

# PARLAMENTUL EUROPEAN

2004



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*Document de ședință*

**A6-0441/2007**

12.11.2007

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## **RAPORT**

referitor la proiectul de decizie a Consiliului privind aplicarea integrală a dispozițiilor acquis-ului Schengen în Republica Cehă, Republica Estonia, Republica Letonia, Republica Lituania, Republica Ungară, Republica Malta, Republica Polonă, Republica Slovenia și Republica Slovacă  
(11722/2007 – C6-0244/2007 – 2007/0810(CNS))

Comisia pentru libertăți civile, justiție și afaceri interne

Raportor: Carlos Coelho

### ***Legenda simbolurilor utilizate***

- \* Procedura de consultare  
*majoritatea voturilor exprimate*
- \*\*I Procedura de cooperare (prima lectură)  
*majoritatea voturilor exprimate*
- \*\*II Procedura de cooperare (a doua lectură)  
*majoritatea voturilor exprimate pentru a aproba poziția comună  
majoritatea membrilor care compun Parlamentul pentru a  
respinge sau a modifica poziția comună*
- \*\*\* Aviz conform  
*majoritatea membrilor care compun Parlamentul, cu excepția  
cazurilor prevăzute la articolele 105, 107, 161 și 300 din Tratatul  
CE și la articolul 7 din Tratatul UE*
- \*\*\*I Procedura de codecizie (prima lectură)  
*majoritatea voturilor exprimate*
- \*\*\*II Procedura de codecizie (a doua lectură)  
*majoritatea voturilor exprimate pentru a aproba poziția comună  
majoritatea membrilor care compun Parlamentul pentru a  
respinge sau a modifica poziția comună*
- \*\*\*III Procedura de codecizie (a treia lectură)  
*majoritatea voturilor exprimate pentru a aproba proiectul comun*

(Procedura indicată se bazează pe temeiul juridic propus de Comisie.)

### ***Amendamente la un text legislativ***

În amendamentele Parlamentului, textul modificat este indicat prin caractere ***cursive aldine***. Evidențierea cu caractere *cursive simple* este o indicație pentru serviciile tehnice în cauză, referitoare la elemente ale textului legislativ propuse pentru a fi corectate în vederea elaborării textului final (de exemplu elemente evident greșite sau omise într-o anumită versiune lingvistică). Propunerile de corectură sunt supuse acordului serviciilor tehnice în cauză.

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## PROIECT DE REZOLUȚIE LEGISLATIVĂ A PARLAMENTULUI EUROPEAN

referitoare la proiectul de decizie a Consiliului privind aplicarea integrală a dispozițiilor acquis-ului Schengen în Republica Cehă, Republica Estonia, Republica Letonia, Republica Lituania, Republica Ungară, Republica Malta, Republica Polonă, Republica Slovenia și Republica Slovacă  
(11722/2007 – C6-0244/2007 – 2007/0810(CNS))

### (Procedura de consultare)

*Parlamentul European,*

- având în vedere proiectul de decizie a Consiliului (11722/2007),
  - având în vedere articolul 3 alineatul (2) din Actul de aderare<sup>1</sup> în temeiul căruia a fost consultat de către Consiliu (C6-0244/2007),
  - având în vedere articolul 51 din Regulamentul său de procedură,
  - având în vedere raportul Comisiei pentru libertăți civile, justiție și afaceri interne (A6-0441/2007),
1. aprobă proiectul de decizie a Consiliului astfel cum a fost modificat;
  2. invită Consiliul să informeze Parlamentul în cazul în care intenționează să se îndepărteze de la textul aprobat de acesta;
  3. solicită Consiliului să îl consulte din nou, în cazul în care acesta intenționează să modifice în mod substanțial textul supus consultării;
  4. încredințează Președintelui sarcina de a transmite Consiliului și Comisiei poziția Parlamentului.

Text propus de Consiliu

Amendamentele Parlamentului

#### Amendamentul 1 Considerentul 4

(4) La X XXXXXXX 2007, Consiliul a concluzionat că statele membre în cauză au îndeplinit condițiile pentru fiecare dintre domeniile menționate.

(4) La X XXXXXXX 2007, Consiliul a concluzionat că statele membre în cauză au îndeplinit condițiile pentru fiecare dintre domeniile menționate. ***Fiecare stat membru vizat ar trebui ca, în cursul următoarelor șase luni, să informeze***

<sup>1</sup> JO L 236, 23.9.2003, p.33.

*Consiliul și Parlamentul European, în scris, despre acțiunile pe care le-a întreprins în urma recomandărilor cuprinse în rapoartele de evaluare și de monitorizare, care urmează încă să fie puse în aplicare.*

## **EXPUNERE DE MOTIVE**

### **BACKGROUND**

Five Member States - France, Germany, Belgium, Luxembourg and the Netherlands - signed the Schengen Agreement on 14 June 1985 and the Schengen Convention on 19 June 1990 (the latter came into force in 1995). They agreed, on an intergovernmental basis, to gradually remove all the controls at their common borders and to introduce freedom of movement inside the territory, normally designated as the Schengen area.

In parallel to the removal of controls at the internal borders, some compensatory measures were implemented, including: the establishment of efficient controls at the external borders, the reinforcement of the cooperation between those Member States' administrative, customs, police and judicial authorities, a common visa policy, and the creation of the Schengen Information System (SIS).

The Schengen acquis (Agreement/Convention/implementing rules and related agreements), was integrated into the institutional and legal framework of the European Union in 1999, with the Treaty of Amsterdam.

The initial membership of five Member States has been extended over time to all 15 old Member States: Italy joined in 1990, Spain and Portugal in 1991, Greece in 1992, Austria in 1995, and Finland, Sweden and Denmark (under a special arrangement) in 1996. Ireland and the United Kingdom are only partial participants, since their border controls have been maintained. Two non-Community countries - Iceland and Norway - also joined in 1996, but they have a limited role in terms of decision-taking.

The 10 new Member States (the Czech Republic, Estonia, Hungary, Latvia, Malta, Poland, Lithuania, Slovenia, Slovakia and Cyprus) adopted the Schengen acquis on joining the EU in 2004. At this moment, we are facing the biggest enlargement in Schengen's history, with the declaration by 9 of them (excluding Cyprus) of readiness to start the evaluation procedure.

### **SCHENGEN EVALUATION**

According to Article 3(2) of the Act of Accession, the verification through evaluation procedures that the necessary conditions for the application of all parts of the Schengen acquis have been met by the new Member States is a precondition for the Council to decide regarding the abolition of checks at internal borders with those Member States.

The evaluations for these new Member States started in 2006, following a request by each Member State (declaration of readiness). They were conducted, new Member State by new Member state, under the responsibility of the Schengen evaluation working party.

The evaluation procedures started with a questionnaire to the Member State concerned on all parts of the Schengen acquis (borders, visa issuance, data protection and police cooperation), and were followed by evaluation visits. Teams of experts were sent to the borders,

consulates, SIS facilities, etc, and prepared exhaustive reports containing factual descriptions, assessments, and recommendations which could require additional measures and follow-up visits. The final report should establish whether the new Member State concerned, after being subjected to a full evaluation procedure, fulfils all the preconditions for the practical application of the Schengen acquis.

## **CONCLUSIONS REGARDING EACH NEW MEMBER STATE**

### **1. Czech Republic**

Declaration of readiness: 1 January 2006. The future external borders will consist of airports only. Prague airport was found to be fully in line with Schengen standards, while it was necessary to revisit Brno airport. Shortcomings were found in terms of lack of personnel, the risk analysis system and border management.

The visits to the consulates revealed a positive exchange of information and an operational electronic data transmission system. Shortcomings were found regarding the decision-making process for visas, awareness of the risks of illegal immigration, the security situation of the infrastructures, the storage of visa stickers, etc.

No problems were found as regards data protection. Evaluation was positive regarding police cooperation, but one single contact point for crossborder surveillance and hot pursuit is needed.

The follow-up visits from 2 to 5 July 2007 concluded that the authorities had managed to address all the outstanding points signalled.

The SIS evaluation took place in September 2007. Although some minor issues require further attention, the efforts to implement the SIS and the SIRENE functions were appreciated and considered successful.

### **2. Estonia**

Declaration of readiness: 1 May 2006. Positive border management with streamlined and functional organisation and competent personnel (but insufficient in number). Good intelligence and risk analysis system.

Land borders: it was found necessary to revisit the Narva rail crossing point, which did not fulfil all the Schengen requirements. Sea borders: the offshore patrol equipment (vessels and helicopters) was partly obsolete. Air borders: it was necessary to revisit Tallinn airport in order to evaluate the ongoing reconstruction plan.

The evaluation of visa issuance was positive, but it was found that special attention needed to be given to security (installations, visa stickers), to the excessive length of the visa decision-making process, and to awareness of the risks of illegal immigration.

There were no problems as regards police cooperation, but an intelligence strategy (policing with a multi-agency approach) was found to be needed, including an on-line database for



sharing information.

Data protection was in general found satisfactory, but a crucial element was missing: there is no independent authority to supervise the SIS.

The borders were revisited from 13 to 20 May 2007. Tallinn airport: the authorities had managed to address most of the recommendations, but the ongoing reconstruction work made it difficult to proceed to a full evaluation. Nevertheless, the transitional solution implemented for the existing terminal was in line with the Schengen requirements. Other shortcomings had been rectified, although the issue of increasing personnel numbers was still being dealt with and will therefore have to be monitored by the SCH-EVAL Group.

Data protection: a revisit from 18 to 24 March 2007 confirmed that the shortcomings had been remedied and the necessary changes made.

The SIS evaluation made in September 2007 concluded that the system has been appropriately implemented and is user-friendly, operating effectively with good performance and infrastructure and acceptable response times. Some recommendations were made for enhancing the capacity of the SIRENE bureau.

### **3. Hungary**

Declaration of readiness: 1 January 2006. This country faces a serious challenge, since it will become responsible for some 15% of the future central-east external border of the Schengen area.

Positive border management was identified, with streamlined and functional organisation and competent personnel. Air borders: good organisation, in some aspects an example of best practice. A problem was found concerning the current practice allowing Croatian citizens to enter Hungary with identity cards at the international border crossing points.

Positive evaluation on police cooperation: the common contact point Hegyeshalom-Nickelsdorf can be seen as a case of best practice in terms of enhancing and encouraging the international exchange of information.

No revisits were necessary. Shortcomings were found and recommendations made on visa issuance: security risks (premises, checking of applicants, accreditation procedure, etc), the low number of interviews in relation to the number of applicants, and the low rejection rate. It will be necessary to adapt the national legislation to take account of the procedural safeguards enjoyed by family members in the EU. Satisfactory follow-up.

In the SIS evaluation, some substantial problems were found, necessitating an additional visit from 17 to 19 October 2007. After that visit it was found possible to confirm that the system is working efficiently throughout Hungary and that the SIS end-users are properly trained.

### **4. Latvia**

Declaration of readiness: 1 May 2006. Positive border management, with streamlined and functional organisation, competent personnel and up-to-date equipment, well-structured

intelligence, organised investigation system and properly working cooperation.

The infrastructure, procedures and equipment at the Zilupe rail crossing point needed to be improved. Sea borders: old-fashioned offshore equipment and system; problems with coordination of controls and some lack of professionalism. Air borders: good border management and organisation at Riga airport, but the physical characteristics of the infrastructure (separation of passenger streams) did not comply with Schengen requirements - a revisit was necessary.

Shortcomings were found regarding visa issuance, concerning proper assessment of individual applications, awareness of the risks of illegal immigration and misuse of visas, as well as limited capacity of the IT systems for the exchange of information and general security issues (premises, storage of visa stickers).

Data protection requirements necessitate the strengthening of the independence of the data protection authorities. A well-structured coordination mechanism and a single point of contact for international police cooperation guarantee effectiveness and efficiency. It is necessary to find a technical solution regarding the telecommunications system (not compatible with those used in Lithuania and Estonia).

Revisit, 1-10 September 2007: the authorities had managed to address all the outstanding issues, especially the enlargement of the arrival area for non-Schengen flights (completed in October 2007).

The evaluation of the SIS showed that it is operating effectively, with good infrastructure and performance. Some recommendations were made for enhancing the capacity of the SIRENE bureau.

## **5. Lithuania**

Declaration of readiness: 1 May 2006. Positive border management, with streamlined and functional organisation.

Sea borders: these face a challenge to bring them up to the Schengen standards, especially regarding managerial aspects, professionalism, coastal surveillance equipment and offshore patrol craft (mostly obsolete). Land borders: the infrastructure at the Panemunė road border crossing point was not in line with Schengen standards. The ongoing reconstruction work, procedures and number of staff needed looking at again. Air borders: the infrastructure at Vilnius and Palanga airports was not in line with Schengen standards (reconstruction work is ongoing).

Data protection: the independence of the Data Protection Authority should be strengthened. Shortcomings: the visa decision-making process, assessment of individual visa applications, awareness of the risks of illegal immigration and other forms of visa misuse. No problems on police cooperation.

Revisits: land borders, 13-20 May 2007; air borders, 1-10 September 2007: the authorities had managed to address the majority of the shortcomings.

The SIS was found to be operating effectively, showing a good performance with very short response times. Users seemed well trained. The recommendations made have been implemented.

## **6. Malta**

Declaration of readiness: 1 May 2006, except for airports and seaports (starting in the first quarter of 2007). The consulate in Moscow was not in line with the Schengen acquis (in terms of security, staff, equipment, premises, procedures, etc). Certain practices and national laws needed revision in order to take account of the procedural safeguards enjoyed by family members in the EU.

Data protection: considered in many aspects to exhibit best practices. Police cooperation: it was necessary to accelerate the preparations for full application of the Schengen acquis and draw up an Action Plan.

Borders: there was a need for an Integrated Border Security Strategy and for optimisation of the fleet (sea border surveillance/surveillance equipment). The procedures for border checks on vehicles needed revision. A revisit was required for the infrastructure at the checkpoints at Valetta International Sea Terminal and Malta International Airport, and the procedures for checks needed improving.

Revisits: police cooperation, 28-30 May 2007; visas, 27-31 August 2007; borders, 1-10 September 2007. In all these areas, Malta had managed to address all the outstanding issues, and almost all the shortcomings had been remedied. The consulate in Moscow is expected to move to new premises in December 2007.

The efforts made to implement the SIS and the SIRENE functions were appreciated and considered to have succeeded. The recommendations regarding small improvements were being followed.

## **7. Poland**

Declaration of readiness: 1 January 2006. Positive border management, with streamlined and functional organisation, competent personnel and up-to-date equipment, although some shortcomings were detected. Some border crossing points were under reconstruction: the infrastructure and border management at the Terespol and Medyka road border crossing points did not meet Schengen standards. It was necessary to ensure compliance with international obligations (regarding refugees and security of data systems). Air borders: the Warsaw, Gdansk and Krakow airports were still undergoing reconstruction and did not yet fulfil the requirements.

Visa issuance: a positive assessment was made of the amount and quality of information provided, security, and staff training and education. Special attention was considered necessary for the visa decision-making process, the submission of applications, awareness of the risks of illegal immigration and the practice of performing border checks on the territory of a third country.

Data protection: assessment was positive, but with the reservation that the powers of the Data

Protection Authority must not be limited in the SIS context. There was satisfactory police cooperation, but the following recommendations were made: the ratification procedures for bilateral agreements should be accelerated; bilateral agreements should be concluded on hot pursuit; and border guards should have direct (online) access to the relevant police databases.

Revisits: land borders, 13-20 May 2007; air borders, 1-10 September 2007. The authorities had managed to address the majority of the shortcomings. Regarding the construction works at the airports, the infrastructure was now in line with Schengen standards. The transfer of the joint border checks from Belarus and Ukraine to Polish territory had been made.

The efforts to implement the SIS and the SIRENE functions were appreciated and considered to have succeeded. The structures were impressive, as were the implementation of the technology and the staff's know-how. A few improvements were recommended and have now been made.

## **8. Slovenia**

Declaration of readiness: 1 January 2006. Borders: positive assessment, although operational effectiveness was considered to be suffering from a shortage of human resources and technical equipment. It was necessary to review the practice of allowing Croatian citizens to enter with identity cards. The infrastructures at the port of Koper needed improving. Air borders: it was found necessary to revisit Ljubljana airport, where the existing infrastructures (under reconstruction) did not meet the Schengen requirements (separation of passenger streams). Additional human resources were considered necessary.

There were no significant shortcomings for visa issuance. Special attention was required regarding the low number of in-depth interviews in relation to the number of applications. The national legislation should also take account of the procedural safeguards enjoyed by family members in the EU.

The data protection legislation and implementation practice were considered acceptable, but it was found that more human resources are needed if a sufficient number of inspections are to be performed. Police cooperation at central, regional and local levels was satisfactory. Nevertheless, the Slovenian authorities should provide for a full 24/7 service by the central authority, with sufficient personnel of the necessary professional standard.

A revisit was made to the air borders on 2-5 July 2007. The authorities had managed to address all the outstanding issues, notably renovation of the passenger terminal, physical separation of passenger flows, and increased staff numbers.

The different organisations involved in using the SIS were well prepared, and the end-users were well trained. The use and quality of the mobile solutions were considered remarkable. A few small recommendations were made.

## **9. Slovakia**

Declaration of readiness: 1 January 2006. Slovakia faces a considerable challenge in bringing its controls at the land border with Ukraine up to EU standards. There were problems in border management and surveillance: current organisation and implementation do not meet

the Schengen Borders Code requirements. A revisit was needed to the road crossing point at Vysne Nemecke, where the infrastructure, procedures and equipment do not meet any of the Schengen requirements. Air borders: a revisit was required for Bratislava airport, where the infrastructure is not fully in line with the Schengen requirements. It was found necessary to improve language skills, statistics, managerial skills and border checking procedures.

Visa issuance: access management, information and staff training were found acceptable. Attention was required to security issues (premises, storage of visa stickers), to the current practice of accepting group visa applications, and to the assessment of individual applications. The national legislation should take account of the procedural safeguards enjoyed by family members in the EU. There was a problem with the high number of visas issued at the border.

Data protection: a revisit was required since introduction of the necessary measures is being held up by understaffing and an insufficient budget in relation to the SIS requirements, while functional independence needs further reinforcement. Police cooperation: the concrete measures of the National Action Plan are still at an early stage of implementation.

Revisits: data protection, 18-24 March 2007; land borders, 17-22 June 2007. The authorities had made a significant effort to address the majority of the shortcomings. Improvements had been made for infrastructure, technical equipment, procedures for border checks, professionalism and foreign languages skills of staff at Bratislava airport. All the data protection shortcomings identified had been remedied.

The IT infrastructure was considered to be well-thought-out and highly developed. The data centres were found to be well-equipped and well-managed, and the end-users properly trained. Recommendations were made on minor aspects: these are being implemented.

## **RAPPORTEUR'S CONCLUSIONS**

Taking into account the results of the evaluations and the necessary revisits carried out by the expert teams, the rapporteur concludes that, although there are some outstanding issues that will require follow-up at some point in the future, they do not constitute an obstacle to full Schengen membership for these Member States.

It appears from the experts' conclusions (which have yielded satisfactory results) that all nine of these new Member States have proved that they are sufficiently prepared to apply all the provisions of the Schengen acquis in a satisfactory manner. Your rapporteur therefore supports the decision to open up the borders for the Member States named above.

Nevertheless, Parliament expects the Member States concerned to inform the Council and Parliament, in writing and in the course of the next six months, on the follow-up they intend to undertake regarding the recommendations and on the necessary changes that are still being made.

Your rapporteur stresses that the removal of controls at the internal borders requires the existence of mutual trust as regards effective controls at the external borders. In fact, the security of the Schengen area depends on the rigour and efficiency that each Member State

applies to controls at its external borders, and, also, on the quality and rapidity of the exchange of information via the SIS. Any weakness or incorrect working of any of these elements is liable to jeopardise the security of the Union and the effectiveness of the Schengen area.

## PROCEDURĂ

<b>Titlu</b>	Aplicarea acquis-ului Schengen în Republica Cehă, Estonia, Letonia, Lituania, Ungaria, Malta, Polonia, Slovenia și Slovacia			
<b>Referințe</b>	11722/2007 - C6-0244/2007 - 2007/0810(CNS)			
<b>Data consultării PE</b>	25.7.2007			
<b>Comisia competentă în fond</b> Data anunțului în plen	LIBE 3.9.2007			
<b>Raportor(i)</b> Data numirii	Carlos Coelho 10.9.2007			
<b>Examinare în comisie</b>	12.9.2007	3.10.2007	5.11.2007	12.11.2007
<b>Data adoptării</b>	12.11.2007			
<b>Rezultatul votului final</b>	+: 31 -: 0 0: 1			
<b>Membri titulari prezenți la votul final</b>	Carlos Coelho, Esther De Lange, Panayiotis Demetriou, Agustín Díaz de Mera García Consuegra, Bárbara Dührkop Dührkop, Kinga Gál, Patrick Gaubert, Lilli Gruber, Ewa Klamt, Magda Kósáné Kovács, Barbara Kudrycka, Stavros Lambrinidis, Henrik Lax, Roselyne Lefrançois, Claude Moraes, Javier Moreno Sánchez, Martine Roure, Inger Segelström, Søren Bo Søndergaard, Vladimir Urutchev, Ioannis Varvitsiotis, Manfred Weber			
<b>Membri supleanți prezenți la votul final</b>	Adamos Adamou, Marco Cappato, Koenraad Dillen, Maria da Assunção Esteves, Ignasi Guardans Cambó, Sophia in 't Veld, Carlos José Iturgaiz Angulo, Sylvia-Yvonne Kaufmann, Eva-Britt Svensson			
<b>Membri supleanți [articolul 178 alineatul (2)] prezenți la votul final</b>	Fernando Fernández Martín			