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THE EUROPEAN UNION

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REPORT

from: the Land Borders Evaluation Committee
to: the Schengen Evaluation Working Party

Subject : Schengen evaluation of the new Member States
- POLAND : report on Land Borders

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1. INTRODUCTION

Based on the mandate of the Schengen Evaluation Group (SCH/Com-ex (98) 26 def) and the programme of evaluations adopted by the Council (15275/04 SCH-EVAL 70 COMIX 718, and 7638/2/05 SCH-EVAL 20 COMIX 200), the Land Borders Evaluation Committee visited Poland from 2 to 8 October 2006.

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During the mission, the experts visited the following sites:

- In Warsaw, the Border Guard Headquarters.
- At the Warmińsko-Mazurski Border Regional Unit, the Sępopol Border Guard Post and the Bezdedy Border Guard Post (BCP).
- At the Podlaski Border Guard Regional Unit, the Szudziałowo Border Guard Post and Kuźnica Border Guard Post (road and railway BCPs).
- At the Nadbuzanski Border Guard Regional Unit, the Terespol Border Guard Post (Road and railway BCPs), the Wola Uhruska Border Guard Post and the Dorohusk Border Guard Post (road BCP).
- At the Bieszczadzki Border Regional Unit, the Huwniki Border Guard Post, the Medyka Border Guard Post (unannounced visit to the road and railway BCPs) and the Krościenko Border Guard Post (road BCP).

This report is the result of what the Evaluation Committee saw and heard; of what was shown and explained and what the Committee was able to evaluate, depending on the available information given by the central and local authorities, the available time on the spot and the period of the year in which the visits took place.

The Evaluation Committee would like to thank the Polish authorities and especially the representatives of the Border Guard for their cooperation, the hospitality shown by the local and regional authorities as well as for the flexibility shown by the coordinators of the mission when adapting the programme to the expert's desires. All the information requested during the visit was put at disposal of the Committee and the additional documentation provided was of great value to the experts.

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2. MANAGEMENT SUMMARY

In carrying out its task, the Evaluation Committee kept mainly to the agreed programme, but with some slight modifications. These changes to the programme were sometimes made at short notice; they also included unannounced visits. The Polish authorities immediately accepted all of them without raising any problems and gave the Committee access to all the information needed for a proper evaluation.

The Committee also had the opportunity to meet and discuss with representatives of the Russian, Belarusian and Ukrainian Border Guard organisations.

Poland's external land borders are long, important and pose a considerable challenge. They total 1.185 km in length, of which 198 Km border the Russian Federation (Kaliningrad Oblast), 418 km border the Republic of Belarus and 535 km border the Republic of Ukraine. All borders are demarcated and defined by agreements. The prevailing border situation is relatively stable. One reason for this is the preventative role played by the neighbouring countries' border control systems. The Committee underlines the need to continue to monitor the situation very closely since the situation at the borders can change rapidly and Poland will become more attractive to illegal immigrants once internal border controls have been lifted.

The Schengen integrated border security model forms the basis of the border security system in Poland. The strategy presented is comprehensive, covering all elements of border security. The competent authority responsible for border management is the Polish Border Guard, an authority within the Ministry of the Interior. Border checks and surveillance at the land borders are performed solely by specially trained border guard professionals. Activities are based on systematic risk analyses and on the continuous exchange of information between national cooperative partners and international bodies. The border security strategy and organisational structure in Poland can be considered as best practice according to the Schengen Catalogue.

Cooperation with non-EU neighbouring countries is well structured and effective at some levels. Practical cooperation is based on the system of border delegates, whereby the regional commander is also the border delegate responsible for cross-border cooperation. He has the necessary powers to solve practical questions independently. This system, where operational responsibility is combined with a clear mandate to implement cross-border cooperation, could be considered as best practice. Some elements of the cooperation, especially with Ukraine, are quite unique as far as the EU's external borders are concerned. As the practical implications of these elements are not always clear, especially the concept of joint border crossing points needs to be clarified from the legal point of view.

In general, the border control measures at Polish land borders are carried out in accordance with Schengen requirements. The Committee is of the opinion that the sites visited during the evaluation meet broadly, but not fully, the Schengen standards in the prevailing border situation.

However, the final assessment should take into consideration, both the conclusions and recommendations for the visited sites, and the general conclusions, including recommendations and follow-up set out in this report.

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3. GENERAL INFORMATION

Information of a more general nature is contained in the Polish answers to the questionnaire addressed to the New Member States with a view to the evaluation of the application of the Schengen acquis, i.e. doc. 15563/05 SCH-EVAL 122 COMIX 287 (RESTREINT UE). Reference is also made to the Polish replies to additional questions, as contained in docs. 6049/06 (RESTREINT UE) and 8441/06 (RESTREINT UE). However, for reasons of clarity the Committee reiterates some of the main elements contained in these answers.

3.1. Strategy

3.1.1. Legislation

The main legislation with regard to border control is:

- the Act on State Border Protection of 12 October 1990 (Journal of Laws No. 78, item 461 with later amendments),
- the Border Guard Act of 12 October 1990 (Journal of Laws of 2002 No. 171, item 1399 with later amendments), founding the Polish Border Guard, and
- the Act on Aliens of 13 June 2003.

The Border Guard Act was amended in 2001 and 2005 giving more competences to the Border Guard. The 2001 amendment gave the Border Guard the possibility to use operational means similar to the Police i.e. the possibility to carry out undercover control and to register images, conversations etc. It also gave the power to the Border Guard to control the purchase of goods originating from organised crime in relation to illegal immigration as well as to cases of corruption. The Border Guard was also given the competence to deploy activities beyond the border area when pursuing perpetrators of crimes and offences.

With the 2005 amendment, the structure of the organisational units of the Border Guard was unified and the competencies of the Border Guard were further enlarged (certain limitation to the use of vested powers of the Border Guard beyond the border area were abolished). Furthermore, new possibilities were introduced to combat corruption and to reinstate border controls at the internal borders as foreseen in Art 2 of the Schengen Convention (Article 23 of the Schengen Borders Code).

3.1.2. General strategy for border management

The general strategy for border management is widely based on the Schengen 4-tier integrated border security model. This means international cooperation with third countries, activities at the external borders in cooperation with the third countries, border surveillance and border checks at the external borders and inland activities.

The national border security concept is covered by the “Integrated Border Management Strategy for 2003 – 2005”, adopted by the Council of Ministers. The document is a continuation of the “Integrated border management strategy” adopted by the Council of Ministers in 2000. It defines the objectives necessary for the Polish border with Russia, Belarus, Ukraine, as well as the state border sea section, and also sea and air border crossings to become an external EU border, as well as objectives to be implemented in the period just after the accession of Poland to the EU.

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It contains the tasks of the Ministry of Internal Affairs and Administration as well as other ministries and services, which take an active part in border management, to ensure effective surveillance and effective organisation of border control of persons, vehicles and goods.

On the basis of the Strategy the “National Border Development Plan for 2003 – 2005” annual plans for particular years were developed.

The coordinator of the operations undertaken by the institutions within the strategy framework is the National Border Development Team, chaired by the Minister of Internal Affairs and Administration.

3.1.3. *Analysis of environment and threats*

The procedure followed by the Polish authorities with regard to the analysis of threats and risks is based on the CIRAM model for risk analysis (see point 3.4).

The current migratory pressure seems not to be very high, in particular at the border with Kaliningrad, where the region is mainly affected by the smuggling of goods. At the Eastern borders and especially in the South-East, at the Ukrainian border, the migratory pressure is higher but the area is so far not confronted with a serious threat.

The following trends were observed relating to illegal migration:

- increased illegal transit migration of Ukrainian citizens who, after legally entering Poland attempt to cross the border illegally on the border sections with Germany and the Czech Republic, both at border crossing-points and, in organised groups, outside the border crossing-points;
- increasing number of cases of trafficking of migrants by using road means of transportation (i.a. in the loading space of trucks or in transported truck loads, cars,...);
- intensification of illegal migration using falsified travel documents, visas and temporary or permanent residence permits of the Schengen countries (mostly on the internal EU border);
- increasing number of legal entries into Poland, (mostly Ukrainian citizens) or submission of an asylum application (citizens of Russia of Chechnyan nationality) with the aim to illegally further migrate to EU countries, or to start illegal work, business or trade activity in Poland (citizens of Ukraine, Moldavia, Bulgaria, Belarus).

Illegal migration cases, both for residence or transit purposes, concentrate on the land border section. Migrants use the following land routes:

- Ukraine – Poland – Germany;
- Ukraine – Poland – The Czech Republic; then Germany or Austria;
- Russia – Belarus– Poland, Germany, the Czech Republic and Slovakia, then to Austria (route used by asylum applicants of Chechen origin).

In 2005, 41.663 aliens were refused entry to Poland. Out of them, 39.415 were refused entry at the external borders.

According to information received during the visit about the results of the fight against illegal immigration in 2005, out of the 3.598 aliens apprehended for illegally crossing the state border, 1.204 were detected at the external land borders while 2.261 were detected at the internal land borders while trying to leave the country.

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During the first six months of 2006, out of the 1.348 aliens apprehended for illegally crossing the state border, 593 were detected at the external land borders while 739 were detected at the internal land borders while trying to leave the country.

The phenomenon of apprehending more illegal immigrants at the internal than at the external border was explained by the fact that most of them were Ukrainian nationals who entered Poland crossing the external border legally but later attempted to cross the Polish western border illegally.

The number of asylum applications received in 2006 (as of 2 October 2006) was 2.500. They involved more than 4.000 persons (one asylum application can concern several persons, i.a. one family).

3.1.4. International cooperation (regional, bilateral and readmission agreements)

Detailed information on international cooperation can be found on doc. 15563/05 (RESTREINT UE). This cooperation takes place in different forms and at different levels.

Reports on the situation at the border and the threat of illegal immigration, are regularly transferred to the Polish diplomatic missions and consulates via the Ministry of Foreign Affairs.

Meetings with the chiefs of border service of Russia, Belarus and Ukraine take place on a regular basis.

At present, the Border Guard has liaison officers in Berlin, Kiev, Brussels and Moscow. 10 border guards have been deployed abroad as document advisors. This measure is positively assessed by the Committee that recommends enhancing even more this cooperation with a view to reducing the high number of visas cancelled at the borders. As no liaison officers are deployed in Belarus yet, this form of cooperation could also be broadened to include this country.

The information exchange with border control services of the neighbouring Member States is ensured, both at central and local level, by bilateral agreements.

3 contact points on the border with Germany, 1 on the border with Lithuania, 2 on the border with Ukraine and 1 on the border with Slovakia have been set up. 2 Focal Points on the border with Ukraine and 1 on the border with the Republic of Belarus are also in place. The possibility to establish such points at the border section with the Russian Federation's Kaliningrad Oblast is currently under discussion.

The Border Guard participates in the information exchange created within the framework of the Visegrad, in the Conference on the Cooperation of Border Guards of the countries of the Baltic Sea Region and on the work of the Task Force on organised crime. The representatives of the Border Guard regularly participate in the work of the Budapest Group.

The institution of the Border Delegate is an important instrument for the cooperation between the Polish Border Guard and the border services, of the Russian Federation, Belarus and Ukraine. The agreement ruling this cooperation dates to 1961. Although the current cooperation on the basis of this agreement does not pose serious problems, the Committee encourages the Polish authorities to continue the ongoing contacts with these countries in order to draw up a new agreement in this matter as a means to adjust it to current and future developments.

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The practical cooperation with Russia covers all levels. The commander of the regional border guard unit responsible for the border control at the Russian border is also a border delegate responsible for practical cooperation with his Russian counterpart. Cooperation includes meetings, exchange of information and joint investigation of border incidents. Means of communications are functional round the clock at the regional and local level. The commander of the regional unit was well aware of the situation on the Russian side.

Practical cooperation with Belarus is also based on the border delegate system. Basic instruments for cooperation are similar to the model used at the Russian border. Means of communication are also available on a 7/24 basis. In addition to that, Poland has also joint (shared) border crossing points with Belarus. This system is based on a temporary agreement signed in 1992 by the Chiefs of Border Guards and Customs from both countries. The Evaluation Committee visited Terespol border crossing point where the entire entry control is performed on the Belarusian side. Only a limited number of experts was allowed to visit this place; it was forbidden to take any photographs. Polish border guards are not allowed to detain or arrest any Belarusian citizen there. The Committee has doubts about the possibility to fully implement the community legislation when Polish border guards conduct checks on Belarusian soil and to ensure the full implementation of the Schengen requirements under this concept. The Committee is concerned about the compatibility of this system with the EU legislation on data protection especially with regard to the confidentiality in the future use of the SIS/VIS. It is not clear either for the Committee how the principles of international protection and especially the non-refoulement principle are guaranteed in these circumstances. It is also questionable from the evaluation point of view that the Belarusians can decide how and when a Schengen evaluation can be made. Changes in the political relationship may also have serious impacts on this kind of cooperation models.

The Committee was informed by the Polish authorities that the situation is temporary and will only last till the next year. The Committee wants to emphasize that in these circumstances the Border Guard is responsible to guarantee the security, confidentiality and full compliance with data protection of the IT Schengen technical equipment.

Cooperation with Ukraine is also based on the border delegate system. The Committee considers that this system is a functional solution since it means that the operational command and cross border cooperation is fluent and immediate. Cooperation models are various and clearly deeper at the operational level than with Russia and Belarus since joint patrolling for the purpose of training, controlled delivery of illegal immigrants, consultation centres and exchange of information also in criminal investigation matters, are included in the cooperation. Common activities (training) have also been conducted on combating corruption. Means of communication are also wider since besides the normal telephone connections, radio connections between the operational units are also available.

Poland and Ukraine have set up two consultation centres, one in Poland and one in Ukraine. These consultation centres are functional on a 24h basis and there is at least one person from each country available in the centre at the same time. The basic idea is to improve the information exchange, to guarantee rapid contacts for necessary national authorities and to facilitate cooperation. The consultation point on the Ukrainian side has no Polish national databases but direct radio/telephone connections available. Joint patrolling for training purposes takes place normally once a week. Patrols were said to be unarmed and operational day or night without any territorial limitations. The tasks of these patrols are planned together and there is a general will to increase their number in the future.

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The concept of joint border crossing points is based on the agreement of 25 June 2001 signed between both governments about cooperation in performing the control of persons, goods and means of transport crossing the Polish-Ukrainian state border. In this concept all checks are conducted either on the Polish or on the Ukrainian side. The powers of the border guards are defined in the agreement. Practical working order of the border crossing point defines the working places and procedures in detail. When working on the Ukrainian side it is not possible to arrest Ukrainian citizens. Like in the case of Belarus, the Committee has doubts about the possibility to fully implement the community legislation when Polish border guards conduct checks on Ukrainian soil and to ensure the full implementation of the Schengen requirements under this concept. In addition the Committee is concerned about the compatibility of this system with the EU legislation on data protection especially in the future with regard to the confidentiality of the SIS/VIS. It is not clear either for the Committee how the principles of international protection and especially the non-refoulement principle are guaranteed in these circumstances.

The Committee considers that joint patrolling in principle is a good instrument. However, this kind of cooperation must have a very clear legal basis and be compatible with relevant provisions of the Schengen Borders Code which confer specific obligations to the Member States. The Committee underlines that at the EU external border the EU-country has always the full and exclusive responsibility of the border control at its external borders.

There are no agreements on local border traffic with any of the three neighbouring third countries. In the past, there were binding agreements on simplified local border traffic between Poland and the neighbouring countries. When Poland became a member of the EU the agreements were terminated. At present a regulation of the EU Council and Parliament on local border traffic will come into force and it will be a kind of instruction/guideline for opening negotiations concerning agreements on the rules of local border traffic to be concluded with the third countries.

3.1.5. Cooperation with the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union

The Agency has been established in Warsaw. The Border Guard has been providing FRONTEX support both in terms of infrastructure and technical equipment in order to facilitate its internal organization and the development of its mission.

The Polish Border Guard is represented in the Management Board of FRONTEX and several experts participate in the activities developed by the Agency. Poland has also participated in some of the joint operations performed within the Agency's framework.

3.2. Organisational (functional) structure

3.2.1. Centralised supervision and instructions

The Chief of the Border Guard, subordinated to the Minister of Internal Affairs and Administration, is the central administrative responsible for matters related to state border surveillance and control of border traffic. The Border Guard Commander-in-Chief performs his tasks with the assistance of the Border Guard Headquarters.

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The local Border Guard authorities are the Commanders of the Border Guard Regional Units and the Commanders of the Border Guard Posts and Divisions.

The organisational structure of the Border Guard includes:

- 12 Border Guard Regional Units, 5 of which are at the external EU border, 6 at the internal EU border and 1 with territorial competence over the central Voivodeship of Poland,
- 138 Border Guard Posts (BGPs), out of which 76 are at the external border, and
- 2 Divisions (at the sea border).

As a result of the Border Guard re-organisation (carried out in 2002), a fully integrated system of state border surveillance and border traffic control has been created. It allows for the coordination of effective actions between different Border Guard bodies and units, in accordance with the principles and guidelines defined by the Border Guard Commander-in-Chief, both at central and district level.

Within the structure of the Border Guard Headquarters the above mentioned tasks are carried out by the Border Department of the Border Guard Headquarters, which supervises and coordinates tasks related to the state border surveillance and border traffic control, and the Operation and Investigation Department of the Border Guard Headquarters with competency in the field of operational and investigative procedures.

The Border Guard Activities Coordination Centre is responsible for the coordination of activities carried out throughout the country. This structure is reflected at the Regional Units level with the following departments: border department, operation and investigation department, the Activities Coordination Centre subordinate to the commanders of BG Regional Units, as well as at the level of border organisational units. Detailed tasks and competencies of particular organisational units of the Headquarters and Regional Units' headquarters are described in their rules of procedure.

3.2.2. *Coordination and inter-agency cooperation, division of responsibilities*

The Border Guard is the only authority competent to carry out border control activities. While performing border checks on persons it cooperates with the Customs Service. This cooperation is based on Agreement No. 2 between the Commander-in-Chief of the Border Guard and the Minister of Finance of 28 January 2004. It consists of:

- providing assistance in detecting persons who try to cross the border against the regulations,
- carrying out joint actions aimed at streamlining the border traffic, preventing and combating crime,
- development of common positions in matters requiring agreements with the authorities of the neighbouring states,
- conducting mutual training courses,
- granting mutual assistance by providing:
 - special equipment for document checking, drug identification, x-raying of luggage,
 - trained dogs used to detect weapons and drugs,
 - vehicles equipped with x-raying equipment of the Heimann type,
 - equipment for radiometric control,
 - organising the service and control during the periods of intensified traffic (holiday seasons).

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The cooperation of officers from the operational and investigative section of the Border Guard with the Customs Service consists mainly of exchange of information, of undertaking administrative and maintenance, operational and intelligence as well as intelligence gathering joint operations.

Customs can also perform searches and carry out controls of vehicles entering Poland at the request of the Border Guard. Both agencies carry out intensified operations on roads leading to the border crossing points and inside the country aimed at controlling the legality of stay of foreigners. Joint training courses on regulations binding for both services also play a very important role in this mutual cooperation.

However, the practical cooperation between the Border Guard and Customs at the BCPs is limited. The Committee noticed that very often similar checks are performed by both agencies, within their respective scope of competences, without a really visible exchange of information. Closer cooperation or the implementation of the one-stop principle while performing border checks could result in an increase of the overall efficiency and in the reduction of the waiting time for persons crossing the borders.¹

The cooperation between the Border Guard and the Police in the border regions is carried out on the basis of an agreement signed on 17 June 2004. Its implementation is carried out in the following fields:

- preventive operations, aimed in particular at controlling the legality of stay of foreigners in the territory of Poland, ensuring order and safety in the border region, deepening the operational reconnaissance in relation to the risks connected to border crime;
- operational intelligence and intelligence gathering activities. Regular exchange of information is carried out on perpetrators of crimes and offences, on facts, incidents and risks encountered in the area of responsibility of both services and joint operational and intelligence activities are carried out, i.e.: observation, apprehension of wanted persons, vehicles and goods, examination of persons and places, searches, visits to the scenes of crime, interrogations of suspects and witnesses;
- exchange of information, inter alia, on wanted persons, lost persons, crime and offences perpetrators of interest to both services, facts, risks encountered in the area of responsibility of both services.

¹ **PL.** The Border Guard is of the opinion that introducing the one-stop principle now will be complicated due to differences between tasks of the Border Guard and the Customs service. The BG as a law enforcement service is authorised in substantiated cases to perform tasks that normally lie within the responsibilities of the Customs, for example to combat smuggling which is considered to be violation of the legal order. However, it must be remembered, that border traffic control and border protection are the main tasks of the Border Guard and it is the Customs service who is responsible for the traffic of goods. Beside that it should be taken into consideration that Border Guard as law enforcement agency and in case of apprehension of smuggled goods is obliged to secure evidences of the crime, even if the crime lies under the competency of the Customs Service. Such a case is, as soon as evidences are secured, handled over to the relevant authority (Customs Service). In the context of performing tasks by two authorities, Border Guards and Customs, it should be underlined that the implemented system is also an element of the anti-corruption strategy (mutual monitoring of the quality of performed duties). Nevertheless, wherever it is possible in practice, Poland is trying to introduce the one-stop principle as the main one for the border traffic control procedure.

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3.2.3. *Specialised services*

The Border Guard counts 15 Reserve Units (rapid response forces) that carry out border related activities. They are 9 Reserve Companies, 2 Independent Reserve Companies, 3 Special Reserve Platoons and 1 Reserve Platoon.

9 special platoons are also available within the organisational structure of the 8 reserve companies and 1 independent reserve company. The main tasks of the abovementioned units are to carry out border actions and support Border Guard organisational units in carrying out border control and border surveillance.

Commanders of the units may organise a non-permanent reserve unit, composed of officers of the unit's headquarters. The Commander-in-Chief of the Border Guard may delegate the so-called central subordinate reserve unit to any place at the national border. The reserve unit is composed of students of the Border Guard training centres. The main task of the reserve units is to carry out border operations, independently or as a support to operations carried out by border organisational units of BG. The reserve unit is fully mobile.

Operational and investigation groups and teams, subordinated to the operational and investigation sections, operate within the structure of the Border Guard organisational units in the field of combating border crime at regional level.

3.3. **Operational effectiveness**

3.3.1. *Resources*

According to the information provided, as from 30 September 2005, Poland has 70 border crossing points at the external borders:

- 31 land border crossing-points (6 at the Russian Federation section, 13 at the Republic of Belarus section and 12 at the Ukraine section),
- 19 maritime border crossing-points,
- 20 air border crossing-points.

From January to September 2005, 2 new border crossing-points were open at the border with Belarus (1 road crossing point in Białowieża and 1 river crossing-point in Rudawka).

Human resources

On 30 September 2006, the Polish Border Guard had a total of 15.828 officers and 3 803 civil servants. Total number of staff: 19 631.

Between 2003 and 2005, 1.325 new border guard officers were recruited. Over 80% of the newly recruited officers are and will continue to be deployed at the future external border. It is expected that the Border Guard will be a fully professional service by the end of 2006. Currently there are still about 113 conscripts in service but they are not involved in border control tasks.

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According to the information provided by the Polish authorities, 70% of the total number of border guards currently deployed at the future internal borders will stay in those areas in order to carry out various competences attributed to the Border Guard i.a. the combating of smuggling of goods, cross-border criminality etc. There are also plans to extend the tasks of the Border Guard to the protection of transport routes via mobile forces. A "natural" decrease of the remaining 30% personnel is expected to take place via:

- the reduction of the number of officers in the border units at the internal border;
- vacancies that will not be filled;
- unfilled vacancies that may be transferred to the external borders.

The Border Guard expects that there will be no need to redeploy officers from the internal to the external borders of the European Union.

Technical resources

At the BCPs the Polish Border Guard has fixed and mobile terminals with MRTD linear document readers, radio access to the central databases, (including the Album of specimen documents and Album of falsified documents and access to external resources -POBYT and PESEL databases) equipment for the detection of false and forged documents, Morpho Touch scanners of fingerprints for checking in AFIS / EURODAC systems, etc.

The list of equipment for checking documents available at border crossing-points is enclosed in Annex 5 of doc. 15563/05 (RESTREINT UE).

The Border Guard is in possession of several aircrafts, fully equipped airplanes and helicopters, and mobile and fixed thermo vision cameras.

Communication between the operational units assigned to monitor the borders and the operational centres is carried out by means of a FM radio analogue network. Personal and car radiotelephones as well as retransmission stations are used for this purpose.

Every Border Guard organisational unit has its own radio network, which covers the area lying within its responsibility. SW radio-stations are used as a reserve communication system in case of connection failure. Every Border Guard Unit disposes of such radio-stations.

Communication between operational units and units at the same or superior level is carried out by means of IP telephones, intranet, fax and coded fax. The Border Guard has a Centre for the Management of the IT Systems located in the Headquarters of the Border Guard in Warsaw. All communication processes are monitored by this Centre.

Reference is made to point 8.3.5. of this report.

3.3.2. Level of controls at external border

The organization at the local level is based on Border Guard Posts (BGPs). Some of them are exclusively dedicated to border surveillance duties, while others cover also the performance of border checks at BCPs structurally dependent on the BGPs.

At the border crossing points, border checks are carried out systematically both on entry and exit. During border checks personal data is automatically checked in the Border Guard database and the vehicles are checked in the Police database OPIS.

RESTREINT

Data on all persons who cross the state border are entered into the ZSE II system.

The road border crossing points are in general fenced and surveyed by patrols and technical means.

On international railway traffic, border checks are carried out either at the train station during the stop or inside the train while it is running within the selected sections of the railway.

To calculate the estimated level of external state border protection efficiency, the Border Guard uses the following data:

- number of persons apprehended for attempting to cross or crossing the border illegally,
- number of persons readmitted to Poland,
- number of revealed tracks of illegal border crossing or other findings related to the illegal crossing of the state border.

		2004	2005	Jan - Sept 2006
A	Persons apprehended by BG	1117	1155	901
B	Persons readmitted to Poland	3	1	1
C	tracks revealed or other findings related to crossing the state border illegally	59	132	40

The estimated efficiency of Border Guard actions is based on the following formula:

$$\frac{A}{A + B + C} \times 100\%$$

The reported results are:

- in 2004: 95 %
- in 2005: 89,6%
- from January to September 2006: 95,6 %

3.3.3. *Situational awareness and reaction capability*

According to Directive No. Z-16 (5 May 2003) of the Border Guard Commander in Chief on border service and executing border operations, Border Guard officers carry out state border surveillance tasks by patrolling the state border and carrying out checks on roads leading to the state border and border surveillance with the use of aircraft, cameras and surveillance vehicles equipped with thermo vision devices.

Green border surveillance is carried out 24 hours a day. The intensity and methods of controlling the green border (i.e. patrolling) depend on the border situation, the risk analysis, information obtained from inhabitants of the border region and from the services of the neighbouring country, and the orders received from the Border Guard headquarters.

The cooperation with the population of the border region is an important element of the border surveillance. The Border Guard carry out operational crime-intelligence activities, including these contacts with the local population.

RESTREINT

Cooperation with border guard authorities of the neighbouring countries, in the field of border surveillance, consists mainly of information exchange on persons, occurrences and events which could influence the inviolability of the state border, as well as of undertaking joint actions and decisions along the state border, in case of illegal crossing.

Joint patrols are planned at the external borders. To this end, training courses on border guard duties in state border surveillance and on the use of vehicles with thermo vision devices were proposed to the Ukrainian partner.

Border Guard Posts are supported by special forces and actions of reserve subdivisions.

Situational awareness is based on a continuous and well structured analysis of the environment. Dataflow management guarantees rapid exchange of information in all cases. The Polish Border Guard is very well aware of the situation at the borders.

Reference is made to chapter 8 (Border surveillance) of this report.

3.3.4. Availability and permanency of resources (human, technical)

The human and most technical resources are available 24 hours a day both at the BCPs and for border surveillance activities.

At the BCPs, although the number of personnel seems to be adequate to the needs, the management system should be enhanced in order to allow, when possible, that border checks are performed by two border guards. Fully professional personnel are sometimes used just for traffic management at BCPs. Technical equipment in general terms is in place.

On the land borders, the surveillance is carried out in a 12-hour shift system (at the BCPs the system will be changed to an 8-hour system within the framework of changing the Border Guard into a professional, non-conscript service) and 8 – hour shift system (patrols on the green border and in the border area). 6-8 patrols are selected per 24-hours, equipped with all the necessary equipment.

Mobile Surveillance Units are also used for surveillance activities. Observation devices, installed on vehicles (thermal and ordinary cameras) permit the observation of areas lying within the responsibilities of a BG unit, depending on the geographical features and atmospheric conditions.

The 68 Mobile Surveillance Units carry out services for 6 hours on average. Each vehicle is used on average every second day. Taking into account the atmospheric conditions, especially in winter, as well as possible failures of the Mobile Surveillance Units, it should be noted that they are used with a great frequency.

Border Guard aircraft equipped with night and day observation devices are largely available. Every regional unit has its own air support unit. The air support is possible several times a week.

Reference is made to chapter 8 (Border surveillance) of this report.

RESTREINT

3.4. Risk analysis, intelligence and data-flow management

3.4.1. *Organisation, methods and responsibilities*

The Common Integrated Risk Analysis Model (CIRAM) is the methodology used by the Polish authorities to carry out risk analysis.

At central level risk analyses are performed by the Strategic Analysis Bureau (SAB) (former Independent Risk Analysis Section -IRAS-) within the Border Guard Headquarters. This Section currently cooperates with FRONTEX in the field of risk analysis.

The main priorities for the SAB are the threats of border crime and risks related thereto in the Border Guard Regional Units, personnel-related issues (recruitment, the level of professional development of the officers, the training system, etc) and corruption.

SAB uses internal Border Guard information and also external information received from the central and local administration authorities, scientific and research institutes, press, the Internet, etc. for the preparation of the analyses.

Polish Border Guard carries out risk analyses at three different levels: strategic, operational and tactical.

At strategic level, the Strategic Analysis Bureau compiles and delivers reports addressed to the central authorities, Border Guard Headquarters, Regional Units and neighbouring countries.

At operational level, the reports are performed by the Independent Risk Analysis Sections and are delivered to Commanders of the Border Guard and Commanders of the Regional Units as well as to the Border Guard Posts and neighbouring countries.

At tactical level, the Border Guard Posts' Commanders prepare reports that are addressed to the Commanders of the Regional Units and Border Guard executives and officers as well as to the border services of the neighbouring countries.

Several trainings have been conducted since 2005 in order to train border guard officers and commanders to fully implement the risk analysis system in the near future.

Information related to illegal migration and other types of border crime and border traffic control is gathered and registered by the Border Guard.

At present, a Border Guard Central database is being created. It will integrate most of the so-far dispersed databases and is planned to be finalised by September 2007.

The Border Guard Posts also have access to the Police database OPIS on wanted persons and lost objects.

Entries and exits at the border are registered in the ZSE_II Integrated Register System. It gives access to the data on alerts on persons and vehicles, compares them with the data of the checked persons and vehicles and registers the execution of the border control. ZSE II contains information on all persons whose data were checked in an electronic system when crossing the border.

In such cases data contained in the machine readable zone of the passport, the number of the visa, if required, the time and place of the border crossing, the means of transport and the code of the controller are collected.

RESTREINT

The fact that all persons crossing the borders are registered in the ZSE II, including EU citizens, raises concerns about the compatibility of this procedure with the Community legislation on data protection. To that regard the Committee also reminds that EU citizens should not be systematically checked against national databases (or in future to the SIS).

The Committee was informed that from 13 October 2006 when Schengen Border Code entered into force, the practice described above is no longer used.

Other sources of information used by the Border Guard are the National Centre for Criminal Information (KCIK), the database on foreigners who have submitted applications to legalise their stay in the Republic of Poland (POBYT) and EURODAC.

Information is exchanged, among others, in the framework of cooperation with EU countries (i.e. EUROPOL, Early Warning System CIREFI) and Interpol. Moreover, in the framework of cooperation of border guard services of countries in the Baltic Sea Region – with the use of the COASTNET system, the Morski Border Guard Regional Unit exchanges information with all border guard services of the Baltic countries in the form of weekly situational reports, as well as ad-hoc reports.

3.4.2. *Horizontal and vertical data flows*

The use of information is based on the horizontal and vertical exchange of information within the Border Guard. Cooperating institutions are also the final recipients of the reports at horizontal level when it is reasonable.

3.5. Investigation and alien policing

3.5.1. *Legal background*

The Act on Aliens foresees the following administrative sanctions:

- a) in case of control at a border crossing-point:
 - refusal of entry (Article 21),
 - refusal to issue a visa (Article 42),
 - annulling visa (Article 48)
- b) in case of control inland:
 - withdrawal of residency permit issued for a defined period of time (Article 58 paragraph 1),
 - withdrawal of residency permit (Article 67 paragraph),
 - deportation (Article 88 paragraph 1),
 - obligation to leave the territory of the Republic of Poland (Article 97 paragraph 1),
 - fine (Article 148 paragraph 1).

Since 24 August 2005, a foreigner who illegally crossed the state border is subject to administrative sanctions, as defined in Article 49 a§ 1, added to the Violation Code.

Under the current legal status there is no difference between controls performed at the external or at the internal border. Both are conducted on the basis of unified principles and procedures.

RESTREINT

However, the Act of 22 April, 2005 amending the Border Guard Act and some other Acts (Journal of Laws No. 90 item 757) contain provisions related to the internal border, which specify what authorities are permitted to abolish and reintroduce for a specified time border control of persons, define the types of objects and equipment which should be maintained to enable quick reintroduction of this control and the principles of its execution. The above mentioned rules will enter into force on the day defined in the Council Decision on the full implementation of the Schengen acquis.

More information on the penalties imposed related to illegal migration activities can be found on pages 51-52 of doc. 15563/05 (RESTREINT UE).

3.5.2. *Organisation*

The tasks related to combating illegal migration are carried out by: Border Guard, Police, authorities controlling foreigners' legality of stay on the territory of Poland and the Chairman of the Office for Repatriation and Foreigners; Voivodship offices and Customs authorities, in the scope necessary to carry out proceedings in matters related to foreigners or customs (Article 85 and subsequent of the Act on Foreigners).

Control of foreigners' legality of stay is carried out also by mobile groups of the Border Guard. This control can be done independently or in cooperation with the Police, Customs and the Employment Office.

The removal procedure is described in chapter 8 of the Act on Aliens where the grounds and procedure of foreigners' removal and of the procedure of imposing an obligation to leave the territory of the Republic of Poland are laid down.

Customs are also involved in the control of the legality of stay and employment of foreigners in Poland, as a part of operations related to sealing the "green border" and counteracting smuggling of drugs or dangerous goods (i.a. weapons and explosives). The powers of the Customs authorities in this field derived from the Act on creating Regional Revenue Offices of 27 June 2003 and by amending a number of laws regulating authorities' tasks, competences as well as the structure of organisational units subordinated to the minister responsible for public finance.

The expulsion decision is taken by the Voivode of the foreigner's place of stay or the place where the event considered as the basis for submitting an expulsion request has been revealed. The decision is taken ex-officio or at the request of the Minister of Defence, the Head of the Interior Security Agency, the Head of the Secret Service Agency, the Commander-in-Chief of the Border Guard, the Chief of the Police, the commander of a Border Guard Regional Division, Regional Chief of the Police, the commander of a Border Guard post or Customs authorities.

Joint ad-hoc operational and investigation groups may be created between several Border Guard units to fight border crime and increase the capacity to undertake actions.

A department for fighting organised crime and special operations was created in the Operational and Investigation Board of the BG Headquarters in 2004.

RESTREINT

Operational and intelligence activities aimed at preventing and detecting crime, identifying the perpetrators and obtaining the evidence of offences referred to in Article 264 of the Penal Code (crossing the border against the regulations, in cooperation with other persons, organising the crossing of the border for others against the regulations) can be carried out by the Border Guard.

The Committee was informed that in framework of the fight against illegal immigration, 133 aliens were detected inside the country in 2005.

3.6. Staff and training

3.6.1. *Adequacy and the level of professionalism*

Only professional personnel are used for border management. A few number of conscripts are still on duty by they are assigned to perform duties not related to border control. The Committee was told that the last conscripts should leave the Border Guard at the end of 2006.

In general, the number of personnel seems to be proportional to the current needs. The border guards are disciplined, professional and seem also to be motivated to perform their daily duties in an effective way. The Committee noted that at certain BCPs the use of the human resources could be further improved in order to raise the efficiency during the border checks.

3.6.2. *Responsibilities of the Border Guards*

The Border Guard officers are, among others, entitled to:

- carry out border checks,
- carry out personal control and control of luggage,
- check identity documents,
- issue visas and authorisation to cross the national border,
- apprehend/detain persons,
- search persons, objects and premises,
- observe and register incidents on roads and in other public places,
- stop vehicles.

In relation to the pursuit of perpetrators border guards are entitled to check identity cards, apprehend/detain persons, search premises, carry out observation and stop vehicles also outside of the border area.

3.6.3. *Selection criteria*

The recruitment of new border guards is based on a procedure defined by internal regulations.

All candidates follow a two-stage qualifying procedure. Next to an interview, the first stage includes a psychophysical and medical examination and a verifying procedure. The second stage includes a written exam on general knowledge, a physical examination, a written test in a foreign language, another interview, and finally, an analysis of the results of the first stage of the qualifying procedure.

RESTREINT

3.6.4. *Basic training*

All new officials admitted to the service, (including those who after completing the training will be responsible for controls on external borders), before taking up their professional duties in their own units undergo training courses in the Border Guard training centres. They are trained on EU legislation regulating border control activities on the basis of the training programmes currently in force. Particular attention is paid to the “Border Traffic Control” subject.

In connection with the introduction of a “new” training system, as of May 2005, all new officials are directly delegated to the training centres for basic training, immediately followed by non-commissioned officers’ training or warrant officers’ training.

The training programmes are systematically updated and completed according to the modification of the legislation in force.

Basic training is carried out at the Border Guard Central Training Centre; it is mandatory for all border guards and follows this educational model:

- basic training; duration 5 months
- training in a non - commissioned officers’ school for persons with high school education; duration 3 months, following immediately after the 5-month basic training or
- training in a warrant officers’ school for persons with university education, duration 3 months, following immediately after the 5-month basic training.

Additional training is carried out at the central training centres for Border Guard officers in permanent service (after 3 years of service), according to the following educational model:

- 3.5 – month training in a warrant officers’ school for persons with high school or university education
- officer course for Border Guard officers with university education, duration 10 months.

The above mentioned training courses are carried out on the basis of national educational programmes for Border Guard officers approved by the Border Guard Commander-in-Chief. The current 8 months basic training programme was instituted in May 2003. Before that time border guards normally had only 3 months of basic training before entering in service.

Some of the border guards interviewed by the Committee who joined the Border Guard many years ago as conscripts, did not follow the basic training mentioned above. The Committee recommends that all border guards lacking this basic training are adequately trained in order to maintain the professional standards of border control activities.

3.6.5. *Further continuing education*

Topics related to the implementation of the Schengen Acquis are discussed during proficiency and special training courses. Border Guard Training Centres hold, among others, training courses for technicians – criminologists, pyrotechnics specialists, screeners (officers performing tasks related to air traffic security), document specialists, guides of trained dogs and multipliers.

RESTREINT

In order to reach the level of control required by Schengen, the Border Guard Training Centre in Kętrzyn organised and held the following courses:

- "EU legislation and resolutions of the Schengen Treaty, in particular taking into account the principles for border crossing and border control". From January 2004 until February 2005 the teachers of the BG Training Centre held 7 courses on the above mentioned topics. In total 541 officers from the following BG Regional Divisions were trained: Bieszczadzki, Podlaski, Warmińsko-Mazurski, Nadbużański, Karpacki and the BG posts at the airport Warszawa-Okęcie.
- In 2005 one training course was held for multipliers of the BG Regional Divisions in the field of border control that included topics related to Schengen. The participants on the training are obliged to pass on the knowledge of the above mentioned topics in their own BG units.

From 2004, the following courses are carried out within the framework of the advanced and specialist training at the Border Guard Training Centre:

- "The European Union and the provisions of the Schengen Treaty in the field of crossing the border and border control" (a week training).
- "Training for multipliers in the field of border control" (a three-day training) covering three modules:
 - Crossing the external borders of the EU and stay within the EU territory in relation to national and EU legislation.
 - Legal aspects of issuing administrative decisions.
 - Detention for the purposes of expulsion.
- "Specialist training in the field of preparation of Border Guard officers for the Schengen Evaluation" (a week training).

Proficiency and special training courses planned for 2006 will cover, among others, the following fields: EU legislation, document forgeries, pyrotechnical reconnaissance, crossing the external and internal EU borders and stay in the Schengen territory, carrying out border control on the basis of the Community Code, special training of multipliers in the field of border control etc.

The training courses will be held on the basis of programmes developed in the above-mentioned BG training centres.

A new programme for multipliers is currently under preparation in the field of EU legislation. The programme will consist of 70 hours of training. After that multipliers will carry out five-day trainings (about 35 hours) in their BG units. The first trainings began in September 2006.

Proficiency training courses are offered to border guards in order to improve their professional skills at the Regional Divisions and local units. They are carried out throughout the year in the framework of the compulsory on-duty time. It covers all officers in a timeframe of no less than 5 lessons per month (a lesson lasts 45 minutes). The training refers to EU legislation, administrative and criminal justice procedures as well as issues resulting from situation analysis in the field of cross-border crime and other issues resulting from current needs.

3.6.6. *Linguistic training*

During the recruitment procedure all candidates undergo a written foreign language test. The level of examination equals that of the secondary school in Poland. The candidate can choose in which language he or she wants to be tested.

RESTREINT

When the officers are on duty additional language training can be provided. EU funds were used to set up new language trainings. 1.500 officers attended these trainings. In general, most of border guards were able to communicate with the citizens of the neighbouring third countries.

3.6.7. *Specialised document checking training*

The Committee was informed that all border control officers receive training regarding document examination. Moreover, specialised document checking training courses and skill improving courses are organized for officers of individual Border Guard units.

For the newcomers special on-the-job-training is organized. After three months, the commander decides when new officers receive full control authority.

The Committee noticed that not all border guards specialised on document checking deployed in the second line of control seem to receive regular training courses on document examination, and that a large part of this training is based on self training supported by the use of the intranet tools available in the system. The Committee recommends that, with a view to maintaining the uniform level of standards at the national level, these specialists are trained following a national programme that harmonises the standards of document verification at all BCPs.

3.6.8. *Specialised training for different managerial levels*

For the improvement of the professional qualification of the border guards, special courses are organized, such as logistics management, management of border protection, border traffic control, state border protection, securing border operations and investigation procedures.

3.7. Readmission, expulsion and illegal immigration. Carriers liability

3.7.1. *Administrative structures and coordination*

The Office for Repatriation and Aliens, the Border Guard, the Police and Voivodship governors' offices are among the governmental authorities involved in combating illegal immigration. The fundamental legal act regulating procedures applicable to aliens is the Act of 13 June 2003 on aliens (original text: J.L. of 2003 No. 128, it. 1175). The central government administration body competent for all issues concerning aliens is the Office for Repatriation and Aliens under the scope of the Ministry of the Interior. Its director reports directly to the Prime Minister. The Office is the competent authority to make decisions on legalization of stay, on issuing of permits and on issuance of visa.

Cooperation between this office and the Border Guard is regulated by Polish government acts, but there is no cooperation agreement.

Competent organizational cells subordinate to the Voivodship governor are also involved in the issuing of residence permits and expulsion decisions.

RESTREINT

In the framework of cooperation with the Police, the Border Guard carry out control of the legality of stay of aliens in the territory of the Republic of Poland. Preventive measures, undertaken together with the Police, are also aimed at increasing security and combating border crime, crime committed in the vicinity of the national border and, in particular, illegal immigration and smuggling.

3.7.2. *Removal and readmission of persons who are not admitted or who are found illegally present (identification, detention, issue of documents, escort, financing)*

An alien who is found illegally in Poland or at the border can get a decision ordering him to leave the country within 7 days. Polish law also sets up the possibility to expel illegal aliens by force. In the case a decision ordering the alien to leave is issued at the border, the period of 7 days also applies. The experts were told that, in general, persons who are issued such a decision at the land border leave the country immediately. To expel a person, border guarding units have to get permission from the Voivodship. In most of the cases those permits are granted.

To the extent necessary for the control of legality of residence the Police may:

- check whether an alien holds a valid travel document and an appropriate visa permitting him to cross the border and reside within the territory of the Republic of Poland, unless the provisions of the Act on aliens provide otherwise;
- check whether an alien holds a document confirming his temporary residence registration issued by a competent municipality, unless he is transiting across the territory of Poland;
- check persons in police databases or in case of detention also check at Board for Frontiers of the National Border Guard Headquarters (Zarząd Graniczny KGSG);
- detain, for a period of up to 48 hours, an alien who may be subject to expulsion or who did not comply with requirements specified in the expulsion decision;
- if justifiable circumstances arise, submit a request to the competent court for placing an alien in a guarded facility or ordering his arrest for the purpose of expulsion.

Immediately following alien's detention the Voivodship Chief of Police submits to the competent court a request for a decision of expulsion or proceeds to transport an alien to the border.

The competent Voivodship governor carrying out the expulsion procedure issues a decision on the expulsion of an alien, either by virtue of his office, or upon request of competent authorities, e.g. the Voivodship Chief of Police. In case any of the circumstances specified under Article 88 section 1 par. 1-3 apply, an alien may be obliged to leave the territory of Poland within 7 days. Voivodship Chief of Police and District (Municipal) Chief of Police are authorized to render such a decision.

When the immediate transportation of an alien to the border is not possible, he may be placed in one of the guarded facilities available in the country for a maximum period of 1 year. In exceptional cases motivated by his or her behaviour the person may be arrested for the purpose of expulsion, always under the approval of a Court.

The Polish Border Guard has signed an agreement with the Polish air force for the use of military aircrafts to implement expulsion of aliens. Deportees are usually escorted by border guards. Poland has organised joint expulsions with other Member States like Germany, Austria and France. More of these joint operations are planned for the future.

RESTREINT

Readmission agreements have been signed with the following third countries: Bulgaria, Croatia, Moldova, Romania, Ukraine and Vietnam. However, no readmission agreement has been signed with Russia and Belarus. The readmission of persons to these two countries takes place under the agreement signed between the Government of the Polish People's Republic and the Government of the Union of the Socialist Soviet Republics on the legal relations at the Polish – Russian national border and cooperation and mutual assistance in border issues, signed in Moscow on 15 February 1961. This agreement is currently in the process of being updated. Despite the fact that the Russian authorities have declared to be in favour of this updating they have not reacted to the Polish proposals so far.

The number of aliens removed under the readmission agreements is: 2.410 during 2006 (first 8 months), 5.328 in 2005 and 6.199 in 2004.

Additional information about readmission is provided for in Annex 8 of doc. 15563/05 RESTREINT UE.

Between January and September 2005 the Border Guard issued 28.732 refusal of entry decisions. The Commanders of the Border Guard units are the authorities entitled to issue such decisions.

The Border Guard is also in charge of the reception of asylum applications at the border or within the Polish territory. After the fingerprints and pictures of the asylum seekers are taken, the processing is done by the Border Guard for the purposes of the Dublin II Convention. After being informed in written form on the asylum procedure, the asylum seeker is directed to the Reception Centre near Warsaw. After that the person can be placed in one of the 18 centres for refugees in the country. While awaiting the administrative procedures the asylum seeker is informed in writing in different languages about the Polish asylum procedure, the Dublin Convention and the Council Regulation (EC) No 343/2003.

3.7.3. *Means deployed to combat illegal immigration networks*

Next to the Border Guard, among others, the Police and Departments of Administrative Proceedings functioning at all Voivodship (Metropolitan) contribute to combating illegal immigration inside the national territory.

In the scope of combating forms of organized crime including those connected with illegal immigration these tasks are carried out by the Intelligence and Investigation Department of the Border Guard Headquarters. Within the organizational structure of the Border Guard the Intelligence and Investigation Department is the cell competent in the field of detecting and preventing illegal immigration. In the framework of cooperation with the Police, the Border Guard controls legality of aliens' residence within the territory of the Republic of Poland. Preventive actions carried out by the Police in cooperation with the Border Guard are aimed at the improvement of security and combating border related crimes, including but not limited to illegal immigration and smuggling.

RESTREINT

In the case of offences relating to organised crossing of the border by other persons against the regulations, the Border Guard may, apart from operational control, carry out undercover activities, selling or taking over of items derived from the crime (controlled purchase). The Border Guard may also perform secret surveillance of the transport, storage and selling of items derived from the crime (controlled delivery) as well as collecting, gathering and use, for the purpose of detection and identification, the finger prints, photos and personal data, including those relating to the ethnic origin, the religious affiliation and health of the suspected persons, without the knowledge and consent of persons concerned.

3.7.4. *Implementation of carriers liability*

Carriers who, by air or by sea, bring into the territory of Poland an alien who does not possess a travel document required for crossing the border, or who is not authorised to enter the territory of another country or to return to the country of origin, if such an authorisation is required, shall be subject to an administrative sanction equivalent to 3.000 up to 5.000 Euro for each transported person, whereas the total fine for one transport of a group of persons should not exceed 500.000 Euro (Article 138 of the Act on Aliens). This provision also refers to the operators of regular international coach services, except for local border traffic.

Carriers shall be obliged to return the alien to the third country from which he / she was transported or, if it is not possible, to the third country which issued the travel document on the basis of which he / she travelled or to any other third country, which ensures admission of that alien, if:

- 1) the alien was refused entry into the territory of the Republic of Poland;
- 2) the alien transiting through the territory of the Republic of Poland was refused entry by the authorities of the country of destination or the authorities of the country adjacent to the territory of the Republic of Poland or if the carrier which should have carried the alien to that country refused to take him on board.

According to Article 139 of the Act on Aliens of 13 June 2003 the commanding officer of a Border Guard unit must submit the proposal of sanction to the competent Voivod, that takes the decision on imposing the fine or not.

Between January and September 2005, the Border Guard submitted 73 applications to impose penalties on carriers. In 41 cases, the Voivods refrained from imposing such penalties.

The reasons to deny imposing the penalties were mainly:

- lack of notification of the interested party by the Voivod on initiating the proceedings;
- different interpretation of legal provisions related to the conditions of entry to Poland by the nationals of Switzerland;
- the Voivods' interpretation of Article 138 paragraph 1 of the Act on aliens according to which in order to impose an administrative fine on the carrier, he must bring an alien who is not in a possession of a travel document and a visa (both documents at the same time) (48 cases).

65 fines were imposed to carriers at the external land borders in 2005; the total amount of fines was equivalent to Euro 246.000. Until November 2006, the number of fines imposed was 30, amounting to the equivalent of Euro 88.000.

RESTREINT

REPORTS ON THE VISITED SITES

4. REPORT ON THE VISIT TO WARMIŃSKO-MAZURSKI BORDER GUARD REGIONAL UNIT. BEZLEDY BORDER GUARD POST (ROAD BCP).

4.1. General information

4.1.1. Environment, structure of border crossing point, organisations, traffic, threats, crime statistics

The Warmińsko-Mazurski Border Guard Regional Unit is located at the border with Russia (Kaliningrad region). Three border crossing points fall under the responsibility of this Regional Unit: Braniewo, Bezledy and Goldap. This area is not confronted with a high migratory pressure.

Bezledy Border Guard Post (BGP) protects a section of the border that stretches for 18 Km and is situated in Warmińsko-Mazurskie Voivodeship.

Four border crossing points (BCPs) fall under the responsibility of this BGP: international road BCP in Bezledy, air BCP in Szymany, and two railway BCPs in Skandawa and Głomno respectively.

The air BCP is open for sporadic charter flights and since 2005 no border checks have been carried out there as the flights are domestic ones. With regard to the two railway BCPs, Głomno is closed since 2004 while Skandawa is open only for cargo traffic, with the exception of cargo subject to sanitary control.

- Bezledy BCP is open round the clock for all types of traffic. It is located on the national road No 51 and on average more than 1.800 vehicles and 4.000 persons cross the border every day. The amount of traffic is continuously increasing.

During the first six months of 2006, approximately 310.000 vehicles and 732.150 persons crossed the border at this site. Out of them 335.711 were third-country nationals.

This BCP is currently under reconstruction and the infrastructure visited by the Committee will be different after the finalization of the works by the end of 2007.

The main threats identified at this BCP are posed by persons attempting to enter Poland declaring a false purpose for the trip. They are mostly nationals of the former Soviet republics. Illegal crossing of the green border and document forgery are rare modus operandi.

4.1.2. Regional or local strategy, inter-agency cooperation, international cooperation (regional and cross border cooperation)

The regional strategy is clearly based on the national strategy. The regional unit is fully responsible for all tasks related to border control in its area of responsibility.

The inter-agency cooperation with the Police seems to be close and regular. It takes the form of joint actions. With Customs, however, there is no hand in hand control at the level of the BCP. The cooperation on the spot could be improved in order to avoid double checks by two independent authorities and cause excessive delays for the travellers.

RESTREINT

The regional unit commander is responsible for the cross border cooperation with his Russian counterpart. The powers and the scope of responsibilities of the border delegates are stipulated in the 1961 agreement. Cooperation is implemented by means of regular and ad hoc meetings, joint actions and joint investigations at the border. Communication channels are open round the clock at the regional and local level. At the local level shift leaders can keep direct contacts with their colleagues on the Russian side.

4.1.3. *Risk analysis and intelligence functions*

Within the structure of the BGP there is an intelligence and investigation group directly subordinated to the Deputy Commander of the Post. The group consists of 22 officers: 3 senior specialists, 6 specialists, 6 control officers, 4 control officers – criminology technicians, 1 senior clerk (referent) and 1 driver.

4.2. **Infrastructure and equipment**

4.2.1. *Separation of flows*

This BCP is currently under reconstruction and therefore the separation of flows is affected. According to the paper plans shown to the Committee an adequate and efficient fencing for the physical separation of inbound and outbound traffic will be in place in the future.

4.2.2. *Lanes for checks*

During the visit there were operational 5 lanes for inbound and 3 lanes for outbound traffic (cars, buses and trucks). It is planned to have 6 lanes for inbound traffic and 5 lanes for outbound traffic in the future. The separate cargo terminal will be used for trucks only.

The signposting marking the different lanes according to the type of vehicles and category of persons are in line with the signs set out in the Schengen Borders Code.

4.2.3. *Control facilities*

Border checks are carried out in stationary facilities. There are 5 border control booths but during the visit not all of them were in use. The Polish authorities stressed that the adopted solutions result from the fact that the border crossing point's infrastructure is currently under development. There are no detention premises at the moment and the arrested persons are transferred to the local Police station.

4.2.4. *Equipment: first line, second line, mobile*

First and second line equipment was in place and met the Schengen standards. The booths have terminals connected to the Border Guard databases and passport readers; the personal equipment for the examination of documents was available and functioning.

In the second line, video spectral comparators, microscopes and additional equipment for document checking were also available. One officer with advanced training on document examination is usually available in each shift. From the practical point of view, the Committee assessed positively the use of portable devices for the on-line consultation of the national databases that are used for checking bus passengers.

Suitable communication equipment was in place and functioning. All transport means mentioned in the handouts of the presentations were available and functioning.

RESTREINT

4.2.5. *Access control / fencing*

The access and fencing of the area was conditioned by the construction works and it was not possible to make an adequate assessment of the situation. The plans include measures to enable access control and fencing. The adequacy of the measures could not be evaluated by the Committee in practice.

4.3. Controls and procedures

4.3.1. *Traffic handling / traffic modes*

The BCP is responsible for border checks for all kinds of traffic and there is no hand in hand control with Customs². Traffic is regulated by means of a traffic light system and mobile barriers. 4 fully trained border guards were in charge of this task.

4.3.2. *Procedure of checking on entry and exit (profiling, interrogation, checking conditions of entry, checking the documents, stamping)*

Border checks were performed by one single border guard on each lane. In general border checks were carried out in accordance with the Schengen standards, however, the Committee noted that not all documents were thoroughly examined in the first line, although sufficient stationary and mobile equipment was available in the booths. In addition not all third-country nationals were requested to present their means of subsistence for the duration of the stay.

Passports full of stamps containing valid visas were accepted if accompanied by new passports, even when the passports full of stamps containing the visas had been invalidated previously. Since this practice seems not to be harmonised at EU level, the Committee invites Member States to further study this case in order to find a common approach.

The Committee considers that, on entry, searches on trucks should be intensified. The technical equipment available was not used on a regular basis.

During the visit at the site, the experts could not see in practice a clear separation between first and second line tasks.

The stamps were stored correctly and their use registered properly.

4.3.3. *Utilization of registers*

All third-country nationals' travel documents were systematically checked against the available databases, including the Border Guard database, POBYT (foreigners' information system) and PESEL (population information system). The system of registers can be considered sufficient and adequate.

The Common Manual and the Schengen Borders Code were available in electronic form.

4.3.4. *Processing of refusals and asylum applications*

Refusals of entry and asylum applications are handled by the duty officer in one of the offices used as second line. The forms used for the refusal of entry were in line with the EU legislation in force during the time of the visit. The experts were told that this form will be adapted before 13 October 2006 to the one established in the Schengen Borders Code. Refusals are registered in a book, where also cancellations of visa and granted permits of limited stay are registered.

² Reference is made to footnote 1 on point 3.2.2.

RESTREINT

1.047 persons were refused entry at the Bezledy BGP in 2005. The Committee noted that a high number of visas are cancelled at this site (389 in 2005 and 184 during the first 6 months of 2006). The main reason is that the purpose of the trip is different from the one declared in the Consulate. The Committee considers that the document advisors posted abroad could play an important role in order to decrease the high number of visa cancellations.

With regard to the asylum applications at the border, as no asylum applications have been presented at this BCP during the last 3 years, the experts were informed on the procedure during the visit only. After the consultation in the databases and the first questioning, asylum seeker's passport is taken and the person issued a temporary document. Then the file is sent to the Office for Repatriation and Aliens, which is the competent authority to make a decision on the asylum application. Asylum seekers are sent to a refugee centre.

4.3.5. *Issuance of visas at the border*

Commanders of the BGPs are the competent officers to issue visas at the border, although this competence can be delegated to particular officers or shift leaders. In 2005 and 2006, all visas issued have been short-term residence visas. Russians are the main beneficiaries of these visas issued at the border.

6 visas have been issued in 2006 until the moment of the visit (8 in 2005), mainly for humanitarian reasons.

When the Commander is not at the BCP, he is consulted by phone by the duty officer. Visa stickers are registered and stored in a safe place only accessible to the shift leaders.

4.3.6. *Second line activities*

5+5 officers are trained to perform second line checks in the two different offices available; one is used for document checking and the other to formalise the administrative procedures relating to refusals of entry, visa issuance and processing of asylum applications.

4.4. Staff and training

4.4.1. *Adequacy and the level of professionalism*

The officers at the Warmińsko-Mazurski Border Guard Regional Unit can be regarded as professionals, highly motivated and disciplined. Most of them have acquired the 8 months basic training and are trained in accordance with the Border Guard training programmes.

All officers are trained to perform border surveillance and border check duties and rotate in different units in order to perform both types of duties. This system provides for flexibility when reinforcements are needed at certain places or in certain functions.

4.4.2. *Further continuing education*

Personnel follow the systematic career development programmes and continuous training programmes. Every border guard receive in every BGP a minimum of 8 hours compulsory training every month. The training does not affect the staffing because training time is planned outside the regular shifts.

This training is organized within the framework of "Monthly professional development plans for the BGP" and covers, among many other subjects, workshops on document control.

RESTREINT

One training course for multipliers in the field of border control and addressed to BG Regional Divisions was organised in 2005.

4.4.3. *Linguistic skills and training*

Language training is organised by the Personnel and Training Section of the Regional Unit. No language training is conducted usually at local level. Two English courses for beginners were conducted at the Bezledy BGP in 2005-2006. 19 border guards participated on those courses.

The Committee verified that a great number of border guards serving in this Regional Unit were able to speak Russian fluently. Some others have different levels of knowledge on English and German.

4.4.4. *Specialised document checking skills and training*

From 2005 to 2006, 6 training courses were conducted on detection of passport document forgery, control of document genuineness and construction and use of control devices and equipment. In addition, seven control officers from the Bezledy BGP took part in twinning training on document control in 2005 and 2006.

4.4.5. *Specialised training for different managerial levels*

Training for management positions follows the pattern that all candidates for such positions must first pass an aptitude exam and then complete a mandatory management course of 2 – 3 weeks at the BG Training Centre in Koszalin. Only then they are eligible for promotion to management posts. They are appointed according to the criteria of the selection process.

4.4.6. *Availability and permanency of staff*

The number of border guards deployed at Bezledy BGP is 164 (100% of the available posts). They work in a 12 hour shift system with 12 officers in each shift. The time and duration of the service is registered in the “Plan of service” and they mostly dependent on the situation at the BGP’s section of the green border and on threats of illegal border crossing.

During the visit there were 46 officers on duty, 14 of them performing border surveillance activities.

The number of border guards is considered adequate to the traffic flow. However, the use of the personnel could be further improved in order to enhance the efficiency of border control activities. For example, 4 border guards fully trained were used for the purpose of regulating the traffic at the BCP while border checks were performed just by one border guard on each lane.

4.5. Readmission, expulsion and illegal immigration. Carriers liability

640 persons were refused entry in the region of Warminsko-Mazurski in the first half of 2006. This figure confirms the decreasing tendency observed since 2004 (508 were Russians). The main reasons for the refusal are the lack of valid visa, an inconsistent purpose of journey and the lack of sufficient means of subsistence. Moldavians and Belorussian are among the top 4 nationalities of refused entries.

RESTREINT

16 aliens were expelled and 1 alien was readmitted during the first half of 2006. In 2005, 17 aliens were expelled and 4 readmitted. The practical cooperation with the Russian authorities on expulsion matters seems not to pose any problems.

A Guarded Centre for Foreigners and a Detention Centre will be opened in the region. They will have capacity for 150 guarded persons and 30 detainees.

Through the Bezledy BCP expulsions are implemented. The aliens concerned are escorted by the Police or Border Guard and accompanied by the shift manager to the Russian side of the border.

According to the register, 22 orders to leave Poland within 7 days were issued to persons at the border in 2006. All these persons left the country using this BCP. Around 5 applications were submitted to the Voivodship for expulsion. They were all granted.

Although there have been no cases where a carrier was fined for transporting undocumented persons so far, the duty officer was aware of the possibilities to fine carriers in the mentioned case.

5. REPORT ON THE VISIT TO PODLASKI BORDER GUARD REGIONAL UNIT. KUŹNICA BORDER GUARD POST (ROAD AND RAILWAY BCPS)

5.1. General information

5.1.1. Environment, structure of border crossing point, organisations, traffic, threats, crime statistics

The Podlaski Border Guard Regional Unit is located at the Eastern border of Poland. It covers a section of the future internal border with Lithuania and a part of the border with Belarus. In this region 8 BGPs have associated BCPS. The Committee had the opportunity to visit Kuźnica BGP. One railway BCP and one road BCP are subordinated to this BGP.

Kuźnica BGP is located in the northern part of the Podlaskie Voivodship bordering with the Republic of Belarus. Kuźnica BGP's area of responsibility covers the whole Commune of Sokółka and parts of Kuźnica and Sidra Communes. The protected section of the border is 18,12 km long. The BGP has an intense volume of traffic as it is located on the national road No E19 and on the Warszawa-Białystok-Grodno rail route connecting large towns on both sides of the border (Białystok on the Polish side has 295.000 inhabitants and Grodno on the Belarusian side has 305.000 inhabitants).

- The road BCP is open for all type of traffic, including pedestrians. More than 4.200 vehicles and 8.000 persons cross the border every day. 2.878.915 persons crossed the border at this point in 2005 (1.495.712 during the first semester of 2006).

- The railway BCP has 8 passenger trains and 6 cargo trains a day, with more than 450 persons. 186.655 persons crossed the border at this point in 2005 (87.532 during the first semester of 2006). More than 99% of the persons who cross the border at these sites are third-country nationals.

The main threats identified at these sites are the use of counterfeited documents (passports, visas, border control stamps), and the crossing of the green border outside the border crossing points.

RESTREINT

5.1.2. *Regional or local strategy, inter-agency cooperation, international cooperation (regional and cross border cooperation)*

The interagency cooperation seems to be in place with Police and Customs. Joint patrols are carried out regularly between Police and Border Guard to combat and prevent illegal immigration. With Customs this cooperation is not so visible at the level of the BCPs and there are no joint checks.

With Belarus the cooperation at regional level is in place and similar to the one existing with Russia. An important role is played also here by the Border Delegates.

5.1.3. *Risk analysis and intelligence functions*

The risk analyses at operational and tactical level are developed at regional level. At the BGP a tactical analysis adapted to the individual situation is also carried out. However, despite the fact that the risk analysis is perfectly defined and prepared, the results seem not to be yet always fully implemented in the first line, and there is still a need to develop border guard's skills in passengers' profiling.

Kuźnica BGP has an Intelligence and Investigation Team that is composed of 1 intelligence and reconnaissance officer, 2 investigation officers and 3 criminologist officers.

5.2. Infrastructure and equipment

5.2.1. *Separation of flows*

The infrastructure allows for a clear separation of entry and exit flows at the visited road BCP. Practically the entire BCP is separated by a 1 meter high fence. A mobile border guard team is available on the spot to avoid unauthorised movement of persons along the fence.

5.2.2. *Lanes for checks*

This BCP has 6 lanes both for incoming and outgoing cars, 2 lanes in each direction for buses and a separated area for controlling trucks.

3 booths with two working positions are available in each direction for checking cars. Buses are controlled in a special lane.

The signs used to mark the different lanes according to the type of traffic and categories of persons (EU-EEA-CH and All Passports) are in place, but not all types of vehicles have special lanes for EU-EEA-CH citizens (i.e. entry trucks are only marked with All passports) since most traffic corresponds to third-country nationals.

5.2.3. *Control facilities*

- The road BCP premises were in very good condition and met the standards. Detention premises and special areas for second line activities were also available. The booths were adequate to perform border checks properly.

A special area is prepared for checks of pedestrians but as Belarus does not agree with this type of traffic the premises are not in use.

If needed, bus passenger can be checked in the premises available for Customs controls.

A control centre is also available to monitor the overall surveillance of the area.

RESTREINT

5.2.4. *Equipment: first line, second line, mobile*

In the first line the experts observed that not all booths had stationary equipment available.

Second line equipment was in place and met the Schengen standards.

The database containing samples of travel documents is in principle adequate to the needs. Mobile passport readers (connected on-line with the national databases) are used for checking passengers inside the buses or cars in case of high traffic density.

Most of the equipment for searches of lorries belong to Customs. The fixed X-Ray technical equipment for controlling trucks was out of order, but a mobile unit was in place and in service. More equipment for these tasks should be acquired and used by the border guards. The Committee was informed that the 2 available CO₂ detectors were damaged and not in use.

Suitable transportation means were in place and the transportation capacity to guarantee mobile controls and Green Border Patrols was ensured.

Communication means were in place and separate working channels were used between the BCP and the Green Border Patrols. The communication flow is handled by the shift leader and the operations centre.

5.2.5. *Access control / fencing*

- The whole area of the road BCP is fenced by two types of fences that make it impossible to overcome this obstacle only by physical means. In addition the area is permanently monitored by cameras and sensors.

A monitoring room with an impressive number of screens show images of the 128 cameras located in the area including movement sensors. IT equipment is also available in this room.

- The railway BCP is monitored just by one camera during the day. There are no technical equipment for the surveillance of the area between the border and the Station. This task is performed by mobile units with the support of dogs.

5.3. Controls and procedures

5.3.1. *Traffic handling / traffic modes*

The BCP is responsible for border checks for all kinds of traffic. The access to the BCP is regulated by traffic lights and mobile barriers.

5.3.2. *Procedure of checking on entry and exit (profiling, interrogation, checking conditions of entry, checking the documents, stamping)*

Border checks were performed according to the 2-stops principle, as the booths of the Border Guard and Customs were placed at a distance of approximately 10 meters. The fact that Customs repeat some of the checks already carried out by the Border Guard reduces the efficiency of the entire procedure, especially in terms of time. The Committee recommends reconsidering the existing cooperation at practical level between Border Guard and Customs in order to improve the overall efficiency at the spot.

RESTREINT

Checks were performed by one border guard in each lane who made all inquiries. In general, border checks were performed in accordance with the Schengen standards. Third-country nationals were questioned about the reasons of the trip but their travel documents were examined in the first line mostly only by using mobile equipment due to the lack of stationary equipment in all booths. The Committee observed that the visas were very often stamped on the machine readable zone.

Bus passengers are normally checked inside the bus by one single border guard equipped with portable technical equipment for examination of documents and mobile passport readers with access to national databases. The fact that the border guard is alone makes it difficult, in particular during the night, to ensure that travel documents are properly examined. The Committee considers that this procedure should be reconsidered in order to enhance the quality of the checks and the security conditions of the border guard and reminds that according to the Schengen Borders Code, when possible and for security reasons, border checks should be carried out by two border guards.

Checks on trucks were in general satisfactory although the Committee observed that on exit, trucks undergo customs clearance after the border guards finalise the border checks. This is the general rule in Poland.

Border checks on passenger trains were generally speaking performed in line with the Schengen standards. Border guards and Customs officers enter the train just at the border and accompany it until the station (approx. 4 km.) verifying that no passenger jump of the train or throw goods out of trains. Once at the station passengers leave the train once controlled by the Border Guard and Customs. The train was guarded by two officers in order to prevent uncontrolled movement of persons.

Russian and Belarusian passports full of stamps were accepted as valid travel documents. The Committee was informed that after informing the person on the need to replace it by a new passport, the border guards, in exceptional cases, stamp a separate page that is inserted in the passport. When the passport full of stamps and containing the valid visa is accompanied by a new passport, this stamp is affixed on the latter document.

The stamps are stored correctly, registered adequately and the security codes changed every month.

5.3.3. Utilization of registers

Third-country nationals' travel documents were systematically checked against the available databases. The system of registers can be considered to be well functioning and to be sufficient.

The Common Manual and the Schengen Borders Code were available, both on paper and on electronic format.

5.3.4. Processing of refusals and asylum applications

Refusals of entry are processed by an officer to whom the Commander of the BCP has delegated this competency. The refusal of entry is formalised using the EU harmonised form. During the visit of the Committee, a Belarusian citizen was refused entry after having his passport been stamped by the border guards, as Customs found an excessive amount of cigarettes in his car. The reason stated in the form for refusal (no adequate documents), was considered by the Committee not to be suitable for the case.

2.694 refusals of entry were processed and registered until the date of the visit in 2006.

RESTREINT

The Committee was informed that 556 visas have been cancelled in 2006 (549 in 2005). The main reason for the cancellation is the fact that the purpose of the trip is not the same as the one declared in the Consulate. Also here the role of the document advisors posted at the Consulates could play an important role to reduce these figures.

A Section for Readmission and Administrative Procedures composed of 5 especially appointed officers (2 or 3 per shift) was available for processing asylum cases, readmission, expulsion and alien policing in cooperation with the Police. Only officers with long experience as passport controllers and knowledge of languages can qualify for these posts. Since most asylum applications are received at the Terespol BGP, some officers go there on a regular basis to gain experience on this field. One of the officers in the section was trained as a lawyer.

2 asylum applications relating to 9 people were presented at this site during the last 3 years. The procedure followed is similar to the one mentioned on previous chapters.

5.3.5. *Issuance of visas at the border*

No visas have been issued in 2006 so far. The stickers are accessible only to the shift leaders, and are kept locked in a safe near to the operations centre.

5.3.6. *Second line activities*

Separate rooms were available for second line activities (rooms for interviews, asylum applicants and temporal detention premises). The technical equipment for deeper document examination was also available in this line. The security codes of the stamps are replaced on a monthly basis.

EU legislation and databases were available at this line. The professional quality of the responsible staff is considered adequate.

Remarkable is to the Committee the availability of the "Morpho" system that permits identifying persons even when using different names.

5.4. Staff and training

5.4.1. *Adequacy and the level of professionalism*

The border guards of the Podlaski Border Guard Regional Unit can be regarded as professionals, highly motivated and disciplined. Most of them have acquired the 8 months basic training and are trained in accordance with the Border Guard training programmes.

5.4.2. *Further continuing education*

Personnel follow the systematic career development programmes and continuous training programmes. Every border guard receive a minimum of compulsory training every month.

According to information received by the Committee, training for the regional unit officers is organised according to different type of tasks to be performed. There are trainings for specialists and multipliers in the framework of Twinning and Transition Facility programmes, etc.

RESTREINT

Charts showing the various courses offered under each category revealed a comprehensive and diversified training structure. For the twinning training, numbers of attendance at each course or workshop for the year 2006 were given, showing that 30 officers of this region participated in a total of 24 courses/workshops. Among the subjects included in those courses were instruction methodology, information management, personnel management, project managing, criminal analysis and also purely Schengen-related issues.

5.4.3. *Linguistic skills and training*

Language courses are conducted at the Training Centres and at the BGPs. They cover English, German and Russian languages. From 2005 to 2007 an English course consisting of 4 modules is being held, financed by the Community. 30 to 50 border guards took or are taking part in each module.

The Committee noted that border guards' language skills are considered of great importance within the Podlaski Regional Unit and that the language skills of the border guards seemed to be adequate to the needs.

A great number of officers have acquired basic and intermediate level of Russian and English. Other languages spoken at lower level are German and French.

5.4.4. *Specialised document checking skills and training*

Training to detect forged documents is organized on a monthly basis for all border guards. Forgery experts receive specific training at the regional level. All courses on the spot are based on an intranet website without the use of specimens.

Reference is also made to point 3.6.7. of this report.

In Kuźnica the document training is carried out within the framework of scheduled monthly trainings and given by multipliers (document experts). Recently such trainings were conducted on the basis of FRONTEX programmes.

5.4.5. *Specialised training for different managerial levels*

Reference is made to point 4.4.5. of this report.

5.4.6. *Availability and permanency of staff*

From 2003 to 2005, in Poldaski Border Guard Regional Unit the number of staff increased from 1.543 in 2003 to 1.943 in 2005. Most of the increase affected the external border, from 704 border guards in 2003 to 1.048 in 2005.

86% of the assigned posts are filled at the moment. The Committee was informed that a total of 173 employees had left the Region in the last 3 years.

In Kuźnica there are 267 border guards. In general they work in shifts of 8 hours with the exception of passport controllers who work in a 12-h shift system with 29 border guards each.

The number of personnel seemed to be adequate to the traffic flow. However, an improvement on the use of the personnel could be considered in order to enhance the efficiency of the checks. Many of the checks carried out by the Border Guard are carried out again by Customs.

RESTREINT

5.5. Readmission, expulsion and illegal immigration. Carriers liability

3 readmission cases were implemented through this BGRU in 2005 (1 to Poland, 2 to Belarus) and 0 in 2006.

Police are involved in fighting illegal migration in the border area from the point of view of public order. Police have the competency to request expulsions and to escort aliens to be expelled. The border guard conducts joint patrols with the police in the border area. In 2005, 113 joint actions took place of which 4 focused mainly on aliens control. During these actions 208 individuals were apprehended.

Although the border guard seemed somehow to be aware of the possibility to fine carriers at the land borders in accordance to the Aliens act, no fines on this basis have been issued in the Podlaski region so far.

Readmissions to Belarus take place on the basis of the 1961 Act. A distinction is made between two procedures: the simplified procedure, applied when an alien is caught at the border within 48 hours after the illegal border crossing, and the normal procedure, applied when the illegal border crossing takes place more than 48 hours before. Expulsions are announced to the special section by the police per fax. The special section arranges for a meeting with the Belarusian side, after which the alien is given over according to the protocol. The special section in Kuźnica is also responsible for expulsions to Belarus from the inside of Poland. In 2005 there were 2 readmissions to Belarus, one of a Belarusian citizen and one of a Turkish citizen. In 2006, up to the moment of the visit there no readmissions from Poland to Belarus through this border crossing point have taken place.

6. REPORT ON THE VISIT TO NADBUZANSKI BGRU.- TERESPOL BORDER GUARD POST (ROAD BCP, RAILWAY BCP AND KUKURYKI ROAD BCP) AND DOROHUSK BORDER GUARD POST (ROAD BCP).

6.1. General information

6.1.1. *Environment, structure of border crossing point, organisations, traffic, threats, crime statistics*

This Regional Unit is responsible for the control of one sector of the border with Belarus and one sector of the border with Ukraine. Within the territorial competence of this Unit there are 5 BGPs that are also designated for border crossing.

- The Border Guard Post in Terespol is located at the Polish-Belarusian border, in the main communication route between Eastern and Western Europe, (roads E-30 Paris – Moscow and E-20 and the Berlin – Moscow railway).

Four border crossing points lie within the area of responsibility of the Terespol BGP:

- The Kukuryki road BCP, is open only for trucks. The Terminal is located in Koroszczyn, 5,2 km far from the border in a route of the planned K-2 motorway, next to the state road Nr 812. It is one of the main ports of entry of the international cargo traffic between Poland and Western Europe from one side, and Russian and Belarus from the other. 364.183 persons crossed the border in 2005 (175.769 during the first semester of 2006).

RESTREINT

- The Terespol road BCP, is open for passenger traffic and is located on the route Paris-Berlin-Warsaw- Moscow. The entry checks are conducted jointly with the Belarusian services on the territory of Republic of Belarus. This temporary situation is expected to be modified by the second half of 2007, once the construction of a new BCP, on Polish territory, is finalised.

2.210.382 persons crossed the border in 2005 (1.097.218 during the first semester of 2006).

- The Terespol railway BCP is open for passenger and cargo trains. It is located on the route connecting France, Belgium, Germany, Poland, Belarus, Russia and former C.I.S. 881.431 passengers crossed the border in 2005 (440.406 during the first semester of 2006).

- The Biała Podlaska air BCP is a small airport that only operates charter flights and is located 40 Km far from Terespol BGP.

On average, more than 2.400 cars, 55 buses, 880 trucks, 16 passenger trains and 24 freight trains cross the border every day at the above-mentioned BCPs (9.466 persons a day during the first semester of 2006). 75 % of the 1.713.393 persons who crossed the border at those sites during the first half of 2006 were third-country nationals.

The main threats identified at this part of the border are the attempts to enter Poland on the basis of false or falsified travel documents, visas, residence permits, the illegal crossing of the border by using the Bug river, the concealment inside vehicles or the possibility to leave the trains before arriving at the railway station.

- The Dorohusk Border Guard Post is located directly at the Polish-Ukrainian eastern border on the national road No. 12. 3 BCPs fall under the competence of this Post: a railway BCP, a road BCP and an additional BCP located at the Świdnik airport.

The road BCP is one of the biggest BCPs on the eastern border of Poland. It is open for all type of traffic. The railway BCP is located at Dorohusk Station, where border checks of people, goods and trains take place. The station is located 2 Km far from the state border.

2.767 cars, 37 coaches, 4 passenger trains, 7 freight trains and 600 trucks, on average, crossed the border every day during the first half of 2006.

1.452.817 persons crossed the border through the road BCP during the first half of 2006, and 82.677 through the railway BCP. 54,8 % of the 1.535.494 persons who crossed the border at the Dorohusk BCPs points were third-country nationals.

The main threats identified at those sites are the attempts to cross the BCPs illegally on the basis of forged documents, by concealing in vehicles, etc. At the green border, criminal groups organise the smuggling of migrants towards the Western EU countries.

6.1.2. *Regional or local strategy, inter-agency cooperation, international cooperation (regional and cross border cooperation)*

At regional level there are joint preventive actions between Police and Border Guard as well as information exchange on criminal cases.

RESTREINT

In Terespol and Dorohusk the day by day cooperation with Customs seems to be functioning. Both agencies are aware of their duties and exchange information on a regular basis. However, a better cooperation between them, in particular in Dorohusk, would be an asset in order to facilitate and speed up the checking procedures of cars.

The contacts to the Belarusian side are normally assigned to the Chief of the border crossing point and the shift leader and are implemented on a regular basis.

An office "Consultation Point" for the exchange of information with the Ukrainian authorities is open in Dorohusk BGP where border guards of both countries share the premises and exchange information.

The Committee considers that this mechanism should be compatible with the EU acquis on data protection. The Committee was informed that there are no plans to install IT terminals with access to databases in those premises.

6.1.3. Risk analysis and intelligence functions

The deployment of officers is based on a common and reasonable risk analysis. The officers in line were aware of risk indicators, although that is not always reflected in the control procedures.

At both BGPs there are Intelligence and Investigation Groups that are under the supervision and command of the Deputy Commander of the Post. These activities are implemented at practical level by Intelligence and Investigation teams.

6.2. Infrastructure and equipment

6.2.1. Separation of flows

At both BCPs the separation of flows was in place. While in Terespol it is made just by means of movable hedges, approximately 1,50 m high, in Dorohusk, the separation of flows is made by means of fences that not only separate incoming and outgoing traffic but also car and cargo traffic.

6.2.2. Lanes for checks

- Terespol has 7 lanes for exit and one single lane for entry located on Polish territory. Entry checks are conducted on Belarusian territory; the 11 lanes are marked according to the Belarusian legislation and there is no separation of EU-EEA-CH citizens. The separation of incoming and outgoing traffic is controlled by the Belarusian border guards on the Belarusian side. On exit (Polish soil), traffic is separated according to the type of vehicle and the signposting is in accordance with the one set out in the Schengen Borders Code.

- In Dorohusk there are 10 lanes for cars, both for entry and exit (including CD/CC) and 2 lanes in each direction for buses. In addition there are 6 lanes for trucks and 2 additional lanes for vans transporting cargo, both on entry and exit.

At both BCPs, due to the fact that most of the traffic corresponds to third-country nationals, the separation EU-EEA-CH / All passports was not available for all types of vehicles.

RESTREINT

6.2.3. *Control facilities*

- In Terespol the facilities of the road BCP are considered by the Committee as below the standards. Only one of the booths available per lane was really equipped to perform exit checks. On entry, checks were performed on the lanes solely by means of mobile equipment. The Polish border guards had only two booths available at the Belarus premises, to deal with more than 5 lanes.

There were no facilities to perform thorough checks of vehicles outside of the lanes on the Belarusian side. This limitation in terms of infrastructure affects the checking procedures in the first and second lines, but this situation may be remedied in the future as there are plans for the construction of a new BCP where both, entry and exit checks will be carried out on Polish territory.

The rooms for other second line activities are located in the main building. There are no real detention facilities in place on the Belarusian side.

- The facilities at the Terespol railway BCP are situated in the railway station, where there are three rooms designated as waiting and interviewing rooms for asylum cases. More rooms could be used for interviewing if necessary and there is an office available for second line document checking. In order to solve the temporary difficulties resulting from the extension of the BGP in Terespol (in the buildings where the rooms for apprehended persons were situated), the Border Guard uses the facilities located in Janów Podlaski” in cases of temporary apprehension of persons.

The construction of new premises for the Border Guard has already started. This office will be located at the other side of the tracks opposed to the railway terminal, an ill be accessible from the railway terminal through a tunnel underneath the rail tracks.

- In Kukuryki (BCP for trucks) the Committee considers that the infrastructure is adequate and meets the Schengen standards.

- In Dorohusk the facilities are also new and meet all the requirements. The main building is clearly defined; detention and interview rooms are available and in very good conditions and in general terms, the infrastructure provides the Border Guard with all the elements to perform border checks in very satisfactory manner.

6.2.4. *Equipment: first line, second line, mobile*

Neither in Terespol nor in Dorohusk all the booths were equipped with the basic stationary document checking equipment, as the one mentioned in the Schengen Catalogue; however, the border guards had mobile equipment available.

Mobile on-line passport readers connected to national databases were in place and functioning. In Terespol the only computer available in one of the booths located on Belarus territory had no access to the Polish Border Guard databases in order to comply with data protection rules.

In Dorohusk, the technical equipment for searches on trucks was available and at disposal of the border guards.

Second line equipment was in place, in good conditions and used when needed. The equipment at the railway BCP was also in place. 188 falsified documents were detected in 2005 (73 cases in 2006 up until the moment of the visit).

RESTREINT

Communication means were in place. Separate channels were used for activities at the BCPs or border surveillance. The communication flow is handled by the shift leaders and operation centres. Suitable transportation means were available and adequate to guarantee mobile controls and green border patrols.

6.2.5. *Access control / fencing*

- In Terespol the area is clearly marked, fenced and the access controlled by means of mobile barriers. Despite the fact that the area is monitored by cameras, some parts of the border seem not to be completely surveyed.

The cameras are controlled by Customs. On entry, the premises are monitored by the Belarusian Border Guard surveillance system.

The railway BCP has no surveillances technical equipment (CCTV) and the monitoring if the area is poor.

Both the BCP and the trucks terminal (Kukuryki) are permanently monitored by an impressive number of cameras.

- In Dorohusk, the fencing, access control, traffic light system and surveillance of the BCP area, could be regarded as a best practise.

6.3. Controls and procedures

6.3.1. *Traffic handling / traffic modes*

The Border Guard is responsible for border checks of all type of vehicles in the BCPs subordinated to these BCPs.

The Dorohusk BCP is considered by the Committee as an example of good practice with regard to the system of handling lorry traffic. The first authority dealing with trucks is Customs. After scaling the trucks the drivers are issued a chip card that is used to, by means of a computer system randomly assigns one of the lanes.

6.3.2. *Procedure of checking on entry and exit (profiling, interrogation, checking conditions of entry, checking the documents, stamping)*

- At the Terespol road BCP, entry checks (performed on Belarusian soil) are affected by the lack of adequate premises. These checks were performed by one single border guard per lane in cooperation with Customs and, despite the fact that generally speaking, they were conducted according to the Schengen standards the Committee considers that there is room for improvement with regard to their quality. Interviews to third-country nationals were quite superficial and their documents were checked, in general, only by using personal mobile equipment. (Those findings are also applicable to checks on railway traffic). Travellers were requested to present their means of subsistence.

Since the second line area is located in the main building (at the other part of the border) and has to serve, at least partially, three different BCPs, the Committee considers that the real possibility to conduct further inquires there is rather limited and considers that the current organization could be made more efficient.

RESTREINT

Bus passengers are controlled inside the bus.

Checks on trucks are carried out only in Kukuryki BCP. They are conducted in 3 phases: radiometric control, border check of the driver and finally customs clearance. The Committee considers that there is room for improvement with regard to checks on trucks with a view to detected persons trying to cross the border concealed inside the trucks' cargo compartment as many empty trucks are not controlled thoroughly on entry. On the other hand, this is the unique BCP in Poland equipped with a heart beat detector, but only a small part of the incoming trucks undergo this check.

- In Dorohusk, checks are performed following the two-stop principle and no hand in hand control with Customs is in place.

The booths of both authorities are separated by a distance of approximately 25 meters.

Border checks were performed, in general terms, in accordance with the Schengen standards. Each lane was operated by 1 single border guard who was responsible for the entire procedure, both on entry and exit. During the visit, all third-country nationals were thoroughly checked, but the Committee considers that there is space for improvement on the examination of documents in the first line; documents were checked only by means of portable devices.

Checks on trucks could be improved by providing better technical equipment (i.a. heart beat detectors or X-ray) and deploying more personnel at the lanes as during the visit of the Committee only 2 officers had to control 6 lanes.

Travel documents were stamped systematically at the visited BCPs, although the stamping procedures could be improved. The Committee noted that very often the visa stickers were stamped covering the machine readable zone.

6.3.3. *Utilization of registers*

Third-country nationals' travel documents were systematically checked against the available databases. The system of registers can be considered as to be well functioning and sufficient.

The Common Manual and the Schengen Border Code were available, both on paper and on electronic format.

6.3.4. *Processing of refusals and asylum applications*

In Terespol the refusals of entry are initiated by the first line officers, both at the road and the railway BCPs and issued afterwards in the second line. 6.058 refusals of entry were registered in 2005 in Terespol.

This is an important spot with regard to asylum applications. By far the largest part of these applications is received at the railway BCP. They are presented by passengers on trains from Belarus who have travel documents without valid visas and apply for asylum at the border. 944 asylum applications (for 2.267 persons) were processed in 2006 until the moment of the visit (1.844 applications for 4.607 persons in 2005). The reason for the decrease of the figures was explained to be the stabilisation of the situation in Chechnya as the largest part of the asylum requests refer to Chechen citizens. Eurodac and Morpho system were available at the station. In 2006 there were 2 hits in the Eurodac system, both for Austria. 5 hits were reported, 3 for Austria and 2 for Belgium in 2005. In 2006, 8 hits were found for Poland.

RESTREINT

A special team of Readmission and Administrative Processing consisting of 7 persons deals with asylum cases in Terespol. The procedures followed are similar to the ones explained at Kuźnica BCP (see point 5.3. of this report). The asylum application has to be submitted to the Office of Repatriation and Aliens within the following 48 hours after its presentation at the border.

- 6.648 refusals of entry were processed in Dorohusk, in 2006 (until the day of the visit). All refusals were registered in a cahier that lacked the characteristics of an official register.

The BCP commander has delegated this competency to 47 officers. Out of them, from 3 to 5 are available in each shift.

The experts were told that on average 1 asylum application is presented each year at the Dorohusk BCP. These cases are dealt with by the team for administrative procedures.

At both BCPs, the number of visas cancelled during the first six months of 2006 was quite high (836 in Terespol and 1943 in Dorohusk (Ukraine - 1 872; Moldova - 48; Russia - 9; Belarus- 5; Uzbekistan - 3; Armenia -1; Azerbaijan - 1; Bangladesh - 1; Egypt - 1; Georgia-1; Cameroon-1). Despite the fact these data seem to prove that border checks are quite effective, as mentioned before the role of the document advisors in consulates could be an asset.

The EU form for refusal of entry was in use in the sites visited.

6.3.5. *Issuance of visas at the border*

- Terespol BGP is responsible for the issuance of visas not only at the road BCP but also at the Kukuryki road BCP and Terespol railway BCP.

Visas to be issued at the checkpoint located on the Belarusian side of the border or at the railway BCP, are brought from the second line premises of the BGP. 26 visas were issued in 2005 (24 in 2004). The main grounds for the visa issuance were transit purposes or humanitarian reasons.

- 42 visas have been issued in Dorohusk in 2006 until the moment of the visit. The reason given for this low number was the exceptional character of this measure. Most of them were issued to Ukrainian officials travelling in official missions.

At both BGPs visa stickers were stored in a safe; they were only accessible for the shift leaders and registered correctly.

6.3.6. *Second line activities*

- In Terespol, the some of the second line activities have to be conducted on the Polish side of the border; they are hardly accessible for the officers conducting entry checks on Belarusian soil. The Committee considers that a clear definition and separation between first and second line tasks seem to be necessary, as some of the second line activities were conducted in practice in the first line.

At the Terespol railway BCP the second line facilities are located in the railway terminal. A document checking room is available, and for every shift there was always a document expert on duty. Apart from that expert no other second line officers were available, as the activities conducted in this office seem to be limited to document checking besides asylum applications.

RESTREINT

- In Dorohusk the second line office that is located in the main building is used for thorough document checking as well as for further questioning of persons. It is managed by one shift manager and two assistant officers, one for BCP matters and the other for green border activities. The second line office deals with the refusals of entry, visa issuance, asylum and readmission. These last two issues are dealt with in a separate office. The management of the second line office seemed to be very efficient. The shift manager mostly coordinates the second line activities and does not participate in the performance of these activities himself, what gives him the possibility to keep a good overview of the tasks being performed in his office. In the context of the organization of these types of BGPs, this management system could be regarded as best practice.

Only one specialist exclusively devoted to document checking was available per shift. According to his register, the specialist present during the visit verified 27 documents by using the VSC-4c device between 1 July and 6 October 2006.

The officers interviewed by the Committee were aware of Schengen provisions and had a clear understanding of the division of tasks between the first and second line. This was confirmed by the high number of travellers that were referred to the second line not only for deeper checks of documents but also for more detailed interviewing. The decisions to take persons to the second line for further inquires seem to be taken based on a clear profiling.

23 forged passports and 16 visas were detected in the second line in 2005. In 2006, until the moment of the visit, 10 passports and 10 visas have been detected.

The stamps used are stored correctly and registered. In the same room, the on-line mobile passport readers and consultation devices that are used for checks at other BCPs subordinated to this BGP are stored in two safes.

The second line is also used to clarify cases of overstay. Overstayers detected on exit are handed over to the administrative procedures team. In these cases the overstayers are inserted in the national databases with an entry ban for one year. For overstays been between 5 and 30 days a fine is imposed.

At both BCPs the Common Manual and the Schengen Border Code were available in paper and electronic format. The security codes of the stamps are replaced on a monthly basis.

6.4. Staff and training

6.4.1. Adequacy and the level of professionalism

The personnel of this Border Guard Regional Unit can be regarded as professionals, highly motivated and disciplined. Most of them have acquired the 8 months basic training and are trained in accordance with the Border Guard training programmes.

6.4.2. Further continuing education

Personnel follow the systematic career development programmes and continuous training programmes. The Committee received information that 100 % of all border guards at the BGPs receive minimum 5 hours compulsory training every month. This fact was verified by the Committee.

RESTREINT

This training encompasses a variety of subjects, including Schengen regulations and forged documents. The training does not affect the staffing of the work shifts, because the training time is planned outside the regular shift. The monthly training according to the plans takes place at the BGPs.

At both BCPs personnel seem to have been trained on the Schengen Borders Code. In Dorohusk, interactive meetings have been regularly organised to update the knowledge of the border guards and to discuss on the future implementation of the Code.

6.4.3. *Linguistic skills and training*

Language training is conducted at Regional Headquarters in Chelm and in BCP Terespol and Dorohusk.

At the visited BGPs a great number of border guards were able to speak Russian at basic and medium level, what is positively valued by the Committee in order to execute border checks in an efficient manner. The knowledge on other languages as English and German is more limited but courses are organised regularly.

6.4.4. *Specialised document checking skills and training*

Training to detect forged documents is organized on a monthly basis for all border guards. Forgery experts receive specific training at regional level.

Reference is also made to point 3.6.7. of this report.

- In Terespol regular trainings are provided in the field of travel documents examination. Two border guards of the unit conduct that training. From 2005 to 2006, 9 such training sessions have taken place.

- In Dorohusk monthly document verification training is provided; at the beginning of every shift border guards are briefed on the newly detected forgeries.

However, the Committee noted that the unique document specialist available in the second line seemed not to have received any regular training. Most of his skills like in the case of the first line officers seem to be based on self training via the internet. The Committee did not receive information on programmed document examination trainings.

The Committee considers that one single document specialist per shift is not enough to cover the needs of this post and that more border guards should be trained in order to ensure that a real specialist is available permanently in this field.

It is remarkable, as a good example, the fact that in each shift one border guard specially trained on identification of stolen cars is available.

6.4.5. *Specialised training for different managerial levels*

Reference is made to point 4.4.5. of this report.

6.4.6. *Availability and permanency of staff*

- As of 30 June 2006, 374 border guards were on duty at the Terespol BGP. They work both in a multi-shift and in single-shift systems.

Approximately 121 border guards are on duty every day. Out of them, 15 are responsible for border protection and 106 for performing border checks.

RESTREINT

- In Dorohusk, as of 30 June 2006, there were 215 border guards. They work in 8-hour shifts with some exceptions. In every shift at the BCP there are 22 border guards on duty.

In general terms, the number of personnel could be considered adequate to the traffic flow. However, the Committee considers that the quality of the checks could be enhanced by improving the cooperation with Customs and by using the human resources in a more efficient manner. At present most border checks are carried out just by one border guard on each lane and the Committee considers that when possible this task should be done by 2 officers.

6.5. Readmission, expulsion and illegal immigration. Carriers liability

In Nadbuzanski Border Guard Unit there is a separate Section of Foreigners Matters Processings which employs 8 persons.

At the different sectors of the border with Belarus and Ukraine the BG Posts, Terespol, Slawatycze, Dorohusk, Hrubieszow and Hrebenne have teams of Readmission and Administrative Processing consisting of 2 to 7 border guards.

When the aliens to be readmitted or expelled are not in the possession of travel document, the regional Section of Foreigners Matters Processing applies for a replacement travel document at the relevant diplomatic representation. No major problems were reported on the cooperation with the Belarusian authorities on these readmissions. They take place on the basis of the agreement dated to 1961. The Belarusian authorities also allow for readmission of third country nationals.

When the expulsion is not possible within 48 hours, the alien can be detained or put in custody in a centre at the request of the Border Guard by decision of the court.

No fines in the context of carrier's liability had been imposed until the date of the visit, although the experts were told that the regional authorities are aware of the possibilities to issue a fine on the basis of the Aliens Act.

RESTREINT

7. REPORT ON THE VISIT TO THE BIESZCZADZKI BORDER GUARD REGIONAL UNIT. KORCZOWA BGP, KROŚCIENKO BGP (ROAD BCP). UNANNOUNCED VISIT TO MEDYKA BORDER GUARD POST (ROAD AND RAILWAY BCP)

7.1. General information

7.1.1. *Environment, structure of border crossing point, organisations, traffic, threats, crime statistics*

The Bieszczadzki Border Guard Regional Unit protects a sector of the south – eastern section of the Polish border with Ukraine 239 km long.

13 Border Guard Posts are located in the area of responsibility of this Regional Unit, 12 posts on the border with Ukraine and 1 post in Rzeszów – Jasionka airport. The road BCPs are located in Medyka, Korczowa and Krościenko. The railway BCPs are located in Przemyśl, Krościenko and Werchrata.

The main threat identified at regional level is the existence of active illegal migrant routes in the neighbourhood of the Korczowa and Krościenko BCPs and in the Bieszczady woods – Ustrzyki Górne, Czarna Górna.

The day of the visit the Committee, once examined the information received by the local authorities about the passenger flows at the different border crossing points located under the supervision of this regional unit, decided to visit the Medyka BCP instead of the programmed visit to the Korczowa BCP. The Committee would like to thank the Polish Border Guard for the flexibility shown and the facilities provided in order to allow for the visit of the experts to that BCP.

- The leading expert paid a visit to the Korczowa BCP where he had the possibility to exchange information on the border security situation and meet Ukrainian border guards at the Ukrainian side of the border. He also paid a visit to the Consultation Point set up also at the Ukrainian BCP.

Korczowa BCP had adequate premises and it was correctly equipped. As at previous BCPs, border checks are carried out based on the two-stop principle.

- Medyka road BCP was built in 1945. It is expected to be modernised in the future. The Committee also visited Przemyśl railway BCP.

The main threats identified in this area are the smuggling of goods and the attempts to cross the border illegally by nationals from Moldova, Ukraine and Georgia. The Committee was informed that the organised gangs are constantly trying to find new routes in this sector or the border in order to facilitate the smuggling of persons.

- Krościenko BGP is located within the area of the Krościenko BCP.

This BCP is open for road traffic (cars, buses and lorries up to 7.5 tonnes) and as a joint BCP where the Ukrainian border guards perform entry and exit checks on Polish territory. More than 2.100.000 persons crossed the border at this point in 2005 (approximately 1.100.000 during the first six months of 2006).

RESTREINT

In front of the road BCP there is a railway BCP that is open for passenger traffic. There are no facilities and trains stop here with the sole purpose of undergoing border checks. 4 trains cross the border every day. 84.000 passengers were checked at this point in 2005 (46.800 during the first six months of 2006).

24% of the persons crossing the border are third-country nationals.

The main forms of illegal migration identified at the Krościenko BGP include the use of genuine passports to enter the country legally and then leaving the country through the BCPs located at the western Polish borders on the basis of documents belonging to other persons or crossing the green border to Western Europe illegally. Organised attempts to facilitate the illegal crossing of groups of migrants (mainly nationals of Vietnam, China and Pakistan) have also been identified.

7.1.2. Regional or local strategy, inter-agency cooperation, international cooperation (regional and cross border cooperation)

Inter-agency cooperation is implemented in the region in the form of joint actions with other institutions as Police. The Committee verified that the number of joint operations focused on control of legality of stay inland, have decreased from 219 in 2003 to 125 in 2005, despite the fact that the number of legal crossings had increased considerably.

The decrease in the number of activities is the result of the fact that on 1 January 2005, 7 border organizational units on the border with Slovakia were transferred and included in the territorial range of the Karpacki BG Division in Nowy Sącz. Since then, the Bieszczadzki BG Division does not carry out operations focused on control of the legality of stay in the territorial range of competence of the transferred units. Regardless of this fact, the number of persons subject to control has gradually risen (1214 persons were controlled in 2003, 1301 in 2004 and 1579 in 2005).

Cooperation with the Ukrainian authorities seems to be fluent and the exchange of information constant and based on agreements. In practice this cooperation is visible in the consultation point established in Korczowa-Krakowiec (on the Ukrainian soil) and the implementation of joint border checks in Krościenko BCP. In this regard the Committee considers that the legal basis for this cooperation and practical implementation of entry/exit checks by the Ukrainian Border Guard in Polish territory as well as the exchange of information with the Ukrainian partners should be carefully studied in order to verify that they are fully compatible with current EU legislation, including data protection and refugee international regulations.

7.1.3. Risk analysis and intelligence functions

The model used in this Regional Unit is similar as the ones presented for previous regional units.

7.2. Infrastructure and equipment

7.2.1. Separation of flows

- In Medyka, the basic separation of flows between incoming and outgoing traffic is in place. However, this separation and the monitoring of the area could be enhanced as there are many obstacles (bushes, commercial signs, and crowded lanes) that prevent the border guards to have a clear vision of the area. There is no separation between passenger and cargo traffic on exit.

– In Krościenko the separation of flows is clearly marked and fulfils all the requirements.

RESTREINT

7.2.2. *Lanes for checks*

- In Medyka there are 7 lanes on exit for cars, trucks and buses and 6 lanes on entry for cars and buses. 2 additional lanes are available for incoming trucks.

A separate pedestrian lane exists but is not in use as this traffic is not permitted on the Ukrainian side.

Signposting is in place and in line with the Schengen standards. The information for people is available in different languages including pictograms, but is rather complicated and may lead to confusion as regards the organization of the traffic.

- Krościenko BCP has 5 lanes for cars, buses and trucks both on entry and exit. Due to the fact that Ukrainian border guards perform the exit/entry border checks on Polish territory, the number of booths available is numerous. This situation enables a real and direct communication with the Ukrainian authorities. The signposting was also here in line with Schengen standards.

7.2.3. *Control facilities*

- At Medyka BCP, the basic facilities to perform border checks are in place. The entire infrastructure is quite old and the booths are located in such a way that the possibility to oversee the cars queuing is limited. Unauthorised observation (especially the computer systems) seems to be prevented. Detention and readmission premises are in place. The overall impression is that a construction of new facilities (planned for the future) would solve the shortcomings detected at practical level on the organization of the lanes, separation of flows, booths and in general second line premises.

- At the Przemyśl railway BCP there is a special passenger terminal that has two control booths for border checking. The Committee paid attention to the fact due to the lacking of adequate infrastructure inside the terminal, passengers cannot benefit from any kind of privacy while undergoing checking procedures. This fact may affect negatively in some cases the quality of the first line interviews. It could be easily solved by means of a waiting line painted on the floor.

- In Krościenko the premises are modern and meet all Schengen standards. The booths are also adequate and the main building counts with rooms for detention and interviewing activities that are in good condition.

7.2.4. *Equipment: first line, second line, mobile*

- At Medyka and Krościenko BCPs first and second line counted with equipment that met Schengen standards. As at previous BCPs the database containing samples of documents is not complete and some documents are missing. BIoSG In Medyka mobile passport readers were also available in every booth and used in case of a failure of the intranet system.

In Medyka technical equipment for searches on trucks was available.

Communication means were in place in all visited BCPs. Usually the communication flow is handled by the shift leaders. In Krościenko the communication with the Police can only be done by means of telephone line.

Suitable transportation means were available and there was enough transportation capacity to guarantee mobile controls and green border patrols.

RESTREINT

- At the Przemyśl railway BCP the booths were not equipped with stationary devices for document examination. The border guards count only with the portable personal equipment for document examination. This equipment is considered by the Committee as very limited.

7.2.5. *Access control / fencing*

- Medyka BCP is marked and fenced; nevertheless and due to the type of construction it is not difficult to overcome the relatively low fences. Some areas cannot be monitored because of the design of the BCP.

Some cameras are in place and monitored from a control centre. The access control to the BCP seemed not to be very efficient. Many persons seemed to move uncontrolled inside the BCP area, in particular in the exit zone. In this regard the Committee considers that the access control should be tightened in order to improve the security of the area and ensure that all persons moving around are controlled.

- The Przemyśl railway station is fenced in a satisfying manner.

- Krościenko BCP has an adequate access control mechanisms as well as a proper fencing.

7.3. Controls and procedures

7.3.1. *Traffic handling / traffic modes*

- In Medyka traffic is regulated by means of mobile barriers. Border checks were carried out based on the two stop-principle. The booths of both authorities are placed at a distance of approximately 15 meters. The Border Guard is responsible for border checks for all kinds of traffic. The traffic is regulated to some extent by means of a mobile barrier but due to the poor infrastructure the regulation of the traffic is rather confusing, in particular on exit.

- In Krościenko entering vehicles have to stop three times in order to undergo the Ukrainian border guards' checks, the entry control of the Polish Border Guard and finally the customs clearance.

7.3.2. *Procedure of checking on entry and exit (profiling, interrogation, checking conditions of entry, checking the documents, stamping)*

- At Medyka BCP the quality of the border checks is affected by the type of infrastructure, in particular on the exit lanes and on the entry lanes for trucks.

One border guard was responsible for all procedures on each lane. During the visit the 7 lanes open on exit were controlled by 4 or 5 border guards.

In general terms border checks were performed in line with Schengen standards. The travel documents were stamped and the officers had a clear understanding of the Schengen standards and the separation of tasks between the first and second line.

The Committee was informed that when third-country nationals present to the border guards an annulled passport full of stamps containing a valid visa and is accompanied by a new passport without a new visa, the persons concerned are permitted to cross the border.

RESTREINT

Checks on buses were carried out by two border guards. They entered the bus and, in general, verified all entry conditions with the support of portable equipment for the consultation of the databases. The Committee considers that there is room for improvement with regard to the examination of travel documents as only some of them were checked thoroughly.³

When needed bus passengers can be checked in separate premises where two control desks are available.

The Committee considers that there is room for improvement with regard to checks of lorries because, although the majority of incoming trucks are empty, 10 % of the loaded trucks are checked thoroughly.

Due to the lack of adequate infrastructure exit checks were not performed smoothly. The uncontrolled movement of travellers in the exit area hinders effective controls on vehicles. As Customs officers were not available in all exit lanes, the Border Guard had to take care also of the customs clearance on the so-called tax- free lanes. This fact may detract the attention of the border guard while conducting the checking procedures or the search for stolen/ wanted goods.

³ **PL.** During the Schengen Evaluation mission the regulations of the Schengen Border Code were not binding. Border Guard performed control according to the Regulation of Ministry of Internal Affairs and Administration of 25th June 2002 on border control performed by BG officers. (Dz. U. 96 poz. 862 of 2002), which in unit 2 “Procedure of performing border control” § 13 point 1A states that the control in road border crossing border point takes place directly on lines, in the bus. Moreover, it should be noted that acting on the rules of “Schengen Catalogue...” point 2.3 and 5.1.2 – it is possible to carry out border control with the use of mobile devices.

Taking the above into consideration it should be concluded that performing of control with the use of such mobile equipment was justified by binding law and recommended practices. Poland is in opinion that also the provisions of Regulation EC nr 562/2006 of the European Parliament and of the Council Establishing a Community Code on the rules governing the movement of persons across border (Schengen Borders Code) do not exclude carrying out of the control in coaches with the use of portable terminals.

According to Appendix 6 of SBC, Part “Land borders” point 1.1.3 on principle persons traveling in vehicles during border control may stay inside those vehicles. However, in exceptional circumstances, persons may be requested to leave vehicles.

The use of mobile equipment is justified in cases in which using of stationary devices during border control is difficult. Therefore, carrying out border control in different form than in coach means that Border Guard officer checks in the first place identity of persons, assesses authenticity of documents, checks visas if they are required, establishes other conditions of entry, and afterwards collects documents in order to perform checks in data bases with the use of stationary equipment outside coach. As a consequence of this form of border control, the passport is temporarily taken away from a passenger. After that BG officer is obliged to enter the coach again and hand back the travel document to each owner (so as to prevent confusing documents).

Performing border control of persons traveling by coaches with the use of stationary equipment is justified in those border crossing points which infrastructure prepares them to carry out such form of border check.

RESTREINT

- In Przemyśl railway BCP control procedures differ according to the type of trains. On international trains (Lvov- Krakow) passengers are checked by border guards who take the train at the Medyka station while the train is moving (approx. 1 km behind the border). Border checks are carried out during the 30 minutes trip from Medyka to Przemyśl.

Passengers of local trains are accompanied from the border to the station in Przemyśl where the checks are performed at the terminal.

The Committee observed that third-country nationals were questioned about the purpose of their trip and asked to present their means of subsistence. However, the interviewing was rather superficial and travel documents were thoroughly examined in the first line very rarely.

- In Krościenko, border checks were performed, in general, in accordance with Schengen requirements. However, the questioning to third-country nationals was rather superficial. Once again here, the Committee noticed the fact that many of the verifications performed first by the border guards, are then repeated by Customs officers.

One officer with advanced training on document examination is usually available in each shift.

The stamps are correctly stored and registered. The machine readable zone of the visa stickers was systematically stamped.

7.3.3. *Utilization of registers*

Third-country nationals' travel documents were systematically checked against the available databases. The system of registers can be considered as to be well functioning and sufficient. The Common Manual and the Schengen Border Code were available, both on paper and on electronic format.

7.3.4. *Processing of refusals and asylum applications*

- In Medyka, the refusals of entry as well as asylum applications are processed by the Unit for Administrative Procedures. Approximately 15 refusals of entry are issued every day; half of them include the cancellation of the visa. In 2005 there were 2.086 refusals of entry, 440 of them in the railway BCP. The main reasons for the refusal were to have a different purpose for the trip to the one stated at the consulate, lack of a valid visa, insufficient means of subsistence and hits in the databases. The main nationality affected by this procedure is Moldavian. Refusals are centrally registered at the road BCP.

8 asylum applications (referred to 10 persons) have been filed in 2006 (10 applications concerning 10 persons in 2005). Persons who file an application are checked in the Eurodac system available at the regional units once their cases have been transferred to the regional Asylum Unit. At the BCP it is only checked whether there are fingerprints taken of the asylum seeker in the police system.

The Committee was informed that, in some cases, when undocumented asylum seekers get to the Ukrainian BCP, the Polish BG is informed that there are persons interested in asking asylum. Then the persons are met by the Polish border guards and escorted to the Polish side, where the official asylum application is made in the way presented at previous BCPs.

RESTREINT

- In Krościenko, 473 persons have been refused entry in 2006. Out of them in 109 cases the visas were cancelled. In 2005 the number of refusals was 659 and the number of visas cancelled 201. The main reasons for refusing entry and cancelling the visa were to have an invalid or expired visa, lack of financial means or having a purpose of stay different to the one stated at the consulate.

Out of 132 border guards in the BCP, 60 are authorised to issue a refusal of entry. In every shift there are between 5 and 6 border guards entitled to do so.

The Readmission section takes also care of asylum cases. In 2005 14 applications were filed for 25 persons, mostly Russian Chechens, Georgians and Moldavians. 4 asylum applications have been received in 2006.

7.3.5. *Issuance of visas at the border*

In Medyka and Krościenko the storage of visas follows the same procedure as learned in most of the visited sites and is in line with the Schengen standards.

In Medyka the issuance of visas is also performed by the unit for Administrative procedures. 24 visas were issued in 2006 until the moment of the visit (34 in 2005). They were mostly issued in case of special situations or for humanitarian reasons. The shift leader is who takes the final decision on the issuing.

The Committee found that consulates cancel visas by means of a special stamp (written in the Polish language) when the visa is expired. This procedure is not in line with Schengen standards and could lead to confusion for other Member States' border guards while conducting border checks. The Committee, with a view to preventing unjustified additional checks on persons holding such visas, recommends Poland reviewing this practice and restricting the cancellation of visas to the grounds stated in the Schengen Borders Code.

In Krościenko only 1 visa has been issued in 2006 (until the moment of the visit).

7.3.6. *Second line activities*

- The Medyka road BCP has two different second line offices; one is located on the entry area and the other on exit. An office for the Readmission section is also available. The experts were told that thorough questioning of persons is mostly done on the first line, especially when the traffic is not intense. When that is not possible the leader of the controller's team may step in to conduct questioning. The readmissions team is used as a final back up to perform questioning if needed.

86 forgeries have been detected in 2006, mostly on exit. These forgeries concerned forged stamps to allow for a longer period of stay. On entry most forgeries concerned passports and visas.

The Committee was informed during the visit that the relaxation of checks may take place several times a day for periods of about 30 minutes. The BCP commander is competent to take this decision, but the shift leader may also take the decision if the commander is absent. The reason for the relaxation is the high volume of traffic; priority is given to entry checks.

RESTREINT

The Committee considers that this procedure to relax checks several times a day is not in line with Schengen standards and recommends aligning it to the provisions laid down in the Schengen Borders Code. ⁴

During the visit the Committee noticed that the verification of a EU passport by the document specialist lasted more than 10 minutes. Before finalising the inspection, a senior officer who claimed to be the real expert in document examination finalised the checking. The Committee wonders to what extent there is adequate number of trained personnel in each shift to perform those tasks, and recommends ensuring that enough and properly trained border guards are available in each shift to conduct document examination.

- Krościenko the second line activities are considered by the Committee in line with the Schengen standards. The registers are correctly organised and stored.

The stamps are also stored correctly and its use registered in line with the requirements.

⁴ **PL.** Up to 12th October 2006 relaxed control was carried out according to § 4 of the Regulation of Ministry of Internal Affairs and Administration of 25th June 2002 on border control performed by BG officers. (Dz. U. 96 poz 862 of 2002). This form of control has been implemented as a consequence of intensification of border traffic in a situation when in spite of deploying all organizational means, the waiting time to cross the state border was increasing. Pursuant to § 4 point 2 relaxed control is limited to the following activities:

- verifying authenticity and validity of the document entitling to state border crossing
- stating identity based on the submitted document entitling to state border crossing
- verifying authenticity and validity of visas or other permissions, if they are required
- checking whether departure from the territory of the Republic of Poland takes place before the visa expiry date or within time limit determined by separate regulations.

Commander in Chief of the Border Guard by Ordinance nr Z – 16 of 5th May 2003 introduced precise extend of implementation of the Regulation (25th June 2002) and specified that it has been implemented only with regard to the citizens of: EU, Norway, Switzerland, Australia, USA and Japan.

After 12th October 2006 when the Regulation EC nr 562/2006 of the European Parliament and of the Council Establishing a Community Code on the rules governing the movement of persons across border (Schengen Borders Code) came into force, relaxed control could be carried out only in line of Article 8 of the Code.

Regarding persons enjoying the Community right of the free movement, ie. Citizens of EU, EEA, Switzerland and Poland (and theirs family members) the minimal check standard should be applied pursuant to Article 7 of the SBC.

In practice the way of carrying out minimal control should be limited to verifying validity and authenticity of the document and stating identity of the person. However, at random during performing minimal control, in justified cases – BG officer (based on risk analysis, category of passenger) in entitled to search the data base in order to check the person or vehicle.

RESTREINT

7.4. Staff and training

7.4.1. *Adequacy and the level of professionalism*

The officers at the Bieszczadzki Border Guard Regional Unit can be regarded as professionals, highly motivated and disciplined. Most of them have acquired the 8 months basic training and are trained in accordance with the Border Guard training programmes.

7.4.2. *Further continuing education*

Personnel follow systematic career development programmes and continuous training programmes. The Committee received information stating that 100 % of all border guards receive minimum 5 hours compulsory training every month in the BGP. This training encompasses a variety of subjects, including Schengen regulations and forged documents and it does not affect the staffing of the work shifts, because the training time is planned outside the regular shift. The monthly training is conducted as multipliers training.

At the visited BGPs, the Committee conducted interviews which confirmed that knowledge of the Schengen regulations was present among the border guards.

The Committee was told that the Regional Unit has signed agreements concerning trainings with among others the Police, the Customs Service and a Mountain Volunteer Rescue Service.

7.4.3. *Linguistic skills and training*

Language training is conducted at the Regional Headquarters in Bieszczadzki.

In the visited sites, in particular Medyka and Krościenko many border guards were able to communicate in Russian language and some others had acquired an intermediate level on English. The number of border guards able to speak Ukrainian was, however, rather low. The Committee recommends continuing to promote the use of the Russian language and to improve also the knowledge of Ukrainian in order to enhance the linguistic skills of the border guards for their daily jobs, in particular at the BCPs.

7.4.4. *Specialised document checking skills and training*

Training to detect forged documents is organized on a monthly basis for all border guards. Forgery experts receive specific training at regional level.

Reference is also made to point 3.6.7. of this report.

- At Medyka BCP, the second line document expert had a long experience in this field and a profound knowledge on documents. Nevertheless, he had never received specialised training for second line document experts. In this context the Committee recommends to conduct additional specialised document courses for second line officers in order to increase the number of personnel available in each shift to conduct a second line document examination.

- At Krościenko BGP, the Committee noted that the expert on document examination knew how to use the technical equipment, but confronted with a practical check, he seemed not to be fully trained to verify in detail all the security elements of the document.

The Committee was also informed that in all BGPs criminology technicians' specialists from the intelligence and investigation team provide support to the 2nd line officers to collect evidences about document abuse.

7.4.5. *Specialised training for different managerial levels*

Reference is made to point 4.4.5. of this report.

RESTREINT

7.4.6. *Availability and permanency of staff*

In the visited BGPs the availability and permanency of the staff was ensured.

- At the Medyka BGP approximately 22 border guards were on duty at the road BCP during the visit. This number is considered by the Committee very limited taking into account the flow of vehicles, the information received about the need to relax border checks regularly and the fact that sometimes one single border guard has to serve several lanes.

- At the Krościenko BGP, there were 132 border guards available. Out of them, approximately 14 border guards are available at the BCP in each shift. This number is considered by the Committee adequate to ensure a smooth and effective border control.

7.5. **Readmission, expulsion and illegal immigration. Carriers liability**

With regard to inland activities to control the legality of stay, the Committee noticed that despite the number of border crossings has increased, the number of joint actions has constantly decreased since 2003. Despite this fact, and since these operations are based now on intelligence, the number of persons controlled in those actions has increased.

The decrease in the number of activities is explained in detail in point 7.1.2. of this report.

Between 1.800 and 1.900 expulsions take place every year through Medyka BCP (95% of all expulsions from Polish territory through the Polish-Ukrainian border).

According to the readmission agreement that was concluded with Ukraine in 1993, there are three BCPs eligible for the readmissions of third-country nationals and also of Ukrainian and Polish nationals to Ukraine or to Poland, i.e. Medyka, Dorohusk and Hrebenne. Through the other BCPs only the Ukrainian and Polish nationals can be readmitted. 10% of the readmission requests to the Ukrainian authorities are not accepted because they are considered insufficiently documented. The readmission agreement allows for a 3 months response time for the Ukrainian authorities.

In Krościenko only readmission of Ukrainian citizens are allowed according to the agreement signed with Ukraine. 52 readmissions took place in 2004, 52 in 2005 and 5 applications during the first half of 2006.

No sanctions have been imposed to carriers in the Regional Unit in the context of Article 26 of the Schengen Convention.

RESTREINT

8. BORDER SURVEILLANCE

8.1. General information

The land borders with the Russian Federation are typical green borders (partly covered with forests complexes, flat terrain, mostly rural and lower parts covered with meadows and pastures). Large parts of the land borders with the Republic of Belarus are covered by forests and natural parks. The land borders with the Republic of Ukraine are partly blue borders, formed by the river Bug and the river San. In the South East sector the terrain is very different formed by the hills and slopes of the Bieszczady Mountains.

The state border with Russia is properly marked by means of a border line and border signs based on the mutual agreement between the two states. On the Russian side there is a clearance strip, a road, another clearance strip and a fence with sensors. Polish border guards are allowed to cross the border line in order to check the clearance strip.

The state border with Belarus is properly marked by border signs and a clearance strip, which however is not suitable for identifying tracks. The state border with Ukraine is properly marked.

Green border surveillance at the Polish external land borders is the responsibility of 4 regional units. Approximately 6.200 border guards are deployed along these external borders.

- The Warmińsko- Mazurski Border Guard Regional Unit (BGRU) secures 198 km of the State border with the Russian Federation's Kaliningrad Oblast. Border security is managed by 1.015 border guards divided over 10 Border Guard Posts of which 7 are responsible for green border protection only and 3 are responsible for green border protection and border control at BCPs.
- The Podlaski BGRU secures 351 km of the State border with the Republic of Belarus. Border security is managed by 1.048 border guards divided over 12 BGPs of which 5 have associated BCPs.
- The Nadbuzanski BGRU secures 467 km of the State border with the Republic of Belarus (171 km) and the Republic of Ukraine (296 km). A large sector of this area (399 km) consists of the river Bug. The part of land border with the Republic of Ukraine is limited to 68 km. Border security is managed by 1.789 border guards divided over 17 BGPs of which 5 have associated BCPs.
- The Bieszczadzski BGRU secures the South-Eastern sector of the State border with Ukraine (239 km). The borderline runs predominantly over land except for 59 km marked by the centre of the river San. Border security is managed by 1.254 border guards divided over 13 BGPs (12 on the border and 1 airport inland) of which 4 with BCPs on the border with Ukraine.

RESTREINT

8.2. The visited sites

The Evaluation Committee visited all 4 Border Guard Regional Units at the external border and 7 Border Guard Posts.

- The Warmińsko- Mazurski BGRU with the BGPs Sępopol and Bezledy. Both posts secure a sector of 40 km State border with the Russian Federation's Kaliningrad Oblast and dispose together of the staff of 202 border guards. The Border Guard post Sępopol is only responsible for green border protection while the Bezledy post is also responsible for the international BCP (passenger and cargo traffic), the international air BCP in Szymany (limited passenger traffic) and the international rail BCP in Skandawa (cargo traffic).
- The Podlaski BGRU with the BGP Szudzialowo. This post secures a sector of 15.4 km State border with the Republic of Belarus and disposes of a staff of 45 border guards. The Border Guard is responsible for the green border surveillance only.
- The Nadbuzanski BGRU with the Border Guard posts Dorohusk and Wola Uhruska. These two posts secure a sector of 68 km State border with the Republic of Ukraine, exclusively on the river Bug. The posts dispose of a staff of 257 border guards. Wola Uhruska is responsible for the green border surveillance only, while Dorohusk is also responsible for three BCPs; rail and road BCP in Dorohusk and an additional airport BCP in Swidnik.
- The Bieszczadzski BGRU with the Border Guard posts Krościenko and Huwniki. These two posts secure a sector of 30,45 km State border with the Republic of Ukraine of natural land borders across a mountainous area, cut with numerous ravines, brooks and small rivers. The posts dispose of a staff off 169 border guards. Krościenko is responsible for the road border crossing point of Krościenko-Smolnica and the rail BCP Krościenko-Chyrow. Huwniki is exclusively dedicated to green border surveillance.

The visited Border Guard posts are responsible for only 12% of the external land borders. More visits were however not possible due to the very strict time table. Since the green border surveillance system in Poland is developed at national level and implemented as such at regional and local level, the visited areas gave already a picture of the green border surveillance system.

8.3. Implementation of green border surveillance

8.3.1. *Tactics applied in visited Border Policing Offices*

According the general management, the Regional Units of the Border Guard, under the central authority of the Commander in chief, are responsible for the organisation and the management of the border protection in their regions. The Border Guard Posts are directly responsible for the implementation of the border surveillance in their area.

Poland has developed an integrated system for State border surveillance based on patrolling, observation, cooperation and risk assessment. The Polish Border Guard is the key player in the system in cooperation with other law enforcement agencies like the State Police, the Customs in the fight against smuggling, the Military Police for facts under Military Law and the Secret services for purposes of intelligence.

RESTREINT

The border security system allows for effective actions and coordination between Border Guard regions and units, both at central and at regional level as well as at local level.

The patrol system is based on general principles of patrolling, risk assessment and situational analysis. Since there is no independent electronic surveillance system, green border surveillance aims for 24 hours coverage of the border by manpower. Based on risk assessment, the area of the Border Guard Posts is divided in sectors of importance. Border guarding activities, including border surveillance, are carried out both on the border line and on the roads leading to and coming from the state border by means of human and technical resources, supported by air coverage.

Tactics and techniques are changed whenever needed and adapted to the border situation and the information gathered. Different written exhaustive tasks for patrols (up to 8) exist and are to be applied according the situation. They are decided by the responsible duty officer. The Committee observed that various types of patrols are applied in practice according to the tasks and missions to be performed.

Duty hours are organised in different ways, ranging from 8 hour shifts up to 12 hour shifts on a 24 hours basis. Shifts are not consecutive in order to ensure the permanent coverage of the area.

Command, control and decision-making in relation to green border surveillance are professional. Tactics are based on guidelines at central, regional and local level. Commanding officers are aware of the current operational and situational needs on the green border. The experts organised several exercises based on maps on deployment of patrols and reaction to incidents; duty officers and commanding officers met largely the requirements. Executing officers know their tasks and missions and show excellent ability in dealing with incidents in routine situations. The Polish border guards show excellent attitude, discipline and even pride.

The inter-agency cooperation with the State Police is intense and effective. It consists of preventive operations, operational, investigative and intelligence activities and information exchange. Common actions and operations are numerous throughout the year. In the visited sites 2 joint patrols per week on average were noted.

Border surveillance is implemented also based on different forms of international cooperation. In this regard an important tool is the Border Delegate institution based on the agreement of 1961. International cooperation remains however very formal and has few real practical result at the border. In a country where a watertight security system is almost impossible to achieve, because of the length and nature of the border, a practical solution might be found in the enforcement of the international cooperation in terms of practical cooperation in border surveillance, joint patrols, readmission etc.

8.3.2. *Situational awareness*

Situational awareness is based on various means and techniques.

Risk assessment is made on the central, regional and local level. At local level, all information from border control and border surveillance is gathered and put together with the information on illegal migration, border violations and cross-border crimes.

RESTREINT

The ongoing setting up of the Border Guard Central database is planned to be finished by the end of 2007. In the meantime all data gathered in the existing Border Guard data systems is transferred to central, regional and local level by various channels. In the future all these data will be stored in a central database.

The methods of surveillance are organised by human and technical means.

Patrols are executed according the type of the border, the environment and the seasons of the year on foot, by means of cars, off-road vehicle, 4-wheel motorcycles (Quads), motorcycles and snow-scooters. Different kinds of boats are used on the rivers. The management and officers of the Border Guard have in general good knowledge and awareness on the current operational situation at the green border.

An interesting tool in this concept is the SLIMOW system; a GPS based electronic system that allows to find and to recognize own resources in the border zone. The system gives a perfect view on the deployment of the units at all times in order to adapt efficiently their deployment to new situations and to react on incidents and threats.

On the basis of interviews with officers from border patrols the Committee positively estimates their orientation on the terrain (also on maps). Border guards identify the area where they perform their tasks, important places in the border zone and critical sectors on their respective border area without problems. They follow the orders (in general and in cooperation with others patrols) and know how to cooperate with other patrols (the basic procedures, communication, etc.).

Patrols are supported by more than 100 trained service dogs but the number of tracking dogs useful for border surveillance is limited. The Border Guard disposes of a large number of mobile surveillance systems mounted on vehicles, portable thermo vision equipment and other night vision equipment. The mobile surveillance systems (thermo vision camera) mounted on Mercedes chassis are state-of-the-art equipment. The surveillance system is linked to a computerised positioning system allowing defining the range, distance, angle, position and coordinates of the system itself as well as of the target.

The South-East sector disposes of a very useful and efficient mounted platoon of 12 horses + 1 patrol in the more to the North area of the Bialowiecza natural park, who are deployed in the less accessible and difficult areas, perfectly adapted to the environment and the tourist activities.

Situational awareness is enhanced by air support. Border Guard Regional Units dispose of double engine helicopters PZL-KANIA, PZL SOKOL or Mi-2 and aircraft PZL – 104 M “WILGA 2000”. All aircraft are equipped with electronic surveillance systems, ARGUS 350 camera and ULTRAFORCE 275C air observation system. The experts were in the possibility to accompany different air patrols on the WILGA airplane as on the KANIA helicopter and witnessed the efficiency of the systems.

River patrols are carried out by means of 14 boats.

The technical monitoring facilities are limited: there are no surveillance towers, no security trenches, almost no security fences (unless on the Russian side) and 11 stationary surveillance systems, mostly situated in the neighbourhood of border crossing points.

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Situational awareness is also enhanced by the cooperation of the population in an organised way. The Regional Units developed an Early Warning System based on the selection of a number of citizens living in the immediate vicinity of the border. These citizens dispose of a number of contacts in the Border Guard who they can reach at any time in order to communicate information on possible cases of illegal migration. Large sectors of the border however are scarcely populated or even not at all. In these areas the cooperation is limited to the presence of hunters and fishermen.

An additional tool is to be found in the Border Guard Headquarters in Warsaw. The Border Guard developed a multifunctional control room for the whole territory. The Control centre has currently 4 functions:

- a monitoring system of Border Crossing Points by means of cameras (currently 2 BCP available);
- a situational overview on the activities concerning illegal migration over the whole territory, based on the reports of the individual Border Guard posts through the Regional Units;
- an overview on all “events” reported by the Regional Units;
- a coordination centre for Law Enforcement Agencies involved in Border management.

Situational awareness is enhanced by the cooperation with Russian, Belarusian and Ukrainian counterparts in exchanging useful operational information, joint investigation on border violations, and daily information exchange between duty officers of Border Guard Posts.

8.3.3. *Reaction capability*

Reaction capability in routine matters is largely sufficient. Own patrols arrive at the place of an incident within reasonable time together with available patrols of neighbouring BGPs. Experts tested the routine reaction on 2 occasions; assistance was each time available in less than 10 minutes. The experts noticed however that the equipment of the patrols regarding the protection of tracks and evidence of illegal border crossings is very basic and hardly sufficient in bad weather conditions. Experts also noticed that the equipment regarding the apprehension of illegal migrants (handcuffs, important evidence) was not sufficiently available.

In case of major incidents the staff of the BGPs is in first instance depending on its own resources. Mobilisation of the staff of the station and shifts who are not on duty is possible in 1 to 2 hours. Many border guards live in the immediate neighbourhood of the stations and can be mobilised in short time.

Each Head Quarters of a Regional Unit has the possibility to organise a non-permanent reserve unit, composed of officers of the HQ, who can be assembled and deployed when necessary.

More qualified support is available at the Border Guard Regional Unit level by the Independent Reserve Units (IRU) and the Special Platoons. The IRU has two functions: a reserve force for the Region in order to enhance the surveillance of the border and to support BGPs when needed and participation in the elimination of threats at the border. The Special Platoons are a reaction force on major incidents (use of violence, firearms, hostages taken, etc.) in possession of all necessary equipment and means of transportation. According to the geographical situation of the BGPs, a Special Platoon can arrive in a time lapse of 1 up to 3 hours.

RESTREINT

The most Northern Regional Unit disposes of a Central Reserve Unit, composed of students of the Training Centre, who can be deployed at any place at the border.

Reaction capability in serious situations (major incidents and threats) is however hampered due to the extent of some regional units. The supporting units, mostly based at the HQ, have distances to overcome of more than 100 km.

At the Warmińsko-Mazurski Regional Unit in the BGP Sępól, the experts were able to assist a large scale exercise in tactical approach of incidents and reaction capability. Limited to the assistance of own resources at the beginning of the exercise (3 own patrols, support from neighbouring BGP Bezledy and regional air support), the scenario turned into a major incident with armed facilitators, shooting incidents and an intensive threat on a children's school in the area. Independent Reserve Unit and Special Platoon of the Regional Unit were deployed; the Special Platoon of the State Police and the civil authorities (Voivods, Fire Brigade, Ambulance) were mobilised. Also the cooperation of the Russian Border Guard to secure their border in the area was activated. Although planned and perfectly orchestrated, the exercise showed excellent abilities in tactical approach, reaction capability and inter-agency and international cooperation.

The experts organised later, at the Bieszczadzki Regional Unit, in the BGP Huwniki another exercise with 1 incident involving 2 armed facilitators spotted and observed by a patrol. The Special Platoon of the Przemyśl HQ was alerted on a Saturday afternoon and was able to react on the spot in less than 2 hours time.

Since every Regional Unit disposes of own aircraft, air support is always possible in reasonable time.

Although assistance and first aid in case of incidents and accidents is not a Schengen requirement, the experts are a bit worried about the lack of adequate equipment at the disposal of the patrols. Especially the foot patrols in isolated areas depend on quick reaction of emergency services; waiting time can rise up to hours before professional help arrives.

8.3.4. *Availability and permanency*

- *Human resources*

In general human resources are sufficient for fulfilling the tasks of green border surveillance taking into account the actual situation at the border. Border surveillance is carried out by professional border guards that are sufficiently trained to fulfil their tasks. However, there is a clear unbalance between the Northern and the Southern regions in the relation between staffing and migration pressure and other external factors influencing border management as illustrated by the following facts:

The BGP posts Sępól and Szudziałowo in the North-Eastern part of Poland secure a border line of 37 km with 85 men; migration pressure is however very low (2 illegal border crossings during the last two years). The BGP posts Huwniki and Wola Uhruska in the South-Eastern part of Poland secure a similar border line of 36 km but with much more difficult environment and 83 men; migration pressure is much higher (several hundreds of border crossings during the last two years).

Due to the organisational character of the Polish Border Guard, human resources can be mobilised in high numbers at all times.

RESTREINT

- *Technical resources*

There is no integrated electronic surveillance system that covers the entire border; that detects and identifies targets and enables immediate reaction. Poland is considering the implementation of an Electronic System for Supporting Border Surveillance by the use of mobile and stationary systems of perimeter border protection.

The implementation of technical resources is based on a concept. The equipment of different regional units is almost standard, modern, available and sometimes state of the art (Mobile surveillance units on Mercedes chassis and the well equipped aircraft).

The amount of stationary ground surveillance equipment is however limited and should be enhanced; there are almost no sensor systems available. The fixed heat-sensing camera systems are limited to the border crossing points.

Mobile surveillance equipment is far better organised; Polish Border Guard disposes for the moment of more than 50 mobile surveillance units (action range between 3 and 7 km); 11 surveillance units mounted on aircraft and almost 300 portable thermo-vision cameras (action range up to 2 km) at the disposal of the patrols.

Air support is generously available; each Regional Unit has his own aircraft. A detailed study of the flight schemes showed the experts that the aircraft are really used and integrated in the surveillance of the borders.

Polish Border Guard disposes of an impressive arsenal of vehicles; cars, vans, buses, jeeps, off the road vehicles (quads and motorcycles), but relatively limited snow scooters (less than 50 for the whole territory).

The technical equipment is available; there are no restrictions or limits in the use of vehicles; the level of maintenance is good and the number of broken equipment low.

8.3.5. *Communication and encryption*

Radio communications between the mobile units monitoring land borders and their operational centres at the Border Guard posts are enabled by the use of VHF analogue radio equipment Motorola. The current system provides communication in directing, interacting and alarming. The Border Guard installed retransmission stations along the border in order to ensure the communication range throughout the area of responsibility of each organizational border unit. Radio communication may be carried out with the use of "scramblers" which "cover" (but not codifies) the radio transmission.

Communication between the local level and the central level is done mainly through cable lines, leased from the Polish Telecommunication Company (TP S.A.).

Classified information is not processed within the Border Guard VHF radio network. The Border Guard communications system allows for sending classified information by fax. An internal tele-copy covered communication network TURKUS is used then. TURKUS network allows for transmitting information up to the level of 'secret'.

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It is used for direct transmission between BG organizational units as well as for communication (through retransmission in the National HQ of the Border Guard) with organizational units of the Ministry of Internal Affairs and Administration, the Ministry of Foreign Affairs, the Ministry of Defence and the National Security Agency. TURKUS network has been certified for secure use by the services of the State protection.

Moreover Border Guard is developing an existing, internal, closed intranet system which is operating on the basis of scramblers. At the end of the modernization in 1 year time the system will be able to transmit information up to the level of 'restricted / restrained'.

The lack of a modern radio network system, limits the practical cooperation between law enforcement authorities.

9. CONCLUSIONS AND RECOMMENDATIONS FOR THE VISITED SITES

1. The Committee observed that at most of the BCPs visited the practical inter-agency cooperation between Customs and Border Guards should be improved in view of meeting the objective of ensuring a smooth border crossing, as set out in the Schengen Borders Code. In order to avoid double checks and unjustified delays for persons intending to cross the border, the Committee recommends establishing some kind of protocols in order to enhance the efficiency and swiftness of the border checks.
2. The infrastructure at the BCPs visited was, in general terms, in line with Schengen standards, although some BCPs were under reconstruction during the evaluation (Bezledy, Medyka) and some others are to undergo reconstruction works in the future. The Committee considers that, at the Terespol road BCP in particular, the infrastructure was below standards and recommends not only that it be modified but also that the concept be revised in order to allow the Polish border guards to conduct entry checks inside Poland and to enhance the cooperation between the first and second lines. The infrastructure at the Medyka road BCP might also be improved. In this context, Dorohusk road BCP could be considered as benchmark with regard to fencing, access control, traffic handling and surveillance of the BCP area to be extended to other BCPs.
3. The technical equipment available in the first line at some BCPs was not fully in line with Council Recommendation 98/C 189/02 and the Committee recommends acquiring stationary equipment at Kuznica, Terespol and Dorohusk road BCPs and Przemysl railway BCP. The acquisition of technical equipment for searches of lorries should be considered in Kuźnica. The Committee welcomes the setting up of a heart beat detector at Kukuryki BCP and the plans to install similar devices at other important entry points (i.a. Bezledi, Medyka), the use of on-line portable devices for consultation of the national databases that are used to check bus passengers and the availability of the "Morpho" system for identification purposes that permits detecting the real identity of persons, even when the assume different names.

RESTREINT

4. The character of the second line activities was found to vary between the border crossing points visited. In general, experts are of the opinion that more centralised and efficient management of the second line could contribute substantially to enhancing the overall effectiveness and efficiency of the border checks. A clear division between first and second line checks should be set out at some BCPs (Bezledy, Terespol) in order to prevent second line activities being performed right from the first line officers. In this regard, the evaluation team reiterates that the second line management at the Dorohusk BCP constitutes best practise and could be used as a model to be implemented at other BCPs.
5. Although border checks at the BCPs visited were generally carried out in line with Schengen standards, the Committee considers that there is room for improvement in the quality of thorough checks (interviews and the examination of travel documents) at the Terespol road and railway BCPs, Medyka, Przemyśl and Krościenko BCPs. Considering the huge flow of traffic at the Polish land borders and that, generally speaking, only a limited number of documents or persons are directed to the second line for further checking, the Committee considers that more emphasis should be placed on this tool in order to ensure in doubtful cases that all entry conditions are met.
6. In Kuźnica, checks on trucks are generally conducted in a satisfactory manner. Checks on trucks should be improved at the Kukuryki and Medyka BCPs, in order to prevent illegal crossing of the border by persons concealed inside empty or loaded trucks, as the number of searches on entry is rather limited.
7. The Committee noted that a large number of visas are cancelled at the border. The main reason for such cancellations is that the purpose of the trip differs from that stated at the consulates. The Committee values the fact that all these cases are detected by the border guards at the border but considers that closer cooperation between the Border Guard and the embassies and consulates abroad could help to reduce the high number of visa cancellations and make border checks more efficient.
8. At several BCPs the Committee observed that expired visas had been cancelled by consulates using a stamp in the Polish language. The Committee considers that this practise is not in line with Schengen standards as the expiry of a visa is not a ground for its cancellation. In addition, it could create uncertainty and confusion for other Member States' authorities when they conduct border checks; the Committee recommends the Polish authorities to cancel visas only in the cases stated in current Community legislation.
9. Separate units have been established within regional and local structures, in order to deal with administrative procedures, readmission and asylum matters. This means that expertise on administrative procedures, residence and asylum can be built up even in sites where these matters are not a daily reality.
10. The experts noted that the machine-readable zone of the visas was almost systematically stamped. This practice is not in line with current Community legislations and the Committee requests the Polish Border Guard to instruct control officers to place the stamps in the right place.

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11. The Committee was informed that in Medyka, checks may be relaxed several times a day for periods of about 30 minutes on account of the high volume of traffic. The Committee considers that this procedure is not in line with Schengen standards and recommends aligning it on the provisions laid down in the Schengen Borders Code.⁵
12. In general terms, the number of personnel available at the BCPs visited could be considered to be adequate to the traffic flow. Only in Medyka does the Committee consider that the number of personnel should be increased in order to cope with the high volume of traffic. However, the Committee considers that the quality of the checks could be enhanced in all the sites visited by improving cooperation with Customs and by using human resources in a more efficient manner. At present most border checks are carried out by one single border guard on each lane while other border guards perform other activities in the area of the BCP. The Committee considers that as laid down in the Schengen Borders Code, where possible, border checks should be conducted by two officers, in particular while checking buses (i.a. Kuźnica).
13. In Dorohusk the number of document specialists available per shift is considered by the experts to be too limited to cover the needs of the post and that more border guards should be trained in order to ensure that a real specialist in the field is permanently available.

10. GENERAL CONCLUSIONS INCLUDING RECOMMENDATIONS AND FOLLOW-UP

1. Poland has very important and demanding external land borders with Russia (Kaliningrad), Belarus and Ukraine. The prevailing situation at the Polish land borders is manageable and stable. The effective border protection systems of the neighbouring countries contribute to the relatively stable situation. These border security systems still have elements of the former Soviet Union's massive border protection system (fence equipped with alarm system, track fields and watch towers). They also use conscripts as a main part of their staff. Russia and Ukraine have notified Poland their intention to modify their border security systems in the future and make them fully professional organisations. This change, which is in itself positive, may also have some negative impacts since it means, de facto, that the more costly manpower used for border surveillance will decrease in number and that the EU external border may be easier to cross illegally. Also, immigration pressure may rise in the future as Poland might become a more attractive country for illegal immigrants after internal border controls are lifted. The Committee recommends continuing and maintaining situational awareness so that any possible modification in current trends or the prevailing security environment can be detected at an early stage and the necessary measures can be adopted in good time.
2. The general strategy for border management is very well structured and is firmly based on the Schengen border security system. All elements of the 4-tier border security model are covered in the strategy. The Committee highlights the very active use of document advisors in the main consulates as a very good tool for conducting pre-entry checks. The legal bases for efficient work are in place and no gaps in the powers of the Border Guard were detected or presented.

⁵ Reference is made to footnote 4 on point 7.3.6.

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3. The Committee found the organisation of the Polish Border Guard centralised and clearly structured. There is a direct line of command between Border Guard units at central, regional and local level ensuring a common approach to border control, a unified planning system and an extensive and fast data flow at all levels of the organisation. The Polish Border Guard is a fully professional and independent organisation with responsibility for border security in Poland as its main task. It has all resources at its disposal and the command structure is clear. This guarantees a unified approach and rapid reaction along all the borders. The organisation is fully in line with Schengen best practice.
4. International cooperation is wide and well structured. The Polish Border Guard is an active and important player in many fora. Cooperation with Russia, Belarus and Ukraine is based on an old agreement dated from 1961 and on some other additional agreements. The Polish authorities are invited to continue the ongoing negotiations with those countries with a view to updating such agreement. Cooperation is effective and practical work is done by the border security professionals. However, some cooperation models used with Belarus and especially with Ukraine are unique as far as EU external borders are concerned. The concept of joint border crossing points, where checks are carried out fully or partially either on the Polish, Ukrainian or Belarusian side of the border raises several questions, as explained in this report. The Committee considers that the current agreement with Ukraine as well as the draft agreements with Belarus and Russia should be analysed in detail to verify the conformity with EU legislation, binding the Republic of Poland with its provisions.
5. Two consultation points have been established with Ukraine since 2004, in Doruhusk (Poland) and in Krakowiec (Ukraine). The Polish authorities assured that personal data will not be passed through the consulting point and that the devices with access to SIS will not be installed in these premises. The Committee considers this tool as a positive element to improve international cooperation.
6. The Committee is of the opinion that joint patrolling with neighbouring countries is in principle a good and effective instrument. It is also clear that cooperation models must be implemented in full compatibility with the Schengen Borders Code. Therefore the Committee underlines that at the EU external border it is out of the question to divide the responsibility of external borders control between a Member State and a third country.
7. As regards inter-agency cooperation between the Border Guard and Customs the Committee recommends improving cooperation at all levels. That would result in an increase of the efficiency and a smooth management of crossings, implying a reduction in waiting time for persons crossing the border.
8. Situational awareness is based on a continuous and well structured analysis of the environment. Dataflow management guarantees rapid exchange of information in all cases. The Polish Border Guard is very well aware of the situation at the borders. The risk analysis system is based on the CIRAM. This model is well known to the staff and specially trained personnel are responsible for regular as well as for tailor-made risk analyses. Intelligence and investigation elements are linked to each other and to the risk analyses. The Committee recommends continuing the ongoing training in this system and also increasing training with regard to the profiling skills of first line officers.

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9. Infrastructure and equipment were in general found to be adequate. However, some major shortcomings were detected at the Terespol road border crossing point, where the Committee considers that there is a clear need to improve facilities. Due to the very fragmented structure of the border crossing point the core elements of the second line activities were not concentrated in one place. The Committee recommends centralising second line activities and also improving infrastructure where needed.
10. Checks and procedures were in general performed according to Schengen principles although the quality of interviews and document examination should be enhanced. The fact that all persons crossing the border, including EU citizens, are registered in the national databases raises concerns about the compatibility of this procedure with Community legislation on data protection. In that regard the Committee also points out that EU citizens should not be systematically checked against national data bases (or in future the SIS). Furthermore, the criteria applied for relaxation of checks should be reviewed according to the provisions set out in the Schengen Borders Code.
11. The management of personnel available at the border crossing points could be improved in order to enhance the efficiency of the checks, as in most cases they are performed by just one single border guard, even in cases of bus controls. The Committee reminds that, as laid down in the Schengen Borders Code, when possible and for security reasons, border checks should be carried out by two border guards.
12. The Committee noted that in several BCPs it is the practice to accept two passports where a passport containing a valid visa has been made invalid. This procedure seems not to be harmonised among the Member States and the Committee requests that this phenomenon be studied further in order to establish standard procedures.
13. The Committee found that the Polish consulates cancel expired visas by means of a special stamp. This procedure is not in line with Schengen standards and could lead to confusion for other Member States' border guards when conducting border checks. The Committee, with a view to preventing unjustified additional checks on persons holding such visas, recommends that Poland review this practice and restrict the cancellation of visas to the grounds stated in the Schengen Borders Code.
14. The quantity and quality of staff is high and up to Schengen requirements. Border control in Poland is carried out solely by specially trained, motivated and disciplined border guards being proud of their work. The Committee recommends continuing training in foreign languages (Russian, English) in order to improve the capability to participate more actively in the international and EU-level cooperation.
15. Much of the continuous training for border guards on document checking deployed in the first line is based on training supported by use of intranet tools available in the system. The Committee recommends that, with a view to promoting and maintaining common and uniform standards of border checks quality at national level, these specialists should continue to be trained following a national programme and using real specimens that could harmonise the standards at all BCPs.

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16. The Committee noted that at the land borders no use is being made of the ability to fine carriers in accordance with Directive 2001/51/EC, although a substantial amount of passenger traffic seems to take place by rail and coach.
17. The concept on border surveillance can be considered as an integrated system based on patrolling, observation by human and technical means, interagency and international cooperation and risk analyses. The border security system allows for effective actions and coordination between Border Guard regions and units, both at central and at regional level as well as local level. The main purpose of border surveillance is to prevent unauthorised border crossings, to counter cross border criminality and to take measures against persons who have crossed the border illegally. Poland is invited to develop this concept further especially on the technical issues and on international cooperation with the third countries involved.
18. The patrol system is based on general principles of patrolling, risk assessment and situational analysis and implemented according to daily information and situational factors (season, weather, environment, etc.). The territorial nature of the Border Guard posts allows effective organisation of the available means. Command, control and decision-making in relation to green border surveillance are professional. The Polish border guards show excellent skills, exemplary attitude and discipline and are proud of their job. The inter-agency cooperation with the State Police is intensive and effective and consists of preventive operations; operational, investigative and intelligence activities and the exchange of current information. Cooperation in joint patrols could however be improved by direct radio communication.
19. In general, situational awareness is sought for by various means: risk analyses, patrols on the ground, in the air and on the water, observation by human and technical resources, and close cooperation with the population in an organised way (EWS). Situational awareness might be further enhanced by the Command Centre in Warsaw, by collecting information on all border-related events all over the territory and by coordinating the activity of all law enforcement agencies.
20. The Polish Border Guard is able to react in an adequate way on routine matters, major incidents and intensive threats. The combination of own resources, independent reserve units, special platoons and extensive air support, in combination with tactical and operational skills on regional and local command level makes this possible. Poland is invited to enhance the necessary training and equipment for patrols operating in difficult and less accessible areas in order to prevent accidents and incidents resulting in fatal consequences.
21. In general human resources are sufficient to fulfil the tasks of green border surveillance taking into account the actual situation at the border. Border surveillance is carried out by professional border guards who are sufficiently trained to fulfil their tasks.

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22. The use of technical equipment is based on a clear concept. The equipment of different regional units is almost standard, modern, available and sometimes state-of-the-art. There is however no integrated surveillance system that prevents, detects and alerts all attempts at illegal border crossing. The amount of ground surveillance equipment is limited and should be enhanced. Necessary forms of equipment, like ground surveillance systems of all types, are hardly available. Poland is invited to develop further the Electronic System for Supporting Border Surveillance by the use of mobile and stationary systems of perimeter border protection.
23. Radio communication on the green border is organised through an analogue VHF radio communication system (Motorola). Mobile, portable and stationary systems have a scramble function. Radio communication in joint patrols is not possible in direct line.

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