drug trafficking?

Les brigades d'observation et canines de l'Aéroport de Luxembourg opèrent en amont et en aval des contrôles effectués par les autres services douaniers.

Des contrôles ciblés des passagers sont effectués sur base de leur provenance et de leur identité (contrôle effectué par les agents de la police). Le ciblage des bagages s'effectue en fonction de leur provenance et de la couleur du "tag".

Pour le fret aérien, l'analyse de risque se fonde essentiellement sur un examen détaillé des lettres de transport aériennes (AWB).

(b) What special measures have been taken to guarantee that controls are effectively targeted (targeted controls)?

cf. question 160 (a).

(c) What new methods have been introduced to obtain relevant information?

Renforcement de la coopération avec les opérateurs économiques du secteur aérien moyennant des protocoles d'accord.

DECLASSIFIED

www.parlament.gv.at

(d) Have any steps been taken with a view to concluding protocols and agreements with international carriers and to obtaining information on suspect activities, in accordance with the recommendations issued by the World Customs Organisation (WCO)?

Un tel protocole d'accord entre l'Administration des Douanes et Accises et la firme CARGOLUX, principal transporteur de fret aérien établi à l'Aéroport de Luxembourg, portant sur la coopération en matière de lutte contre la contrebande et le trafic illicite de stupéfiants a été conclu en 2001.

(e) Have the following conventions been ratified?

- Single Convention on Narcotic Drugs of 1961, as amended by the 1972 Protocol amending the 1961 Single Convention on Narcotic Drugs,
- the 1971 Convention on Psychotropic Substances,
- the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 20 December 1988?

Amended Convention on Narcotic Drugs of 1961 - ratifiée
1971 Convention on Psychotropic Substances – ratifiée
United Nations Convention of 20 December 1988 - ratifiée

162. What technical means have been deployed at the external borders to detect drugs smuggled illegally into the country?

For each of the following categories of border
– land borders
– sea borders, and
– air borders
please indicate the type and number of detection means deployed and the frequency with which these are used, drawing a distinction between
sniffer dogs
X-ray machines
permanent equipment for controlling shipping containers and air freight
mobile facilities

DECLASSIFIED

www.parlament.gv.at

endoscopes

systems for analysing urine to detect the presence of drugs concealed inside the human body

any other technical means

- air border

(a) 9 chiens détecteurs de drogues (dont 3 spécialisés dans la détection d'explosifs)

(b) l'Administration des Douanes et Accises dispose de 4 appareils à rayons X installés dans les locaux réservés au fret aérien respectivement dans le hall d'arrivée des passagers de l'Aéroport de Luxembourg. Ces appareils à rayons X sont utilisés par les agents des douanes du service de surveillance et par les agents des brigades d'observation et canine pour effectuer notamment des contrôles de bagages en provenance de pays sensibles.

(c) Mis à part les appareils à rayons X, l'Administration des Douanes et Accises ne dispose pas d'autres équipements fixes pour le contrôle des conteneurs et du fret aérien ....

(d) ni d'équipements mobiles pour le contrôle du fret aérien.

(e) les agents affectés à l'aéroport disposent, en cas de besoin, d'un équipement d'endoscope.

(f) les agents des brigades d'observation et canine disposent d'un appareil analyseur d'urine.

(g) Moyens d'identification rapide de stupéfiants (tests Nik, Drugwipe, Cortez Multi 4 etc.)

DECLASSIFIED

www.parlament.gv.at

163. What measures have been taken to obtain information within the framework of international external border cooperation?

a) international agreements (specific bilateral agreements, MARINFO etc.)

L'Administration des douanes et accises luxembourgeoise applique les dispositions adéquates des conventions et accords suivants:

a) Convention concernant la coopération administrative et judiciaire dans le domaine des réglementations se rapportant à la réalisation des objectifs de l'Union économique BENELUX signée à La Haye, le 29 avril 1969. (Coopération BENELUX)

b) Convention dite de NAPLES I: Convention entre la Belgique, la République fédérale d'Allemagne, la France, l'Italie, le Luxembourg et les Pays-Bas pour l'assistance mutuelle entre les administrations douanières respectives, signée à Rome le 7 septembre 1967. (Coopération C.E.E.)

c) Résolution de WIESBADEN du 8 décembre 1971 concernant la lutte contre le trafic illicite de stupéfiants.
Résolution N° 2 d'ISTANBUL du 24 mai 1977 tendant à préciser et à compléter certaines dispositions de la résolution de Wiesbaden, du 8 décembre 1971, relatives aux échanges de renseignements sur les trafics illicites de stupéfiants.

b) participation in international working groups

L'Administration des Douanes et Accises luxembourgeoise participe activement à des groupes de travail et forums internationaux.

DECLASSIFIED

www.parlament.gv.at

c) communication and information systems

Les services compétents en matière de contrôle anti-drogue sont reliés aux systèmes informatiques de consultation suivants :

- **SIS (Schengen Information System)**
- **Messagerie SCENT 3/AFIS MAIL de la Commission**
- **Dun & Bradstreet, Worldbase (source d'information internationale des milieux économiques)**
- **Fichiers nationaux des personnes physiques et morales.**

Par ailleurs, les unités spécialisées dans la lutte anti-drogue peuvent consulter les banques de données suivantes :

- **BRLR (Bureau Régional de Liaison chargé du Renseignement) géré par l'OMD (Organisation Mondiale des Douanes) ayant comme objectif la diffusion des renseignement douaniers recueillis auprès de tous les membres de l'OMD.**
- **BALKANINFO géré par le ZKA allemand contenant des informations relatives aux saisies de drogues effectuées sur la "route des Balkans" (plaques d'immatriculation des véhicules utilisés à la fraude, noms des chauffeurs etc...)**
- **CARGOINFO géré par le ZKA de Cologne contenant des informations relatives aux saisies de stupéfiants effectuées dans le fret aérien.**

d) criminal tactics measures

L'Administration des Douanes et Accises applique les mesures tactiques appropriées qui lui sont assignées par les lois et règlements régissant la lutte contre le trafic de stupéfiants.

e) others

/

DECLASSIFIED

www.parlament.gv.at

164. What results have you attained in terms of seizures between 1997 and 2000 at the land, sea and air borders?

a) nature and volume

b) country of origin

c) destination

d) means of transport

e) means of concealment used by the trafficker

Statistiques concernant les saisies de stupéfiants effectuées de 1997 à 2000 par les services de la Division Anti-Drogues et Produits Sensibles:

1997

Luxembourg	héroïne	Cocaïne			amphét.	haschisch			marijuana
Modus op.	terre	terre	mer	Air		terre	mer	air	
(kg)	**1,020**			**8,187**	**11,5** pil.	**0,645**			**2,465**

1998

Luxembourg	héroïne	Cocaïne			amphét.	haschisch			marijuana
Modus op.	terre	terre	mer	Air		terre	mer	air	
(kg)	**0,751**			**5,042**	**64** pil.	**2,664**			**4,413**

1999

Luxembourg	héroïne	Cocaïne			amphét.	haschisch			marijuana
Modus op.	terre	terre	mer	air		terre	mer	air	
(kg)	**0,808**	**0,112**			**217** pil.	**0,645**			**3,616**

DECLASSIFIED

www.parlament.gv.at

2000

Luxembourg	héroïne	Cocaïne			amphét.	haschisch			marijuana
Modus op.	terre	terre	mer	Air		terre	mer	air	
(kg)	**1,826**			**10,523**	**31,5** pil.	**1,094**			**16,4141**

XI. Data protection

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

L'autorité nationale compétente est visée à l'article 12-1 (4) de la loi du 31 mars 1979 réglementant l'utilisation des données nominatives dans les traitements informatiques Elle porte le titre d'autorité de contrôle et est composée du Procureur général ou de son délégué, en tant que président, et de deux membres choisis par le ministre ayant dans ses attributions le répertoire national des banques de données parmi les membres de la Commission visée à l'article 30 de cette loi, c'est-à-dire la commission consultative (en matière informatique).

Il y a lieu de noter que la loi de 1979 fait l'objet d'une révision (projet de loi 4735 relatif à la protection des personnes à l'égard du traitement des données à caractère personnel; ce projet de loi vise à transposer en droit luxembourgeois la directive 95/46).

Aux termes des dispositions légales, l'autorité de contrôle dispose, pour l'exercice de sa mission d'un accès direct aux banques de données visées. L'accès est occasionnel.

166. Has the supervisory authority used its right of access to the national part of the SIS? Is access occasional or frequent?

/

DECLASSIFIED

www.parlament.gv.at

167. 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)?

L'accès est exercé auprès de la police grand-ducale, responsable des banques de données. Aucun système de contrôle parallèle n'a été établi.

168. 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?

En vertu de l'article 12-1 (5) de la loi actuelle, le droit d'accès ne peut être exercé que par l'intermédiaire de l'autorité de contrôle. Elle procède aux vérifications et investigations utiles, fait opérer les rectifications nécessaires et informe l'intéressé que la banque ne contient aucune donné contraire aux conventions, à la loi, à ses règlements d'exécution ou aux conditions imposées par la ministre. En vertu de l'article 12-1 (5) de la loi actuelle, le droit d'accès ne peut être exercé que par l'intermédiaire de l'autorité de contrôle. Elle procède aux vérifications et investigations utiles, fait opérer les rectifications nécessaires et informe l'intéressé que la banque ne contient aucune donné contraire aux conventions, à la loi, à ses règlements d'exécution ou aux conditions imposées par la ministre.

169. 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?

En vertu de l'article 12-1 (5) de la loi actuelle, le droit d'accès ne peut être exercé que par l'intermédiaire de l'autorité de contrôle. Elle procède aux vérifications et investigations utiles, fait opérer les rectifications nécessaires et informe l'intéressé que la banque ne contient aucune donné contraire aux conventions, à la loi, à ses règlements d'exécution ou aux conditions imposées par la ministre.

DECLASSIFIED

www.parlament.gv.at

170. Is every tenth transmission of personal data recorded for the purposes of supervising the admissibility of the query?

En vertu de l'article 2 (2) du règlement grand-ducal du 2 octobre 1992 relatif à la création et à l'exploitation d'une banque de données nominatives de police générale, lors de chaque consultation,le nom de l'agent qui a procédé à l'interrogation ainsi que le motif de l'interrogation doivent être enregistrés.

171. 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?

Data are only retained in the national system if there is a national reason for doing this. Physically national and NSIS systems are independent and without interaction.

Pour l'heure, un archivage sur support papier est opéré.

172. Has the list of authorities authorised to consult the SIS been amended recently?

No.

173. Do the authorities responsible for recording vehicle registrations have access to the SIS?

Not yet.

DECLASSIFIED

www.parlament.gv.at

174. How do you resolve the conflict between the transparency of public action and the protection of data entered in the SIS?

We are under the control of the prosecutor general.

How many people have asked to be informed of data concerning them?

2

In how many cases did corrections have to be made?

0

We are under the control of the prosecutor general.

175. How is access to the SIS supervised by local staff in the consulates?

No access.

176. 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?

Of course there is a copy of all data and of the NSIS platfor. But we do not have yet a disaster recovery center.

DECLASSIFIED

www.parlament.gv.at