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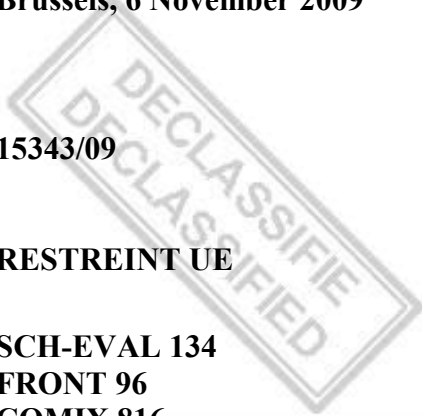
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REPORT

from: Sea Borders Evaluation Committee
to: Schengen Evaluation Working Party

Subject: Schengen evaluation of ROMANIA
- Draft report on SEA BORDERS

The current report is based on the replies of Romania to the questionnaire and includes the results of the visit, following the evaluation and the drafting session of the Evaluation Committee during the visit. The comments of the Romanian authorities are set out in footnotes.

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This report was drawn up by the Evaluation Committee and is brought to the attention of the Schengen Evaluation Working Party, which should approve it and present the follow-up to the Council.

1. INTRODUCTION

Based on the mandate of the Schengen Evaluation Group (SCH/Com-ex (98) 26 def), the Schengen Evaluation Programme 2008-2013 (6949/3/08 REV3), the Provisional list and indicative calendar of evaluations for 2009 (11602/1/08 REV 1) and the Overview of programmes, participants, technical details for the Schengen evaluations in 2009 (5160/1/09 REV 1 and subsequent REV's), experts carried out a Schengen evaluation of the Romanian sea borders

Participants:

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The Evaluation Committees visited the following sites: the Port of Constanta, the Port of Tulcea, the Naval Group Constanta, the Naval Traffic Management Centre in Constanta port, the SCOMAR Command and Control Centre within Constanta County Border Police Inspectorate and the Tulcea aviation unit of the General Aviation Inspectorate of the Ministry of Administration and Interior.

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2. MANAGEMENT SUMMARY

The Evaluation report on Romanian sea borders is based on replies to questionnaire and to additional questions from the member states provided by Romanian authorities both before and during the evaluation. The report also reflects the findings of the EvalCom from the sites visited. The EvalCom was able to fulfil visits to all sites in the agreed programme. Throughout the report a number of recommendations are made, and equally, the EvalCom was able to identify some Romanian arrangements as best practice.

Romania has relatively short external sea borders and there are only one major seaport - port of Constanta and 3 smaller ports for cargo vessels. There is no passenger ferry traffic currently. There are also only few harbours for pleasure boats and fishing vessels. There are no major threats to external sea borders as regards illegal immigration on entry to Romania identified currently. However there is still risk of illegal immigration at sea, especially taking into account lifting of the border control at the future internal borders after accession of Romania to the Schengen area.

The EvalCom is of the opinion that border control of the sea border in Romania is in the main carried out in accordance with the Schengen acquis and that border management in Romania is carried out according to the Schengen integrated border security model. Romania has a written national border management strategy, defining the steps to be taken in the countries of origin and transit, at external Schengen borders and inside the country. The administrative structure of the border management and the decision taking is clearly structured. The responsibility for border control lies on a centralised public authority the Romanian Border Police subordinated to the Ministry of Administration and Interior with a direct and clear chain of command between national, regional and local levels.

The EvalCom acknowledges well founded international cooperation with neighbouring Schengen countries, active participation in FRONTEX cooperation and good level cooperation activities in the framework of the Black Sea Cooperation Forum. The EvalCom is of the opinion that border control, risk analysis, intelligence and investigation follow the main recommendations of the Schengen Catalogue.

The EvalCom is in general appreciative of the professionalism of the Border Police which carries out border control tasks. The EvalCom found the number of the personnel of visited units sufficient. The level of knowledge of Schengen provisions was found satisfactory in the main. However, the EvalCom is of the opinion that there is a room for improvement as regards knowledge of Schengen provisions by border police officers since several officers were not fully aware of provisions of the Schengen Borders Code. There is clear understanding of the provisions of the Schengen Borders Code as regards border checks on maritime traffic. The EvalCom is of the opinion that the infrastructure for border checks responds to the requirements of the Schengen Borders Code and recommendations of the Schengen Catalogue in the most of visited sites.

The border surveillance system meets the Schengen requirements in the main. The coordination system and the cooperation of the agencies involved in the border surveillance work smoothly. The EvalCom is appreciative of the recently implemented integrated maritime surveillance system SCOMAR.

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The Romanian Border Police has a sufficient number of patrol vessels; however, the most of the time these vessels stay in harbours. ¹ Air surveillance is quite limited.

The EvalCom is of the opinion that in general, the border surveillance is implemented in accordance with the Schengen Border Catalogue and the Schengen Handbook.

3. GENERAL INFORMATION

3.1. Strategy

3.1.1. Legislation

The relevant national legal framework in the field of border management consists of:

- Government Emergency Ordinance no 104/2001 on the organization and functioning of the Romanian Border Police, approved with amendments by Law no 81/2002.
- Government Emergency Ordinance no. 105/2001 on the Romanian state border, approved with amendments by Law no 243/2002.
- Government Decision no. 445/2002 approving the methodological norms for the application of Government Emergency Ordinance no. 105/2001 on the Romanian state border.
- Government Decision no.324/2007 for approving the 2007 – 2010 National Strategy for the Integrated Management of the Romanian State Border.
- Government Decision no. 943/2001 establishing the Inter-ministerial Group for the Integrated Management of the Romanian State Border.

3.1.2. General strategy for border management

Romania has all types of the external borders (land, sea and air borders) and the Romanian external land border is one of the longest in the European Union. Due to that border management in Romania has a meaning for internal security of the EU area of freedom, justice and security.

Border management system implemented in Romania is based on the principles set out in the Council Conclusions on Integrated Border Management from December 2006, provisions of the Schengen Borders Code and recommendations of the Schengen Catalogue. Detailed provisions on the implementation of the four-tier access control model are included in the National Strategy for Integrated Management of the Romanian State Border in 2007-2010 (hereinafter referred to as National Strategy) approved under the Government Decision no. 324/ 28.03. 2007. The National Strategy takes into account results of the analysis of cross-border crime and main tendencies of this phenomenon.

¹ RO: RO acknowledges that the patrolling vessels are not allocated at maximum capacity, but an adequate management system is based on several factors, including a proper management of resources. Risk analysis and the operational situation revealed a reduced necessity of deploying technical means in patrolling activities, especially as the detection and identification activities at the sea borders are well supported by SCOMAR system. We have set up SCOMAR system to better survey the maritime area, but also to compensate a less deployment of human and mobility factors by a technical, more effective tool for carrying out the specific tasks.

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The purpose of the Strategy is to accomplish the general framework, necessary to the uniform and coherent approach of the integrated management of the state border as well as to combine efforts of the institutions with responsibilities at the borders. The National Strategy provides also the action guidelines for the fulfilment of the objectives related to Romania's state border security.

The implementing instrument of National Strategy for the Integrated Management of the Romanian State Border 2007 – 2010 is an Action Plan which stipulates specific activities and responsibilities for each ministry and agency involved with attributions in the field.

According to the National Strategy all elements of the four-tier access control model are adopted and consist of measures in third countries of source and transit of illegal immigration, widely developed system of bilateral and multilateral cooperation with neighbouring countries, border control as set out in the Schengen Borders Code and control measures within the country.

Measures at the external borders consist of border checks and border surveillance which are based on criminal intelligence and risk analysis and carried out in cooperation with competent authorities at all levels. Resources for border control are deployed along the border on the basis of the identified threats and in pursuant of the plans for border control. In case of changes in the operational situation due to the appearance of new threats the relevant relocation is realised.

Detection and investigation of cross border crime is carried out in coordination with all competent law enforcement authorities.

Romanian authorities cooperate actively with FRONTEX and with other Member States to improve the effect and to achieve uniformity of the border control.

As far as compensatory measures after abolishing border control on internal borders are concerned, Romania foreseen a complex system that includes on one hand, the development of an Integrated System for Border Security (ISBS) and on the other hand, redeployment of personnel from the future internal border, combined with modifying the tasks of the remaining structures on the internal border.

ISBS represents the main instrument of implementing the integrated management of the state border.

Border control in Romania is carried out by special units of the Border Police, subordinated to the Ministry of Administration and Interior (MAI). These units carry out border checks at border crossing points (BCPs) at air, sea and land border and border surveillance between the BCPs. Depending on the type of the border, a different entity of the General Inspectorate is responsible for the border control. Border control is carried out only by professional border guards who have passed specific training.

Military personnel are not engaged in border control activities in Romania. There is no legal basis giving military personnel the competency for carrying out border checks or border surveillance. In situations where the public order is threatened police forces can demand support of the military (Ministry of Defence) or other public services.

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Crossing the Romanian borders is allowed only at border crossing points and all persons crossing the border are subject to border checks. The checks cover also the means of transport is possession of the persons crossing the border. Persons, enjoying the Community right of free movement are subject to minimum checks, third country nationals shall be subject to thorough checks.

Border surveillance between border crossing points is carried out with aim to prevent unauthorised border crossings, to counter cross-border criminality and to take measures against persons who have crossed the border illegally.

The main principles for the organization and execution of the surveillance of the state border are:

- ensuring a full observation of the Romanian state borders on 24/7 basis;
- concentration of surveillance efforts on the probable directions of illegal border crossings and actions of the criminals;
- carrying out surveillance activities on 3 surveillance tiers at the land border and on 4 tiers at sea border.
- providing technical surveillance systems and equipment for reinforcement of surveillance, covering sea areas under surveillance with integrated coastal surveillance system;
- ensuring necessary reaction capabilities, aerial and naval assets included.

3.1.3. Analysis of environment and threats

Romania has 2070,6 km of external borders of the EU with Ukraine, Moldova and Serbia. There are 1877,1 km external land borders with 25 border crossing points (BCP) and 193,5 km of sea borders with 4 border crossing points. 15 airports operate international flights. Romania has quite short sea border (193, 5 km) and exercises its sovereign rights in 12 nautical miles wide territorial waters and rights as regards control of customs and immigration rules in contiguous zone with width of 12 nautical miles from outer limit of the territorial sea. Romania has an exclusive economical zone which extends 200 miles from the basic line of the territorial waters.

Romania has three major seaports: Constanta, Mangalia and Midia. Port Sulina in the Danube delta is used mainly by the Sulina Shipyard. The port of Constanta is the ninth busiest cargo port in Europe and the main container hub in the Black Sea.

There is no regular passenger and vehicle ferry traffic between Romanian and the other countries' ports, except ferries for railway cars, locomotives and trucks. Traffic of cargo vessels is carried out mainly between countries of the Black Sea area particularly between the Romanian ports and ports in Turkey, Russia, Ukraine and Georgia; however, important role has also cargo traffic with Egypt and Syria. The number of cargo vessels calling in the Romanian ports remains moderate and is decreased in 2009. The EvalCom was told that fishery vessels operate mainly in territorial waters and there are no cases of calls of the fishing vessels under the Romanian flag in third countries or fishing vessels from third countries in the Romanian ports. There is also some number of pleasure boats from third countries calling in the Romanian harbours.

The main threats that may affect border security are:

- illegal migration and trafficking in human beings;
- trafficking with counterfeited goods;
- smuggling of goods and trafficking in cigarettes;
- illegal trafficking in arms, ammunition, explosive and radioactive materials;
- trafficking in drugs and substitutes;
- stolen vehicles.

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According to Romania is a country of transit for the illegal immigration and the transit reflects mostly at land borders. 8140 illegal border crossings or attempts of such have been detected by the Romanian authorities during 2005-2007. The annual number of detection of illegal border crossings (attempts) has decreased from 3749 cases in 2005 to 1611 cases in 2007. 90-93% of all cases have happened at land borders.

Routes used by illegal migrants

- Routes used by people from Turkey: they enter with short stay visa and they leave illegally the Romanian territory to Hungary – Austria – Germany.
- Routes used by Afro-Asian people: they enter with short stay visa or illegally over the East or South border (when they enter this way they apply for asylum) and then they leave illegally on following routes: Romania – Hungary – Austria – Germany or Romania – Serbia – Bosnia – Italy.
- Routes used by people from Republic of Moldova: they almost always legally enter and then try to leave Romania hiding in trucks or using forged passports/visas on the following routes :
 - to Germany via Hungary, Slovakia and Czech Republic or via Hungary and Austria, or
 - to Italy via Serbia, Bosnia and Croatia.

Considering the statistics for illegal immigrants detected in Romania during 2007, the main source countries of illegal immigrants from the third countries are Moldova (1367), Turkey (771), China (155), Ukraine (130) and Serbia (122)

The EvalCom is of the opinion which is based on statistics presented by the Romanian authorities that there are no major threats currently as regards illegal entry to Romania at sea borders.

Illegal migration making use of cargo or cruise vessels and pleasure craft or fishing vessels is considered by the Romanian authorities as very marginal.

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

Bilateral and multilateral cooperation is organised starting from the statement that efficient international police cooperation in the sphere of organized crime and illegal migrations is crucial to prevent such criminal activities. Based on these considerations Romania developed a network of international cooperation with the EU countries and third countries based on bilateral and multilateral agreements

Cooperation with third countries (source or transit countries for illegal immigration, trafficking in human beings or smuggling drugs) consists of:

- developing the framework of international cooperation documents with these countries in combating cross-border crime and exchange of information;
- participation in initiatives for developing the border police systems in third countries;
- organising common training activities in border control; and
- setting up a network of liaison officers specialized in migration issues (ILO).

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Cooperation with third neighbouring countries Serbia, Moldova and Ukraine includes:

- cooperation between border delegates which enable mutual assistance in border issues, exchange of information regarding the operational situation at the common border, exchange of statistical data, joint evaluation of the cases identified at the common border, by organizing regular and ad hoc on request meetings at the management as well as execution level. There are no border delegates on the border with Republic of Moldova. Exchange of operational data with Republic of Moldova is carried out on the basis of a protocol signed between the border guard authorities;
- drafting annually cooperation plans and implementing them. The EvalCom notes that there were no cooperation plans for 2009 signed with above countries;
- developing the framework of international cooperation documents concluded with neighbouring third countries in combating cross-border crime, exchange of information;
- signing framework agreements in the field of local traffic regime. However, no agreements on local border traffic have been signed yet;
- organising joint patrols at the common border, which currently are carried out together with the Ukrainian Border Guard;
- carrying out information exchange through the common contact points. There is a bilateral contact point with the Ukrainian authorities in Siret-Porubnoe which was said functioning well.
- joint investigations in illegal migration cases; and
- providing common training in matters of mutual interest as border control, police cooperation, common investigations etc.

Romanian border authorities cooperate with Serbian and Moldovan colleagues also in European initiatives as SECI Centre. Romania is part of the EUBAM Mission in the Republic of Moldova and Ukraine.

With the neighbouring EU countries Hungary and Bulgaria the main features of the cooperation mechanism are:

- signing border treaties to establish the border regime;
- drafting annually cooperation plans and implementing them;
- signing and implementing police cooperation agreements;
- signing and implementing border agreements to establish common control in the BCPs, “one stop control” model;
- setting up contact structures at the border between countries. The bilateral contact points Artand with Hungary and Giurgiu with Bulgaria are operational. Operating of the bilateral contact point Giurgiu will be enhanced by involving police and customs representatives;
- performing common patrols, joint investigation teams in border issues, joint evaluation on the border operational situation;
- joint participation and providing support in European affairs matters;
- organizing common training sessions on border issues as well as for improvement of language skills.

Romania is widely involved in multilateral and bilateral cooperation with other EU countries. The main elements of this cooperation are:

- signing and implementing cooperation agreements and protocols on combating cross-border crime, especially in combating illegal migration, exchanging intelligence and information;
- participating in joint investigation teams and setting up supporting teams;

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- participation in European initiatives on combating cross-border crime such as EUROPOL, FRONTEX, SECI, INTERPOL, ICE etc.
- organizing and participating in joint training sessions,
- implementation of internal affairs attachés/liaison officer system of cooperation,

Romania has signed and ratified Prum Treaty on facilitation of police cooperation.

Exchange of information is carried out also through the International Police Cooperation Center. The International Police Cooperation Centre is centralizing on a regular basis data on information exchange carried out by the Romanian Police and Romanian Border Police with foreign partners.

On the basis of bilateral documents Romania is part of, periodical (monthly) meetings are being held with border structures in the neighbouring states, at management and expert level. On these occasions, exchange of relevant information is performed between border authorities.

- Important instrument of multilateral border guard cooperation between coastal states of the Black sea countries is the Black Sea Cooperation Forum, based on the Cooperation Agreement between the Border Police / Coast Guards authorities of the Black Sea riparian states which was signed in 2006.

This cooperation mechanism includes:

- annual meetings of the heads of border guard and coast guard authorities of above countries;
- periodical meetings at the expert level in order to plan common actions on combating illegal migration, drug trafficking, terrorism, smuggling, for non-proliferation of the weapons of mass destruction, crisis management, or the organization of exercises and common trainings in the above mentioned areas, data and information exchange on monitoring suspect ships, procedures and control on the suspected vessels, etc. Technical and practical aspects, as well as proposals concerning further development, are examined in the annual meetings at the expert level prior meetings of the heads of the border agencies;
- regular information exchange between national contact points. Coordination of the information exchange between border control authorities of the Black Sea countries is carried out by the Black Sea Border Coordination and Information Centre (BSBCIC) in Burgas. The created system permits, in the limits of technical possibilities, a careful monitoring of the suspect ships in the Black Sea traffic and fast intervention in case of threats. The secured real time information exchange with Border Police and Coast Guard authorities of the Black Sea states is carried out using the Automated Information Exchange System (AIES);
- maintaining of a common “list of suspicious ships” (LOSS) through the BSBCIC. Operative data and information are exchanged through alert fiches on suspected ships by all riparian states;
- carrying out regular common training operations at sea in the field of search and rescue at sea, combating illegal migration and the illegal exploitation of biological resources, data exchange etc.

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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*

Romania takes active part in the cooperation with FRONTEX and in activities carried out by the FRONTEX. The General Inspectorate of Border Police:

- represents Romania in the Management Board of the FRONTEX;
- maintains the FRONTEX National Contact Point;
- provides personnel for numerous FRONTEX operations. In 2008, the Romanian Border Police was involved in 16 FRONTEX operations at land border, maintained the Focal Points in Iasi and Galati, organized a joint operation at the Black Sea in cooperation with Bulgaria and was involved in 4 other sea borders operations with approximately 12-14 experts and in 5 operations air border operations, hosting 2 of them;
- participates actively in training provided by FRONTEX;
- submits regularly information for the FRONTEX risk analysis and participates in the expert group created for modification of the Common Integrated Risk Analysis Model;
- supports development of the Rapid Intervention Teams;
- carries out patrol activities in the H zone of the European Patrol Network in Black Sea;
- participates with technical equipment in CRATE (Central Record of Available Technical Equipment).

3.2. **Organisational (functional) structure**

3.2.1. *Centralised supervision and instructions*

The Romanian Border Police (RBP), subordinated to the Ministry of Administration and Interior is a single authority responsible for border control at all Romanian borders with centralised organisation at national, regional and local level.

At the national (central) level border management is carried out by the General Inspectorate of Border Police, (GIBP). It co-ordinates the activity of its subordinated structures and carries out activities of investigation and inquiry of the serious crimes in the field of border related offences such as organized crime, illegal migration and cross-border crime.

The GIBP is managed by **a general inspector**, appointed by the Minister of Administration and Interior and three deputies coordinating 6 directorates and 12 services.

Two main directorates of the GIBP are the **Directorate for Surveillance and Control of Border Crossings (DSCBC)** and the **Directorate for Countering Illegal Migration and Cross-Border Crime**. The other GIBP structures are either support ones or specialized in specific related issues

The DSCBC is the specialized structure in drafting the general conception of the RBP regarding border control, coordinating activities of territorial structures and drafting procedures and regulations in carrying out border control, coordinating the inter-institutional cooperation.

Its organizational chart includes **the National Centre for Coordination, Surveillance and Naval Control**, a specialised coordination structure for management of databases and intelligence within the surveillance systems at the Black Sea, acting as an interface with other national authorities involved in the surveillance of the Black Sea.

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At the regional level, there are 21 Border Police County Inspectorates, following the administrative organization of Romania and the limit of the state border or inner Danube. They are responsible for guiding and coordinating of the activities of the local units and representing the RBP in relations with the similar institutions of the neighbouring countries.

At the local level, each border police county inspectorate has under its authority **border police sectors** which are directly responsible of a part of the border. There are 83 BPS in total (49 of them are located at the EU external border) with the average length of their area of responsibility being around 50 km. As regards the sea border there are **2 border police naval groups** which represent the maritime component of the Border Police, organized on the Black Sea shore. They carry out their tasks at the land, within the territorial waters, contiguous zone and exclusive economic zone.

The **border crossing points** are under the supervision of the BPS or naval groups. The exception is constituted by air border crossing points, directly subordinated to the General Inspectorate of the Border Police.

From 75 operational BCPs 51 are located on the EU external border, 4 of them at the Black Sea (Constanta, Constanta Sud Agigea, Mangalia and Midia).

Some structures with specific tasks are directly subordinated to GIBP:

- **The Operative Directorate for Maritime Ports** having the headquarter in Constanta Harbour, has competences in preventing and countering illegal migration and cross-border crimes identified in the maritime and tourist harbours at the Black Sea: Constanta – Nord, Constanța - Sud (Agigea), Mangalia, Midia Maritime Port, Tomis Marina and Belona Marina.
- **4 training institutions:** the *Avram Iancu*” Border Police Agents School in Oradea, the Initial and Continuous Training School in Constanta, the Initial and Continuous Training School in Iasi and the Training School in Orsova

The National Customs Authority (NCA) is subordinated to the Ministry of Economy and Finance. The National Customs Agency carries out its responsibilities through the head office, the regional customs directorates and the border and inland customs offices.

The Customs authorities are entitled to perform checks on personal belongings and goods. As an exception to this rule, when there is a suspicion that the goods constitute a threat against the national security (e.g. drugs, weapons) RBP is entitled to perform checks with immediate notification of Customs. The mobile teams perform their activity on the entire national territory including the special customs surveillance area, which corresponds to the competence area of the border police (30 km inland from the land state border and the territorial sea).

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

Coordination of all agencies with responsibilities at the border and in the area of combating of illegal immigration is carried out by the Inter-ministerial Group for the Integrated Management of the Romanian State Border (IGIMRSB)

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The IGIMRSB is an advisory body within the Ministry of Administration and Interior, formed of state secretaries from the ministries and authorities in the field of defence, public order and national security authorized to fulfil activities for securing the state border, and also of heads of directorates within the MAI. The Group establishes the overall conception and the unitary coordination of the actions and measures put into practice by its members in order to achieve a high degree of security at the state border.

The Government Emergency Ordinance no.105/ 2001 on the Romanian state border provides that border control should be carried out in joint teams by the representatives of the two institutions (the Romanian Border Police and the National Customs Authority). Thus, at the level of all BCPs, checks on persons and vehicles are performed in joint teams implementing the “one stop control” principle that governs the practical cooperation between RBP and NCA structures. However, both authorities have their own tasks which are not shared.

Practical inter-institutional cooperation framework is empowered by co-operation protocols between the agencies with attributions at the border. The purpose of these protocols is to formalize co-operation between the main agencies operating at the border, to prevent and combat cross-border crime. In the margins of this legal framework, joint mobile teams of border guards and customs agents are organized for punctual actions.

The General Inspectorate of Border Police cooperates with the central public administration authorities, judicial institutions, other state central institutions as well as the representatives of the civil society. An important cooperation partner at sea is the Romanian naval Authority, involved in inspection, control and surveillance of navigation, port state control, and coordination of SAR and oil pollution response activities. As regards immigration control and return activities cooperation is maintained with the Romanian Immigration Office.

At territorial level, the units subordinated to GIBP co-operate with local public administration authorities, judicial institutions, other state institutions, decentralised services, as well as civil society representatives.

3.2.3. *Specialised services*

The Special Actions and Intervention Service of the GIBP performs specific security missions as support for operational structures.

3.3. Operational effectiveness

3.3.1. *Availability and permanency of resources (human, technical)*

Human resources

Manpower of the Romanian Border Police consists of 16740 officers and agents and 1462 civilian persons. In August 2009 were filled 86% officers' positions, 94 % agents' positions and 80% civilian personnel's positions.

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87,9% of police agents and officers (10444) are deployed at the land borders, 6,8% at sea borders (818) and 5,1% (608) at airports. 66,7% of the personnel is allocated for border control, 33,3% for coordination, training and logistics. Main attention is paid to the future external borders of the EU (Republic of Moldova, Ukraine, Black Sea and Serbia) where the current level of employment of the personnel allocated is close to 100%.

Allocation of human resources at the operative level is programmed to ensure the flexibility of forces in peak times at border control. All human resources (for both checks and surveillance tasks) are allocated to Border Police Sectors and the shift leader is responsible for establishing the number of personnel for border surveillance and for border checks during 12 hours service. Also the shift leader has the possibility to relocate the personnel according to operational needs.

Technical resources:

Equipment for border checks:

Workstations at the first line of border checks are equipped with terminals with integrated passport readers for consultation of databases, statoray light sources and magnifiers. BCPs are in possession of sufficient number of Schengen-compatible entry and exit stamps. For this purpose, a number of 1004 stamps have been manufactured and distributed to the BCPs.

For thorough examination of travel documents at second line is used sophisticated modern equipment such as video spectral comparators, docuboxes. Forensic Service within the GIBP and the forensic units in the county inspectorates of the RBP are equipped with 22 video spectrometers in total.

For verification of fingerprints 5 border crossing points in international airports and the BCP in port of Constanta and also 14 Border Police County Inspectorates are equipped with the EURODAC terminals.

The FADO system is fully implemented at the level of Forensic Service within the GIBP.

At the Forensic Service within GIBP, an AFIS work station is functioning connected to the central server in the Forensic Institute of the GIRP (General Inspectorate of Romanian Police).

Starting with in 2007 the Romanian Border Police uses uniform entry and exit stamps in line with the format set out in SCH/Com-ex (94) 16 rev on Acquisition of common stamps for entry and exit in the border crossing points.

Equipment for border surveillance:

For border surveillance at the land borders the Border Police is in possession of 77 portable thermo vision cameras, 199 night vision binoculars and 174 night vision goggles. The border police units are equipped with 41 thermo vision surveillance vans, 206 off road patrol cars, 127 intervention vans VW Transporter, 65 vans for transportation of the personnel, 118 snow scooters and 215 personal cars.

For border surveillance and rapid intervention the Border Police is able to use helicopters which belong to the General Aviation Inspectorate of the MAI. At present, the General Aviation Inspectorate is in possession of 12 helicopters. Helicopters are distributed to territorial units of the Border Police on the basis of monthly planning. A minimum number of 6 missions per month are planned and executed at national level.

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Technical resources at the maritime borders include vessels and boats used for border surveillance at sea, equipment for radar and visual surveillance, equipment for border checks, transportation and communication equipment.

Coastal surveillance at sea is based on network of sensor stations. Each sensor station is equipped with a radar sensor, an optoelectronic sensor, made of a thermal camera and a daylight camera, as well as processing components. The network consists of 6 complex sensor station (radar and optoelectronic sensors), 2 optoelectronic sensor stations and 1 radar sensor station.

The Border Police is in possession of 13 patrol vessels with length of 38.5 metres and speed of 24-30 knots, 4 vessels with length of 22,5 metres and speed of 50 knots, 12 patrol boats for port surveillance and control with length of 11,5 metres and speed of 28 knots, 10 RIBS with length of 5,4 metres and speed of 30 knots, 6 hovercraft and 5 patrol and intervention boats at river. The EvalCom is of the opinion that the number of patrol vessels for sea patrolling is more than satisfactory.

For land patrols are used 26 patrol cars and 12 all terrain vehicles (ATV).

Communication equipment:

The Police units are well equipped with communication devices. Communication system at the sea border provides for image, voice and data transmission. Data communication is based on microwave radio equipment, multiprotocol ATM switches, data encryption elements, VHF radio modems installed on own vessels, CDMA2000 and 3G with own vessels, receivers for video images transmitted from helicopters.

Voice communication is based on MAI TETRA network, MAI private phone network, public phone network, VHF and HF communications encrypted through mobile radio phones, mobile telephony CDMA 2000/GSM, IRIDIUM satellite phones.

The Command and Control Centre is also connected with other national agencies intranet networks such as Romanian Naval Authority for exchanging AIS tracks, National Company for Naval Radio Communications (RADIONAV) for receiving Notice of Arrival of a ships coming from international voyage according with ISPS Code and with Ministry of Defence Navy for sharing surveillance information.

3.3.2. Level of controls at external border

Border checks are carried out at the BCPs in compliance with the Schengen Borders Code at all Romanian borders future internal borders with Bulgaria and Hungary. All persons crossing the state border of Romania are subject to border checks. Consultation of SIS is not carried out as neither the necessary connections have been established yet nor the relevant acquis has been issued for Romania; however, relevant national databases are being consulted regularly.

As regards sea borders all vessels are subject to border checks. All cruise vessels calling from third countries are being checked and passengers and crew members going ashore or disembarking are subject to entry checks. The level of checks of cargo vessels, arriving from third countries depends on the results of the risk analysis. However, all cargo vessels are subject to border checks on board the vessel on entry and exit. There is regular control over activities of fishing vessels and traffic of pleasure craft. All pleasure boats arriving from third countries are subject to border checks.

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Surveillance of the land borders is carried out from surveillance towers and by mobile patrols equipped with different optic and optoelectronic devices for day and night vision.

The Romanian territorial sea and internal sea waters are under permanent radar surveillance by an integrated coastal surveillance system. The Automatic Identification System (AIS), based on requirements of the International Maritime Organization's (IMO) International Convention for the Safety of Life at Sea (SOLAS) is also used for tracking, identification of targets and monitoring of vessels movements. Border surveillance at sea is regularly carried out by the Border Police patrol vessels. There is cooperation with the other authorities as regards maritime surveillance.

Based on available data, such as illegal crossings and attempts of illegal crossings discovered by Romanian Border Police structures, information received from neighbouring countries on incidents related to illegal border crossing and asylum applicants in Romania, estimated level of detection of illegal border crossings was calculated in 2007 as 82,4%. This rate is expected to be higher on sea borders.

3.3.3. Situational awareness and reaction capability at different parts of the borders

Situational awareness is ensured by the complex of border control, intelligence, risk analysis and investigation activities of the Romanian Border Police, enhanced by the inter-agency and international cooperation.

System of information management and risk analysis provides all managerial levels with necessary information for decision taking. System of border surveillance is able to provide situational picture on the land and sea borders. Cooperation with national authorities and international partners, responsible for combating of illegal immigration provides quite a good awareness about routes of illegal immigration and modus operandi.

Awareness about situation on sea areas and the maritime border is based on a complex surveillance system at the Black Sea – SCOMAR, which allows for permanent monitoring of the Black Sea naval traffic by using radar and optoelectronic surveillance equipments, vessels, aircrafts, patrol vehicles and other type of forces in the responsibility area. Identification of targets is ensured by use of AIS, VTS and VMS, visual observation with use of optoelectronic devices, installed on coastline and by patrol craft. There is permanent information exchange between BCPs and units responsible for border surveillance as regards traffic of all types of vessels.

Situational awareness which is needed for planning and carrying out border checks on different vessels is maintained by information exchange with the Romanian Naval Authority, port authorities, and ship agencies, with the Black Sea Border Coordination and Information Centre and also by availability of different databases, used for risk analysis.

The reaction capacity is determined by availability of necessary human and technical resources, their reaction time and capability to react adequately in different situations, availability and capabilities of the command and control units to lead different operations.

Allocation of the human and technical resources in Romania is based on an independent assessment of the operational situation in the respective area of responsibility by a respective border police leader and his/her specific decision for the practical implementation of the protective activities to be taken. The EvalCom is of the opinion that necessary human resources are available and well prepared. The Romanian Border Police is well equipped with patrol craft at sea and patrol vehicles at land. Helicopters of the General Aviation Inspectorate of the MAI are used for border surveillance at sea very seldom.

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Based on the collected and analyzed information existing at the level of the Command and Control Centre of the SCOMAR, the Naval Surveillance and Control Office of the Constanta County Inspectorate of the border police decides the way the operative intervention units will operate. The Command and Control Centre is well equipped with wide range of communication means.

The EvalCom is of the opinion that there is still room of improvement in use of all possibilities provided by SCOMAR as in the moment of the visit by the EvalCom the system had been in use very short time and not all operators were fully aware of use of it.

3.4. Risk analysis, \ intelligence and data-flow management

3.4.1. Organisation

The EvalCom was informed that the principle of intelligence led policing is incorporated in Romania as one of the major police values, Therefore risk analysis structures are created within the central, regional and county headquarters of the Romanian Border Police. Organisational structure for the risk analysis consists of special units at national, regional and local levels.

At central level the Risk Analysis Unit is directly subordinated to the Directorate for Combating Illegal Migration and Countering Cross-border Crime within the GIBP. The personnel of the unit consist of 5 officers and 3 border police agents. The Risk Analysis Unit of the GIBP is a member of FRONTEX Risk Analysis Network.

At the local level there are there are Risk Analysis Compartments of 2 border police officers within each county inspectorate. Also, in the International airport Bucharest – Otopeni a compartment specialised in risk analysis in the field of air borders carries out specific tasks in the Centre for Airports Surveillance and Border Checks, having 3 officers as staff. In sea border area, the Risk Analysis Office within the Operational Directorate for Maritime Ports has been set up in Constanta, filled in with 4 officers and 10 agents.

Decisions on border control at local level are taken on the basis of the tactical risk analysis carried out by the commanding officers of the police units deployed for border control and shift leaders.

Some tactical risk analysis is carried out by the police officers during border checks.

The risk analysis structure co-operates by exchanging information and data based on co-operation protocols of Romanian Border Police, with other internal law enforcement agencies:

- Romanian Immigration Office;
- Romanian Police (Organized Crime and Intelligence Analysis Unit);
- National Customs Authority;
- Foreign Intelligence Service;
- Directorate for Investigation of Organized Criminality and Terrorism Offences.

Risk analysis on information concerning illegal immigration, cross-border crime and organised crime is carried out in joint centres of Police, Border Police and Customs. There are 5 such joint centres currently, one of them (Constanta Trident Office) at sea border.

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3.4.2. *Methods*

The risk analysis covers the following fields: illegal entries between and at border crossing points, facilitators, illegal stay and exit, refusals of entry, applications for international protection (asylum applications) at border, false and forged documents used for entering the territory illegally.

The procedure of risk analysis is based on CIRAM which provides methodology for assessment and identification of risks at borders. The risk analyses of the Border Police are combined into one national risk analysis concerning border control and illegal immigration.

At national level, risk analysis reports are produced on the base of the following:

- Data and information from Romanian Immigration Office, *eReporting* and *i2 iBase5* databases;
- Quarterly/ biannual/ annual FRONTEX risk assessments;
- Statistical data from ICONet;
- Data supplied by Romanian Immigration Office on asylum applications and on detections of illegal stay of third country nationals found inside the national territory.

Data concerning administrative issues are gathered on a national level and analysed. This information is send towards the responsible units, working at the borders. Having a national view, the information gives the opportunity to help these units, as well as other local or regional units. Data concerning judicial issues also are gathered on national level and analysed. This information is forwarded to the units which are concerned.

Risk analysis is carried out on regular basis and special risk analysis documents are compiled and distributed monthly, biannually and annually. In case of need tailored risk analysis are carried out.

The final documents on risk analysis are monthly distributed to Border Police territorial structures and to the operative structures dealing with surveillance and checks at the border.

In the process of border checks border police officers carry out profiling of passengers. For tactical risk analysis are used available databases.

3.4.3. *Responsibilities*

The Risk Analysis Unit of the GIBP transmits via the ICONet system monthly statistical data about illegal migration to the FRONTEX risk analysis unit.

Border police territorial structures are drafting monthly analysis of criminal activities in their territorial area of competence. These monthly documents follow a structure based on types of criminality, tendencies in each field and data received from other law enforcement agencies and are used for operational management, organisational activities and for decision making. Also, quarterly, biannual and annual reports on the same issues are being drafted.

Monthly risk analysis referring to illegal migration and cigarettes smuggling are drafted at the level of the Risk Analysis Unit of the GIBP, based on data collected from operational databases of RBP and other MAI structures, criminal files, and monthly reports from risk analysis offices from regional and county BP structures.

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3.4.4. Horizontal and vertical data flows

Regular risk analysis reports are transmitted between national and regional border police units. Regional units provide border police sectors with risk analysis documents for tactical risk analysis on the local level. Also, data from risk analysis forwarded by the General Inspectorate of the Romanian Border Police and daily bulletins received from other law enforcement agencies are used when carrying out checks on persons and their means of transportation.

Quarterly, biannual and annual FRONTEX risk assessments are disseminated at regional and local level so they could be used as an important tool for border surveillance and border checks.

Monthly risk analysis on illegal migration and on cigarettes smuggling prepared by the GIBP are sent to all border police county inspectorates, border police sectors and BCPs directly subordinate to the GIBP.

Three databases are in place at the level of the Romanian Border Police for developing risk analysis and intelligence activities: ENO, eReporting and i2 iBase5.

The Operative Nominal Record (ENO) is a database that records specific events related to the operational activities of the Romanian Border Police. It contains synthetic reports about events recorded in the process of fighting illegal acts (illegal migration, trans-border crime, etc.) at the operational level of the RBP. The database is available for all operative branches of GIBP, BPCI, BPS and Naval Groups and in the Border Crossing Points, at the Dispatch Office.

The database allows for:

- the extraction of statistical situations, centralized or structured on levels of RBP (BCP, CIBP, GIBP);
- to query information about people involved in illegal activities at the border;
- to query information about specific types of criminal activities.

eReporting (eRaportare) contains detailed standardised reports on border events and is available for all operative branches of GIBP, BPCI, BPS and Naval Groups and for the Border Crossing points. Standardized forms contain data and information specific to each type of event for specific types of events and cross-border crime and detailed information on the modus operandi. The application allows queries based on the type of report, the border police department that implemented the reports, the time frame, etc.

i2 iBase 5

i2 iBase 5 is an integrated system for suspects management and information analysis, aimed at detecting and combating crime and fraud by analyzing information of a very complex set of data. By organizing data on the entity-relationship principle, information about persons, objects (telephones, cars) and organizations involved in criminal activities and all kind of links between them are to be found. This application is both a database and a tool of analysis and allows the structure of risk analysis to exchange information in real time.

i2 iBase 5 is classified, administrated by the Risk Analysis Unit of the GIPB and accessible only for risk analysis units located at GIBP and BPCI levels.

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In the first line of control at the BCPs border police personnel has access to the ALERTS database of the Romanian Border Police which includes alerts on travel documents, vehicles, persons and goods forwarded by institutions with tasks in justice, public order or national security field. In the second line of border checks additional databases and registers are available through the intranet site of the Romanian Border Police.

Handling information concerning illegal immigration, cross-border crime and organised crime is based on inter-institutional cooperation protocols concluded for exchange of information or access to databases managed by each structure in their field of competence. Information exchanged could be carried out also upon written request, or within a joint investigation team (Romanian Police and Romanian Border Police / National Customs Authority), whenever such a team is constituted.

Romanian Immigration Office exchanges in real time information concerning the illegal migration with other institutions operating in the same field (Border Police, National Police). RIO collects, stores, processes, uses and ensures exchange of data and information on migration routes, aliens with illegal stay, as well as on those involved in human trafficking. Information is exchanged in both written and electronic form, by responsible structures within the Romanian Police, Romanian Border Police and Romanian Immigration Office, on a regular basis and upon written request.

3.5. Investigation and alien policing

3.5.1. Legal background

According to the provisions of Government Emergency Ordinance no. 105/2001 on Romania's state border, entering the national territory illegally shall be sanctioned by 3 months to 2 years of prison. If this deed was committed in order to elude punishment the deed shall be sanctioned by 6 months to 3 years of prison. The person which crossed illegally the Romanian state border and will get interdiction to enter Romania for 5 years.

If a person was declared undesirable or has received the interdiction to enter or stay in Romania and illegally crossed the Romanian border, he/she will be sanctioned by 2 to 6 years of prison. If the deed shall be repeated, the person will be sanctioned by 3 to 7 years of prison.

The deed of a person which is recruiting, directing or guiding one or more persons in order to cross the state border illegally, and also the deed of a person which organises this activity represents an offence and shall be sanctioned by 2 to 7 years of prison.

The following deeds are to be considered small offences:

- employment of an alien without a work authorization or work residence permit, sanctioned by fine from 1,500 to 2,000 RON (approximately 405 to 540 Euro). The fine can not exceed 100,000 RON (approx. 27,027 Euro);
- keeping employed an alien after expiring the work authorization, sanctioned by fine from 1,500 to 2,000 RON (approx. EUR 405 to 504). The fine cannot exceed 100,000 RON.

Also, according to the provisions of art. 141 of G.E.O. no. 194/2002 on aliens' regime in Romania, the facilitation of illegal residence of aliens in Romania, represents an offence and shall be sanctioned by 6 months to 5 years of prison.

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If the deed mentioned above was committed by two or more persons or has caused a serious injury to the alien's life or to his/her corporal integrity, the deed shall be sanctioned by 2 to 8 years of prison. If the deed has caused the alien's death, the sanction shall be the imprisonment from 3 to 15 years. If the deed mentioned above was committed by a person who is a member of an organized group or who has produced or obtained for himself/herself or for somebody else important material benefits, the special maximum of the sanction shall be increased by 3 years.

According to the provisions of art. 71 of G.E.O. no. 105/2001, the deed of a person which recruited, directed or guided one or more persons in order to cross the state border illegally, and also the deed of a person which organised this activity, represent offences and shall be sanctioned by 2 to 7 years of prison. The deed to be associated or to initiate the setting up of a group in order to commit the deed mentioned above or to access or support, in any way, this kind of group shall be sanctioned by 3 to 10 years of prison. The attempt to commit these offences shall also be sanctioned.

3.5.2. Organisation

The Government Emergency Ordinance no 194/ 2002 on aliens' regime in Romania regulates also the specific measures for immigration control. Two institutions are involved in combating illegal immigration: the Romanian Immigration Office (RIO) and the General Inspectorate for Border Police

The Romanian Immigration Office is the specialized structure subordinated to the Ministry of Administration and Interior and Administrative Reform, exercising the attributions given by the law for the implementation of the Romanian policies in the field of migration, asylum and foreigners' integration, as well as of the relevant legislation in these fields.

Within RIO, there are specialized departments for combating illegal migration, having the following tasks:

- detecting illegally residing aliens in places and areas frequented by aliens, in public and private institutions, premises of private economic enterprises.
- identifying detected illegally residing aliens, carrying out thorough checks on databases after what the legal measures can be imposed on them, within a timeframe of 24 hours from detection;

In their activity, RIO police officers cooperate with other structures within the MIAR, as well as with other governmental agencies with attributions in the field of aliens. There are co-operation protocols between Romanian Immigration Office and other structures within MAI (General Inspectorate of Romanian Police, General Directorate for Combating Organized Crime, the General Inspectorate of Border Police, the General Inspectorate of the Gendarmerie, General Directorate for Passports and General Inspectorate for Persons Records) or from other governmental agencies: Work Inspection within the Ministry of Labour, Ministry of Foreign Affairs and the National Office for Preventing and Combating Money Laundering.

The Romanian Border Police has a legal obligation to prevent and counter threats against Romania, related to cross-border crime and illegal migration during all the actions performed in the area of competence. Cooperation between the two institutions is based on cooperation protocols concluded both at central and local level.

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The agreements provide the framework for inter-institutional cooperation, following these main directions:

- common activities aiming to identify, apprehend and remove illegal aliens
- electronic data interchange (file transfers, ensuring the accessibility to the IT applications)
- information exchange regarding operational data
- mutual assistance; exchange and share experience and expertise
- organizing common activities and controls in the areas and environments preferred by aliens in order to apprehend illegal immigrants, wanted persons, aliens who are involved in guiding of illegal migrants groups, foreigners involved in cross border documents forgery and support regarding organizing escorts

Since 2003, the MAI has developed a Home Affairs Attachés Network which is formed by Romanian police officers/experts in the field of combating organised crime, illegal migration or civil emergencies.

If affecting the immigration policy these attaches are considered by the Romanian authorities as immigration liaison officers (ILO). Home affairs attaches are seconded to following source countries of illegal immigration: Moldova, Turkey, Ukraine, Serbia, Russia and USA and transit countries (Hungary, Croatia and Austria) and countries of destination (Germany and Italy).

Special investigation units are used for combating international organized crime and a special body made up of officers appointed for this purpose – the Judiciary Police – exists at the level of GIBP and GIRP. The initiative of creating such a specialized team is taken, case by case, by the designated prosecutor from the Directorate for Investigating Organized Crime and Terrorism within the Public Ministry who also establishes its members and inter-institutional cooperation limits, according to art 218 of the Code of Criminal Procedure.

3.5.3. *Methods*

Home Affairs Attachés of the MAI posted abroad have a task to establish and maintain contacts with the authorities of the host country with a view to contributing to the prevention and combating of illegal immigration, the return of illegal immigrants and the management of legal migration. Collecting information for use at the operational and strategic level about the flows of illegal immigrants to EU originating from third states or transiting through third/EU is a part of their duties a Home Affairs Attachés Network.

A special task force consisting of 10 border police officers was set up in 2007 within the Romanian consulate in Chisinau. This task force is acting mainly in the field of combating the illegal migration related crimes (illegal border crossing, trafficking and smuggling in human beings and counterfeiting or falsifying: visas, residence clearances, identity and travel documents).

The procedures applicable in case of illegal border crossing are based on the regular principles to be applied in any case of criminal activity and have the foundation in the Criminal Procedure Code.

After the apprehension of illegal immigrants, the border police carries out:

- search of the area of apprehension;
- checks on the main access roads to the area where the persons were detected, which may be used by the illegal migrants for escaping, by all police forces in the area (national and border police and even community police);
- criminal investigation measures and forensic tasks.

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Detained persons are driven to the headquarters where their verification and investigation is carried out, including hearing, data base inquires, fingerprinting and verification in the AFIS database and also the use of IMAGETRAK (photos database).

During the entire investigation procedure the migrants are entitled to have a lawyer. Common controls are carried out in the areas and environments preferred by aliens in order to apprehend illegal immigrants, wanted persons, aliens who are involved in guiding of illegal migrants groups, foreigners involved in cross border documents forgery and support regarding organizing escorts.

3.6. Staff and training

3.6.1. Adequacy and the level of professionalism

Border control is carried out by specialised and professional border police officers who have passed relevant training courses.

3.6.2. Responsibilities of the Border Guards

The Romanian Border Police has following main tasks:

- carrying out border checks and border surveillance
- ensuring the legal regime of the state border and surveillance and control of the border signs;
- performing control of the weapons, ammunitions, explosive materials or toxic and radioactive substances at the state border crossing,
- supervising the air space adjacent to the state border and territorial sea;
- identifying and investigating violations of the state border legal regime, as well as other legal provisions in its competence, carrying on investigation on these criminal offences; and
- ensuring the public order in the state border crossing points and, upon request from other state authorities, taking part in joint operations organized in localities from border area.

The RBP has following additional responsibilities at the blue border:

- observing the compliance of the Romanian state's rights in the territorial waters;
- preventing and countering the piracy, terrorist acts and organised crime activities in Romanian territorial waters;
- performing the control of boats and vessels together with environmental territorial units in case of pollution;
- taking part at surveillance, control, assuring protection and preserving natural hunting and fishing funds within territorial waters;
- performing search and rescue operations in the territorial or international waters; and
- preventing access of the foreign vessels to certain areas in territorial waters or navigable river channels together with the Navy units.

3.6.3. Selection criteria

The selection criteria, for both agents and officers of the Romanian Border Police are as follows:

- He/she has Romanian citizenship and has the domicile established in Romania;
- he/she has graduated the high school;
- he/she is of the age of maximum 27 years;

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- he /she was declared able, from a physical, psychical and medical point of view following specific examinations;
- He/she does not have a criminal record or is not under criminal investigation or in trial for having committed a crime;
- He/she is not member of a political party or of any other type of organisation with political character.

3.6.4. Basic training

Basic training to future agents and officers of the Border Police is provided mainly by the training institutions of the MAI. MAI provides the organizational background for both basic and further training in accordance with the strategy in this field, with the policies and procedures generally applicable at the MAI level. The General Directorate for the Management of Human Resources within MAI coordinates, monitors and evaluates both basic and further training. The General Inspectorates manage basic and further training for the subordinated staff according to their specific needs.

The Border Police officers basic training comprises three year regular courses carried out by the Police Academy in Bucharest. The graduates get a law degree and the professional rank of police junior inspectors.

The curriculum for the students of the Police Academy includes:

- training in the judicial field;
- special training: the border police theory and tactics, the legal protection of human rights, technical systems of border control, the history of the Romanian borders and of the Border Police, the cross-border cooperation, the border police management, the Schengen legislation and practices, the basis of intelligence activity, investigation of cross-border criminality, public relations;
- shooting and physical training and IT training;
- foreign languages training: English and/or French, German and Russian.

Border police agents' basic training is delivered by the Border Police Agents' School (Oradea), the Training School in Orsova, the Initial and Continuous Training School in Constanta and the Initial and Continuous Training School in Iasi during two year regular courses. The graduates get a professional rank of a border police agent.

The curriculum is focused on further competences, providing the professional training standards as follows:

The professional basic training of the staff is also provided within some schools of the Ministry of Defence for those specializations that are not provided by MoIAR own training institutions:

- by the Military Technical Academy in Bucharest. After four year regular course the graduates get a degree in technical fields (IT, communications, etc.) a rank of a police junior inspector.
- by the "Mircea cel Batran" Navy Academy in Constanta. After four year regular courses the graduates get a degree in navy specializations needed for Border Police and a rank of a police junior inspector.

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- by the Warrant Officers Military School of the Navy. This school provides training to the Border Police agents for technical specializations such as: navy, weapons, communications, radio-electronic and electro-mechanic commissioning is delivered by two-year regular courses, within. The graduates obtain the rank of Border Police agents.

The basic training of the external source newly recruited staff is delivered during 4 - 12 months courses within the Post Graduate Training Centre or in other training institutions of the General Inspectorates.

The EvalCom was informed that the Common Core Curriculum is currently in an implementing stage within all education institutions of Romanian Border Police. The relevant provisions were also included in the continuous training of the staff in the territorial units.

The Romanian authorities are of the opinion that approximately 80% of the content of the Common Core Curriculum has been implemented in the RBP training schools curricula and also in the Police Academy.

3.6.5. *Further continuing education*

Professional further continuous training includes training delivered by the border police units, training provided by specialized education institutions and self – training.

The training delivered by the border police units for both border police officers and agents aims at acquiring the necessary knowledge and skills for developing competences in certain fields of activity and includes:

- specialised training (in the field of Border Police legislation, working procedures, tactics, public order and security, combating organized crime, document checking, forged/falsified documents and stolen cars, drugs, trafficking in human beings, police ethics, Schengen related issues, using Border Police databases, etc). The allocated time to the specialised training activities comprises 12 – 18 hours/trimester. It is also used the system of delivering training by the leaders simultaneously with performing the professional activities according to the job description.
- Shooting training, physical training (4 h/week; intensive – 6h/week; special – 10h/week),
- Tutorial programmes and professional guidance - designed to provide the professional and social integration of the police probationers and students, to develop professional knowledge and skills necessary to accomplish their missions.

Further training organised in MAI specialized institutions is mainly delivered according to annual plans through courses, drills, demonstrations, briefings, meetings, symposiums, seminars, conferences, cascade dissemination of knowledge programmes, etc. Training School in Orsova provides continuous training to border police agents in Schengen-related areas, foreign languages, IT and communication and use of databases). Continuous training is provided also by the Constanta and Iasi training schools.

Regular further continuous training courses are provided in:

- foreign languages,
- information technology and
- for the staff to be deployed to peacekeeping missions.

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3.6.6. *Language training*

It is carried out through courses in the RBP continuous training schools, at the MAI's Post Graduate Training Centre in Bucharest as well as through individual training.

Within each structure of RBP (GIBP, BPD, CIBP) a situation on levels of knowledge with the staff that has foreign languages skills was established. In order to cover the lack of knowledge regarding foreign languages, a plan for improving the situation is being drafted at the level of the ministry. It contains the number of people who require foreign language knowledge, the priority target groups and the way to provide the training.

3.6.7. *Specialised document checking training*

Specialised training related to document checking is provided:

- during the basic border guard training. The curricula of the basic training for border police officers and agents includes topics regarding document checking in order to provide the theoretical knowledge and practical skills necessary for examination of travel documents;
- as a continuous training, organized in the RBP units for the discovery of forgeries in documents and visas. *This training is* carried out by the trainers from the initial and continuous training schools or by the document experts of the regional and local units of the RBP;
- by trainers with operational attributions in the border crossing points;
- by trainers from the marine structures, which carry out examination on documents and visas.

3.6.8. *Specialised training for different managerial levels*

The range of courses consists of career development courses (basic training, courses for getting higher ranks, holding managerial positions, changing the line of work).

3.7. **Readmission, expulsion and illegal immigration, carriers liability**

3.7.1. *Administrative structures and coordination*

Readmission agreements are signed with 23 Schengen States, 3 EU Member States and 8 third countries (Albania, Bosnia and Herzegovina, Croatia, Former Yugoslav Republic of Macedonia, India, Lebanon, Moldova and Turkey).

3.7.2. *Refusal of entry*

Decisions on refusal of entry at the border are taken by the designated officers in command of the border crossing points (head of the BCP or the team leader). Procedure of refusals of entry is implemented as set out in the Schengen Borders Code and respective standard form for refusal of entry at the border has been introduced.

3.7.3. *Asylum applications*

The Romanian legislation on asylum is represented by Law no. 122/2006 on asylum in Romania which also regulates processing of asylum applications at the border crossing points. The Romanian institution responsible for interviewing, analysing the grounds invoked and taking the decision regarding the asylum application is the Romanian Immigration Office (RIO).

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The alien who applies for a form of protection in Romania shall remain in the transit area of the border crossing point, until she/he receives the positive decision for entering Romania or until the final decision of rejecting the asylum application, but no more than 20 days since she/he has entered the transit area. If, after the expiring of that period the asylum application is not solved by an irrevocable decision, the alien will be allowed to enter Romania.

The asylum seeker may be accommodated within special accommodation centres placed near the border crossing point, having the legal regime of the transit area. From a moment of submitting of an asylum application, the applicant is entitled to legal and social assistance and to humanitarian aid from the non-governmental organizations competent in refugee matters, as well as from the UNHCR's representation in Romania.

An asylum application lodged to the officials of the Romanian Border Police in a border crossing point is forwarded to the competent structure of the Romanian Immigration Office (RIO), which will analyse it and pronounce on it within 3 days from the date it was received. The Law no. 122/2006 on asylum in Romania provides also the asylum procedure at the border.

If the asylum application is submitted by an illegal immigrant detained at the border between border crossing points this person will be transported for following asylum procedure to a respective BCP.

After carrying out the interview and analysing the grounds invoked, correlated with the data on the status in his/her origin country, the officer from RIO will decide to grant a form of protection and access in Romania or to grant access in Romania and to an ordinary procedure of asylum, if the asylum application can not be rejected as being ungrounded; or reject the asylum application as being ungrounded. If the preliminary decision is refusing the application as obviously non-founded, the person has to leave Romania immediately.

Against a decision of rejecting the asylum application, the alien can lodge a complaint two days after the communication of this decision. This complaint has to be lodged to a structure of RIO which has issued the decision, which will forward the complaint to the competent court. The court will solve the complaint in 5 days and will deliver a grounded decision, by which it admits the complaint, grants access in Romania and holds the case for solving in ordinary procedure or maintains the decision of RIO.

If the asylum application was rejected by an irrevocable decision, the General Inspectorate of Border Police will take the necessary measures to return the alien.

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

The administrative structures responsible for readmission and expulsion are the Romanian Immigration Office and the Romanian Border Police. The Border Police is usually involved in cases of fast-track readmission procedures when the persons are detected after illegally entering the country or at the moment of crossing the border.

The Return and Escorts Unit within the RIO has the responsibility to organize and implement all the necessary measures to ensure the return of illegally staying third country nationals and the actual implementation of transfers based on Dublin Regulation.

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The legal framework which ensures the removal of illegal alien residents is the Government Emergency Ordinance no. 194/2002 on aliens' regime in Romania.

The return decision is based on voluntary compliance of the concerned alien with the return decision, meaning that the alien concerned is bound to leave the Romanian territory within a given period of time.

The alien is obliged to take the necessary measures (e.g. to procure himself a travel document, flight ticket, etc.) to insure that he/she will leave the Romanian territory within the time limit provided for in the return decision. Prerequisite for the voluntary return is that the alien's identity is certain.

The decision on return under the escort (the forced removal) is applied in the cases when:

- the alien did not follow a decision on voluntary return within the given period of time;
- the alien entered Romania illegally;
- the alien has been declared "undesirable person" on the Romanian territory on national security or public order grounds;
- the expulsion is foreseen by the Romanian Criminal Code as a security measure and ordered by the judicial authorities in criminal cases in addition to the penalty prescribed by the criminal law;
- the alien with illegal stay on the Romanian territory cannot prove his/her identity.

All the return decisions issued to illegally staying third country nationals are recorded in the national data base on aliens' records and all RIO territorial structures monitor the compliance of the behaviour of the concerned aliens with these decisions. If the return decisions are not complied with within the given period of time, an alert in the Integrated IT system for migration, asylum and visas management is entered.

Over 90% of the return decisions are complied with within the given period of time. Approximately 85% of the cases, where the measure of return under escort is ordered, are successfully dealt with (in 9 - 9,5% of the cases the measure cannot be implemented due to the fact that the concerned aliens apply for asylum, after the measure of return under escort is ordered).

If the measure cannot be implemented within 24 hours (due to the lack of travel documents), the alien is taken into public custody (administrative detention). During the detention period, the Return and Escorts Unit takes all the necessary measures to identify the alien and acquiring a travel document.

The return decision can be appealed within 10 days from the date the alien concerned has acknowledged the issuance of the return decision. The court of law has to give a decision on the lawfulness of the measure ordered within 30 days from the date the appeal was submitted. The return under escort decision can be appealed within 3 days and the court of law has to give a decision within 5 days. In both cases the appeal suspends the execution of the return decision/return under escort decision.

If the return under escort of an alien cannot be carried out in 24 hours, the alien will be taken into public custody for a period of 30 days, based on decision which will be taken by a prosecutor upon RIO's request. The period of public custody can be extended with 5 months upon RIO's request submitted to the Bucharest Court of Appeal.

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The aliens who cannot be returned/expelled may be granted tolerance status on Romanian territory. The tolerance status is not equivalent to a right of stay on the Romanian territory and it ceases when the reasons for granting this status are not longer fulfilled. Tolerance status is granted for a period up to 6 months which may be extended for new periods up to 6 months until the disappearance of the causes. Tolerance status has territorial validity limited to the competence area of the RIO structure, which granted it.

3.7.5. *Means deployed to combat illegal immigration networks*

The **Directorate for Countering Illegal Migration and Cross-Border Crime** of the GIBP is a specialized structure in coordinating the identification and investigation of illegal migration and cross-border crime, activities related to prevention and countering of illegal migration and countering cross-border crime, coordinates risk analysis activities at the level of the RBP, performs forensic activities as well as the experts specialized in false or falsified documents in the border zone.

The EvalCom was told that competence of investigating trafficking of human beings was taken away from the Romanian Border Police in May 2009. Currently the Romanian Border Police gets none or very limited information of human trafficking cases after these cases have been directed to national police by prosecutor. One reason for redirection of competences was that the Border Police's powers are limited within area covering 30 kilometres from the state border or coast line².

3.7.6. *Implementation of carriers liability*

According to provisions of art. 7 (carriers' obligations) paragraph 1 of G.E.O. no. 194/2002, the carriers are forbidden to bring aliens which do not fulfil the conditions into Romania. According to the provisions of art. 7 paragraph 2 and 3 if a carrier doesn't respect the above obligations the carrier shall be bound to ensure and bear the immediate transportation of the respective alien to the place of embarkment or to other place which the aliens have accepted or where they are accepted. If these actions are not possible, the carrier has to bear all the expenses regarding the accommodation, subsistence and all the other expenses related to their return.

These obligations are also applicable to carriers bringing aliens in transit to Romania, if the carrier that transport them to the country of destination refuses to embark them or whenever the authorities of the country of destination do not allow the entry of aliens and return them to Romania.

² RO: The Romanian Border Police has the competence of investigating the smuggling of migrants, implying a person or a group of persons which address a guide in order to be crossed over the border. RBP has a general competence of a police force to detect deeds, including the trafficking in human beings, after the completing of preliminary investigation having to notify the prosecutor, who will decide upon the competent authority to continue the investigation and the necessary measures to be taken.

The transfer of the competence of the Romanian Border Police to the National Police over cases of persons determined to cross the border for exploitation purposes at destination (trafficking in human beings) is due to the fact that the National Agency against the Trafficking in Human Beings is a specialised body within the National Police coordinating and monitoring all aspects related to this crime.

The decision of granting one police force or another investigation rights in relation with one type of offence lies strictly to the national competence of a Member State and has no foundation in the Schengen or community acquis.

RESTREINT UE

The provisions of Council Directive 2001/51/EC of 28 June 2001 were implemented in the Romanian legislation by G.E.O. no.194/2002 on the aliens' regime in Romania. The amount of applicable financial penalties is between 5,000 and 15,000 RON (approx. EUR 1350 to 4050).

3.8. Conclusions and recommendations.

The EvalCom was appreciative of the following facts:

- Border management in Romania is carried out according to the Schengen integrated border security model and there are a national strategy for accession to the Schengen area 2008-1011 and a Schengen action plan.
- Responsibility for border control lies on a centralised and clearly structured public authority the Romanian Border Police subordinate to the Ministry of Administration and Interior with a direct and clear chain of command between the border police units at national, regional and local level.
- Border control is carried out by specialised and trained professional border police officers and agents. Border control which includes also risk analysis, intelligence and investigation follows the main recommendations and several best practices of the Schengen Catalogue. Military personnel are not engaged in border control activities.
- Border control is managed on the basis of a centralised planning system at all levels, supported by centralised resourcing, supervision and instructions for border control. Strategic and operational planning, allocation of personnel and technical resources are based on constant analysis of environment and threats.
- There is a good cooperation with neighbouring countries and FRONTEX as regards border control. Romanian authorities are taking active part in FRONTEX activities (risk analysis, joint operations, training and return flights).

The EvalCom took special note of the following facts:

- The common core curriculum of the border guard training is currently in the implementing stage within all education institutions of Romanian Border Police and approximately 80% of the content of the Common Core Curriculum has been implemented in the RBP training schools curricula and also in the Police Academy.

The EvalCom considers that there is room for improvement in the following points:

- The national legislation on implementation of carriers' liability is not fully in line with the Council Directive 2001/51/EC of 28 June 2001 as regards amounts of applicable fines.
- The role of the Romanian Border Police in immigration control within the country is currently marginal. The EvalCom recommends considering increasing of the role of the Romanian Border Police in these activities. ³

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³ RO: See footnote 2.

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4. THE PORT OF CONSTANTA

4.1. General information

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

The Port of Constanta is the main Romanian port and also the largest port at the Black Sea, capable to operate vessels of maximum 165.000 tones. It ranks among the first 10 European ports.

The two satellite ports Midia and Mangalia that are located not far from the port of Constanta are under coordination of the administration of the port of Constanta. The port is located on the Western coast of the Black Sea, at 178 nautical miles from the Bosphorus Strait and 85 nautical miles from the Sulina Branch, through which the Danube flows into the sea. The total quay length is 29.83 km, and the depths range between 8 and 19 meters. Constanta Port has 140 operational berths which provide for the handling capacity of over 100 million tons of cargo per year.

Cargo Port Constanta Nord has 12 docks, 90 berths 15 km long, and can operate vessels of maximum 165.000 tones.

The Passenger Terminal which was inaugurated in 2007 is situated in the northern part of Constanta Port and is used for passenger ferries (no active ferry lines currently), cruise vessels and also for pleasure boats which cannot enter Tomis Marina due to their draft.

Tomis Marina is situated in the eastern part of Constanta city and is used by pleasure boats with maximum draft of 4 meters.

There are Constanta South Container Terminal with 12 berths and a barge terminal in the southern part of the port of Constanta. The barge terminal with a berth of 1,2 km is situated in the beginning of the Danube-Black Sea Canal.

Border checks in the Cargo Port Constanta Nord, in the Passengers Terminal and in the Tomis Marina are carried out by the BCP Constanta. Constanta BCP is the specialized structure subordinated to the Constanta Naval Group which is deploying its staff to surveillance or control, according to the operative situation. The activity is organized in 4 working shifts. Depending on the operative situation, the number of policemen can be supplemented by the shift leader.

Border checks in the Cargo port Constanta South are carried out by the Constanta Sud Agigea Border Crossing Point, subordinate also to the Constanta Naval Group. The BCP Constanta Sud is also responsible for border checks on vessels, entering the Danube-Black Sea Canal, which are carried out in vicinity of canal locks.

The EvalCom was told that illegal migration, or even stowaways are not a significant threat. In regard of crime statistics, in 2008 there were 4 illegal border crossing situations and 2 smuggling situations.

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

The Constanta Naval Group is a territorial structure of the Romanian Border Police with the competence area at sea and on land up to 30 km inland from the coastline. The Naval Group is responsible both for checks and for border surveillance. It carries out intelligence and risk analysis and participates in investigation of cross border crime.

Border checks and border surveillance are carried out according to respective plans which are elaborated on the basis of permanent risk analysis. All vessels are subject to border checks in line with provisions of the Schengen Borders Code. Border checks on cargo vessels calling from/to other countries are carried out on board of vessels.

Border surveillance is carried out on the four concentric areas: in the contiguous zone and Romanian exclusive economical zone, in territorial sea more than 5 nautical miles from the shore, near the ports and on a 5 mile distance from the coastline and inland up to 30 km from the shore. Permanent situational awareness and necessary reaction capacity are to be maintained.

Cooperation with other institutions takes place according to co-operation protocols concluded both at central and local level. Such protocols are concluded with the Customs Authority, the Romanian Naval Authority, the Romanian Police, the Transport Police, the Administration of the Constanta Maritime Ports, the Romanian Intelligence Service, the Romanian Immigration Office, the Police Cooperation Centres, the Directorate for Public Health of Constanta and the Sanitary Veterinary National Authority.

Every week, the head of the BCP and the head of the Maritime Transport Police of Constanta Port analyze the common actions realized in the previous week and set a program for the next one. The head of the BCP has meetings every month with the chiefs of the other authorities which develop their activity in the harbour, any time the situation calls for such a meeting.

The BCP carries out joint checks on vessels with the Customs Authority and the Zonal Transport Administration, with the Romanian Immigration Office on the Romanian territory to discover illegally residing migrants and facilitators and with local structure for countering organized crime to stop the drug trafficking.

Border control cooperation with countries of the Black Sea region is carried out in the framework of the Black Sea Cooperation Forum. Regular information exchange is maintained on vessels inserted into the list of suspected ships (LOSS).

Patrol units of the Constanta Naval Group carry out patrol activities in the H zone of the European Patrol Network in Black Sea and participate in FRONTEX joint operations.

4.1.3. *Risk analysis and intelligence functions*

At sea border the Risk Analysis Office within Operational Directorate for Maritime Ports has been set up in Constanta, filled in with 4 officers and 10 agents.

Shift leader carries out risk analysis on the basis of information from the ship agent about the arrival of the ship and verification of the data on the vessels via different databases.

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Based on the information held and on the risk assessment regarding the ship and the persons on board, the shift leader establishes the type of the check. Information on arriving vessels is available also via a special database on vessels and vessel traffic, called “Tornado”. Tornado provides also a crew list

The experts found out that “Tornado” information system does not always provides accurate preliminary information as regards arriving times of cargo ships. The EvalCom was explained by the Romanian authorities that this may happen due to delayed or insufficient information from ship agents.

At the first line of border checks some risk analysis in the form of profiling could be carried out by border guards in shift. Border guards interviewed in the port of Constanta Sud were aware of the risk indicators as regards illegal immigration.

4.2. Infrastructure and equipment

4.2.1. Signposting

Passenger Terminal

The EvalCom found signposting fully in line with the Schengen Borders Code. Additionally to model signs set out in the Annex III to the Schengen Borders Code there were signs “Diplomats” and, “CREW” for indicating lanes for border checks on diplomats and crew members. All signs were illuminated allowing quick redeployment of control lanes

Tomis Marina

Border checks in Tomis Marina are carried out on board pleasure boats and separation of passenger lanes and signposting are no needed.

There are no any signposting in cargo ports of Constanta North and Cargo South due to lack of passenger ferry traffic and cruise vessels in these ports.

4.2.2. Separation of flows

Passenger Terminal

The passenger terminal consists of an entry hall and an exit hall, physically separated. The construction of the control facilities and the infrastructure makes possible the relocation of the flows if required. Both halls could be used for border checks on the same direction if needed as the booths could be turned 180°. In principle there is also possibility to carry out border checks on passengers arriving/departing from/ to third countries simultaneously to disembarkation/embarkation of Schengen passengers. However, then is needed to arrange separation of traffic flows on the quay between the berth and the passenger terminal,

Tomis Marina

There is no need for separation of passengers of pleasure boats as border checks are carried on board of the boats.

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4.2.3. Lanes for checks

Passenger Terminal

8 control lanes are available for border checks on passengers and crew members both on entry and exit. Due to the flexible system of signposting different number of control lanes could be provided for persons, enjoying the Community right of free movement and to all other persons. Separate lanes could be designated for border checks on crew members and on diplomats.

4.2.4. Control facilities

The service rooms of the BCP Constanta are used for the shift in duty at the BCP and also for issuing "shore passes" to crew members of cargo-ships. For this purpose in this office a special counter is installed.

Passenger Terminal

There are 4 reversible control booths with 2 work stations each both on entry and on exit. The booths are spacious and the construction of the booths provides for frontal observation of the queuing passengers and for protection of the computer monitors from the unauthorised observation.

Tomis Marina

Border checks are carried out on board of boats. However, in a container which is used as an office is installed a workstation for verification of passenger data via databases and for examination of travel documents.

There is no need for special control facilities for the first line border checks in the Constanta South Cargo Port. "Shore passes" to the crew members are issued at the Constanta Sud BCP headquarters

Special rooms for second line checks are available in the offices of the BCP Constanta and BCP Constanta Sud as well in the passenger terminal of the port of Constanta.

4.2.5. Equipment: first line, second line, mobile

All workstations in the passenger terminal were equipped with a computer terminal and an integrated optical passport reader, a retroviewer, a fixed UV light source and a magnifier. Border guards carrying out border checks were equipped with entry and exit stamps. There are 28 entry and exit stamps at the Constanta BCP in total. 16 stamps, 8 entry and 8 exit stamps are used in the passenger terminal, the rest 12 stamps (6 entry and 6 exit stamps) for border checks on cargo vessels and pleasure boats. The experts found some stamps where red ink was not used not fully in line with above specification of entry and exit stamps.

Second line offices in the shift's premises at the BCP Constanta and in the passenger terminal were equipped additionally to the first line equipment with a video spectral comparator VSC 4Plus. Both second-line-offices (BCP Constanta and passenger terminal) are equipped with:

- identification material for travel documents and stamps;
- access to iFADO;

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The same equipment was available in the offices of the shifts of the BCP Constanta and BCP Constanta Sud. There were no stereo microscopes in the second line offices.

In addition to the equipment mentioned above in the second line office in the main building of the BCP Constanta 2 Docuboxes and equipment for access to EURODAC are available.

Mobile equipment consists of mini kits_ mini kits for the document and visa control, type “FD-02” which contain an UV lamp with spot lamp, a portable illuminated magnifier, a magnifier, a retro-reflective lamp and forms of documents needed to fill in the process of border checks.

Controls of cargo are carried out by customs. For inspection of containers and trucks the customs in the port of Constanta Sud is equipped with a stationary X-Ray system. The EvalCom was informed that in addition to this equipment also more “traditional” equipment as mirrors and endoscopes and also drug dogs are available.

4.2.6. *Communication*

Passenger terminal

Border control facilities were provided with access to computer and phone networks. Besides these means border police officers and service cars were equipped with radios working in the police network, based on the TETRA standard. However, the border police officers in the first line booths were not equipped with radios. The computer network at the first line of border checks, in the booth, is capable of transmitting the information, consisting of images, annexes of the Schengen Handbook among them.

Tomis marina

Border control facilities (container) were provided with access to computer and fixed phone networks. Besides these means border police officers were equipped with radios working in the police network, based on the TETRA standard.

4.2.7. *Transportation and mobility*

BCP Constanta

The EvalCom was told that there are 20 cars of different kinds available at the BCP Constanta. A border police boat was situated in the Tomis marina. The EvalCom found the number of cars fully satisfactory.

4.2.8. *Access control / fencing*

Cargo port of Constanta Nord, passenger terminal, Cargo port of Constanta Sud

The entire perimeter of the Port of Constanta is fenced. Access control is carried out. Access control is carried out by a private security company employed by the port administration. The access control on pedestrians and cars is made through 10 gates with limited access. Access is granted on the basis of special proximity cards. The proximity readers have an automatic recognition system.

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4.2.9. *Detention / readmission premises*

Passenger terminal

The EvalCom visited detention facilities in the passenger terminal. Six rooms, each for two persons were located at the ground floor of the terminal. Relevant security measures were implemented. The facility was provided with necessary rooms for needs of hygiene.

There were also facilities for asylum seekers located in the first floor of the terminal building which consisted of a waiting room, four sleeping rooms with two beds each, a store and separate rooms for needs of hygiene for male and female asylum applicants.

Tomis marina

There were no detention facilities at the Marina terminal. If needed, detention facilities of the passenger terminal are used.

The EvalCom was told that detained persons could be kept in these detention rooms for 24 hour maximum, with an adequate notification of the prosecutor. A prosecutor could ask the court to put a person in detention for 29 days. The judge prolongs the detention time for another 30 days.

4.2.10. *Storage of blank visa*

All blank visa stickers are stored in a locked safe in the office of the head of the BCP. Only the head of the BCP has access to this safe. When he is not there a shift leader is granted with access to blank visas. At the time of the visit 38 blank visas were stored in the safe. The experts noted that the safe was also sealed. For registration, storage and issuance of visas, the web application – Visa Online, part of the Integrated Information System for the management of migration, asylum and visas, managed by the Romanian Immigration Office is available.

4.2.11. *Storage of entry and exit stamps:*

Entry and exit stamps were stored in a locked safe, in sealed lockers in the shift leader's office. The stamps are handed out to the border police personnel by the shift leader. Issue of stamps for use was registered in a log and signed by border guards. The shift leader provided a complete list of the stamps to the EvalCom.

Tomis marina

Two entry and exit stamps were temporarily for the time of the shift stored in a locked safe in a container, used by the border guards in shift in marina.

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4.3. Controls and procedures

4.3.1. *Traffic handling / traffic modes*

Border checks on cargo vessels are carried out on board the vessels in the places of berthing of these vessels. Border checks on passengers disembarking/embarking or going ashore from cruise vessels are carried out in a passenger terminal. Border checks on crews of the pleasure boats are carried out in the Tomis marina on board of these boats. Border checks on cargo vessels and pleasure boats entering the Black Sea-Danube canal from sea are carried out at the locks close to the port of Constanta-Sud. Monitoring of this traffic and providing information to the BCP Constanta Sud is a task of a border guard who has workstation in Inland Waterways Administration 24/7. The EvalCom was told that the border guard does not have access to databases of the Inland Waterways Administration on traffic via Black Sea-Danube canal and all information is provided by an operator of the locks.

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

The EvalCom was told that all vessels calling port Constanta from other countries or departing to these countries are subject to border checks based on results of tactical risk analysis performed at the level of the BCP prior of arrival. Crew members and passengers are verified in prior arrival of the vessel and also confronted along with the identification control of each person at the arrival of the vessel. However, not always these lists are available prior the arrival of a vessel. This means that in these cases no risk analyses is possible before the vessel has arrived in the port.

In these cases, the crew remains on board before the names of the seamen are checked against the national databases. The face to face border control, minimum or thorough, is performed afterwards.

Usually the border police doesn't know the estimated time of arrival of the ship due to lack of accurate preliminary information on estimated time of arrival of the ship from ship agents as this was explained by the Romanian authorities.

For the checks performed on persons, at least a minimum check is applicable, which in any case implies the verification of the travel document and the establishment of identity for the persons on board. The minimum check stands as a rule for persons who have the Community right of free movement, as well as the seamen who, after the risk analyses, are not considered to be of a high risk.

Detailed checks on vessels include additionally verification of rooms and spaces on board by using the technical equipment (CO2 detector, radiation detector, etc), verification of transported containers and rescue boats, control of the ship's documents in order to establish its owner (especially for pleasure craft) and control for transported goods and justifying documents for those goods.

High-risk ships are subjected to a thorough check, immediately after arrival or before departure, which implies the direct control of persons on board and a thorough check of the ship. In these situations, the vessel remains under the permanent control and supervision of the authorities during the time spent in the port and all persons going ashore are being controlled.

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The EvalCom was been told that border control is mostly carried out by a joint control team, which includes the border police, customs employees, representatives of the Constanta Harbour Master as well as the a sanitary agent. Along with the control team, the access on the commercial ship is granted also to the representatives of the naval agency (ship agent).

The sanitary and veterinary control and the one regarding the environment protection are carried out before any other control.

When suspicions regarding the identity of a person or the validity of a document occur, the thorough checks will be conducted in the second line of control by the border policeman specialized in forgery detection for travel documents.

Checks on the different types of vessels (cargo ships, passengers shipvessels and pleasure boats) is performed as follows:

Cargo ships

Border checks on persons on cargo vessels are carried out on board, upon arrival as well as upon departure from the port. Before the control, the border guards are informed by the captain of the ship about any presence of clandestine persons on board and provided with a list of the crew and passengers in duplicate.

A copy of the two lists, stamped by the border police is returned to the captain of the ship who will present it upon the request of the authorities while the ship is in port. The border guard provides a list in duplicate with the port regulations, compulsory for all crewmembers. A signed list is returned to the border guard, while the other one is kept on board. The validity of the documents is checked on board and the establishment of identity for sailors is carried out in cabins or on duty place.

When the control is finished, the border guard makes a report note regarding the control performed, in which the captain of the ship could include his remarks or complaints on the control procedure.

The EvalCom was able to observe the border control of Turkish cargo ship, and got the explanation about usual procedure. Furthermore the signed crew lists and border control reports, which are stored in the second line, were presented to the EvalCom.

The EvalCom found this procedure fully in line is procedure is in the line with the provisions of the Schengen Borders Code. The system of minimum and thorough checks based on risk analyses and reporting on checks carried out could be considered as best practice. However, due to the fact that Tornado system is in use for very short period of time, this procedure is not optimal and effective yet.

The Romanian authorities are invited to put more efforts to encourage the ships agents to provide the list in advance and electronically which will improve the way in which border control is carried out and speed up the procedure for all parties involved.

Passenger ships

For cruise vessels (only cruise ships call at the port of Constanta), the captain of the ship, owner or agent, sends the itinerary, cruise schedule and lists of passengers and crew to the border guard, at least 24 hours before the arrival of the ship in harbour. In order to avoid any unnecessary delay during the control procedure, when requested by captain or ship agent, the control team can approach the ship entering the port, so that the procedures can be finalized by the time of docking.

RESTREINT UE

Thus, if a cruise ship is calling in Constanta from a port situated in a third country, the crew and passengers are subjected to entry checks according to the nominal lists of the crew and passengers. Border checks on passengers and crew members going ashore or disembarking are carried out in the passenger terminal in order to verify if they meet the entry conditions. Before carrying the border control, the team leaders perform a risk evaluation concerning the internal security and illegal migration and establish the type of control to be performed.

If a ship arrives from a port of in a Member State, the border control will only consist in a short verification of the crew and passenger list on board. Still, based on the risk analysis regarding the internal security and illegal migration, controls of crew and passengers may be carried out. At departure, if the ship itinerary implies going ashore in other Romanian ports, the BCP's of those ports will be informed and in case the ship is heading directly to foreign ports, an exit control for the ship leaving will be carried out.

The EvalCom visited the passenger terminal and was able to interview several border guards working in the first line. The border guards interviewed were very motivated and professional. Most of them had a good knowledge of the border check procedures, way of profiling, and national and Schengen legislation. The EvalCom notes that the shift on the day of the visit was composed of border guards of three different shifts, which does not happen usually.

The EvalCom had an opportunity to observe border checks on 654 passengers and 399 crew members of a cruise vessel coming from Odessa. There were 11 border guards in the passenger terminal distributed 2 in each booth, one in the second line and two to perform formalities on board. Border checks on board of the vessel were carried out by these two border guards included into the control team together with representatives of the Customs and the Port Authority.

Each booth on the passenger terminal had a copy of the passenger list in order to confirm the identity of passengers. The crew and the passenger lists were checked before and signed by a system operator.

The experts were told by one of the border guards that no information was available if any of passengers or crew members will disembark. Before that a ship agent had said that all information: crew and passenger lists, request for disembarkation or embarkation, for licences to go ashore, for visas needed and etc. were sent to immigration at least 24h in advance.⁴

No "shore passes" were delivered because that procedure was told being applicable only to crew members of the cargo vessels with a few number of crew members, what is not the case of cruise vessels. So, crew members of cruise vessels go ashore just with passports and seafarers identity documents as well as with a ship's card.

The Committee was told that all passengers of this cruise vessel who need a visa will be refused entry if they are not in the possession the required visa. The border guards explained that only Russian passengers are allowed to go ashore, but only in the port city area, without visa for a period of 48 hours, due to a bilateral agreement between Russia and Romania.

⁴ RO: The border guard asked about the persons which will disembark was a first line agent. The information is, indeed, sent by the ship agents, but to the second line office (dispatch). The team leader has all the necessary information and makes them available to the shift personnel according to the need to know principle. Mainly, the necessary details are communicated to the relevant offices from the BCP headquarter (visa office, for instance, or the office implementing data into Tornado system).

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Permission to visitors on board had been previously granted by the border guard to the ship agent and transmitted by him to the ship.

The ship agent approved that 24 hours before the ship's arrival the ship master sends all information in line with requirements of ISPS demands, including the crew and passenger lists. At this moment the ships agent puts this information in the Radionav system and sends it to the VTS and to the port administration. This procedure has some difficulties regarding cargo vessels due to the fact that they face delays because of bad weather, lack of available place in the port etc.

Pleasure boats

The EvalCom visited the Tomis Marina and was thoroughly informed about the procedure regarding the control of pleasure boats. There are 308 mooring places at the marina, most of them for local pleasure boats. At the moment of the visit there were 105 pleasure boats in the marina, only two of them under flags of third countries.

The EvalCom was informed that all pleasure boats calling from/to third countries are subject to border checks by the personnel of the BCP Constanta. Information about arrival/departure of the pleasure boat will be provided by harbour authorities or by SCOMAR surveillance system. Border checks are carried on board of a pleasure boat, though verification of databases and examination of travel documents are carried out in a container, used by border guards as their backup office where necessary equipment is kept. The container does not have windows and to monitor arriving or departing boats the border guards must stay outside. Usually pleasure boats are controlled at the quay where the container is situated. In case there is no place control of pleasure boats is performed where the boat stays. The experts were told that the lack of an official waiting quay area will be solved during the reconstruction of the marina.

Border checks are carried out by 1 or 2 border guards. During border checks on entry, the captain of the pleasure boat hands over to the border police a document regarding all the technical characteristics of the ship and the names of all persons on board. A copy of this document, stamped by the border police remains on board and will be presented by the captain of the pleasure boat at the request of the border authorities during the time of travel through the Romanian territory. This document will be handed over to the border police when the exit control is carried out.

In case the crew member has no visa and that is requested, the border guard of the sub-BCP contacts the shift manager and a visa will issued by a responsible border guard, arriving to marina.

Fishing vessels

The EvalCom was informed that there are no fishing vessels situated in the port of Constanta. The fishing vessels are located in the northern part of the Romanian coast. Fishing vessels are subject to border checks in case they call in third country's harbour or stay at sea for longer than 36 hours. Border Police is informed about traffic of fishing vessels. According to prior notifications of the harbour master, the fishing ships are allowed to leave the port for the Romanian territorial sea (12 Nm). Notifications on the vessels that are performing coastal fishing are sent to the Romanian Border Police by the harbour master.

The EvalCom is of the opinion that the border checks as described by the Romanian Border Police, monitored by the EvalCom and identified on the basis of verification of documents by the EvalCom are in the line with Schengen provisions. The most officers interviewed had good knowledge of the most relevant provisions and procedures.

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However, the border checks on cargo ships could be more efficient once the information will be provided more correctly by the ship agents and inserted into the Tornado system.

4.3.3. *Utilisation of registers*

In the first line of border checks third country nationals are verified in the alerts database of the Romanian Border Police. This database includes alerts on travel documents, persons and vehicles inserted by the law enforcement authorities. A special border checks application – e-SIF is used for access to this database via MAI Intranet (RCVD). Additionally to the alerts database e-SIF provides access to:

- an aliens' entry and exit register;
- a register of specimens – national register of specimens of travel documents and of detected false, forged or counterfeit travel documents;
- a database of Schengen legislation, Schengen Handbook and national instructions for implementing of the Schengen Borders Code;
- a database of risk profiles and
- e-Learning.

The entry and exit application allows for the simultaneous interrogation of other databases accessible from the second line. One single response is being provided upon selection the respective fields by a border guard (Visa-on-Line, e-ASF Interpol, Stolen vehicles and Wanted persons).

When carrying out thorough second line checks following databases could be utilised by border guards additionally:

- e-Back Office – record of second line activities, including Returnees register (persons returned by other states to Romania) and Refused persons register;
- e-Reporting – detailed reports on border events;
- e-Dissimulation – description of different methods used by offenders to commit crimes, relevant for the checks on cars;
- EUVID – information on specimens of registration certificates, chassis serial number, car keys, etc.

There is an old version of decentralised database (ENO) which contains information regarding events at the border still available for second line control. Also, through MAI intranet (RCVD), the access to other databases is granted for the second line offices, such as:

- iFADO - administrated by FADO administrator of the SGC in Brussels, the allotted accounts managed by the RBP (available also in the first line of control, according to the rights conferred by the administrator);
- Integrated Information System for the management of migration, asylum and visas (with Visa-on-Line module) – managed by the Romanian Immigration Office;
- e-ASF Interpol – managed by Interpol Lyon, through the International Police Cooperation Centre in Romania;
- Passports – managed by the National Centre for Managing the Databases on Persons Records;
- Persons' Records - managed by the National Centre for Managing the Databases on Persons Records;
- Driving Licenses - managed by the National Centre for Managing the Databases on Persons Records;
- Stolen vehicles - managed by the Romanian Police;
- Wanted persons - managed by the Romanian Police;

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The access to the above mentioned databases is granted on the basis of username and password, access rights and according to the need-to-know principle, as well as depending on the location of the terminal.

The EvalCom is of the opinion that the above mentioned registers and systems are an important tool and source of useful information for optimal border control at Romanian borders. The possibility to access several systems providing the personal data, e.g. e-Backoffice or central Visa-on-Line system allows border guard to provide quick and efficient thorough checks and risk analyses on persons requesting the entry.

4.3.4. *Utilisation of the Schengen Handbook*

The Schengen Borders Code, Schengen Handbook with annexes and also the national instructions on implementing of the SBC are available in the first and second line electronically and on paper.

4.3.5. *Vehicle check*

There are no ferries which carry vehicles calling at this port.

4.3.6. *Processing of refusals and asylum applications*

96 persons were refused entry in 2007, 139 persons in 2008 and 45 during the first half of 2009 at the BCP Constanta. The most frequent reasons for refusal were lack of valid visa or lack of valid travel documents. Top five nationalities of persons refused entry in 2008 were Ukraine, Turkey, Syria, Russia and Philippines. In 2009 nationals of Iraq replaced nationals of Philippines.

3 persons were refused entry in 2007, 9 persons in 2008 and 13 persons during the first half of 2009 at the BCP Constanta Sud. Top five nationalities of refused persons in 2008 were Georgia, Ukraine, Syria, Russia and Turkey, during 2009 were refused nationals of Turkey, Ukraine and Georgia.

Procedure of refusal is carried out by the personnel in command of the shift at the BCP. A standard form for refusal of entry at the border as set out in annex V to the Schengen Borders Code is used. Passengers refused entry are informed about the procedure of appeals on such a decision. The procedure of refusal was found by the experts being in line with relevant provisions of the Schengen Borders Code.

No asylum applications have been submitted at the BCPs Constanta and Constanta Sud during the last three years. Border guards in shift were aware of an asylum application procedure at the BCP in the main.

4.3.7. *Issuance of visas*

Visas for short stay and transit visas may be granted at the border crossing points in exceptional cases by the structures of the Romanian Border Police. Before a visa is issued, the personal data of the applicant are verified in several databases in order to verify that the person fulfils entry conditions. In case of visa being issued to the seamen, the decision is been made by the chief of the BCP. In other cases, the permission is needed from the GIBP in Bucharest. All visas are printed and the EvalCom had a possibility to verify availability of the relevant equipment.

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385 transit visas and 6 short stay visas were issued at the BCP Constanta in 2007, 308 transit visas and 2 short stay visas in 2008 and 130 transit visas during the first half of 2009.

The “B” type visas only have been issued at the BCP Constanta Sud. 96 visas were issued in 2006, 141 in 2007, 119 in 2008 and 53 during the first half of 2009. The top five nationalities of visa applicants were Russian, Philippine, Turkey, Syria and Myanmar in 2008 and Russia, Philippines, Indonesia, Georgia and Myanmar in 2009.

4.3.8. *Second line activities*

The second line activities consists of thorough checks of travel documents and verification of entry conditions, carrying out refusals of entry, issue of visas and shore passes to crew members of cargo vessels. A passenger subject to a thorough second line check is given information on the purpose and procedure of such a check. The second line activities are carried out in separate rooms. The thorough check on documents is provided on second, and if necessary also in so called third line.

The reasons for thorough second line check are being recorded in a database. This information is available to all BCPs and could be verified if the same person will be subject to thorough checks during his/her next border crossings. Furthermore, based on this information, the management of the Border Police is able to assess the effectiveness and legitimacy of the border checks and situation at the border. This information could be used also for continuous training of border guards.

4.4. **Border surveillance**

Cargo port of Constanta Nord, passenger terminal, cargo port of Constanta Sud.

The entire perimeter of Constanta Port is fenced. The fence is provided with motion sensors and wires under tension, and also with high-tech video cameras. The Constanta BCP perimeter is ensured by Constanta BCP Administration with the help of a specialized company with fixed posts and video surveillance at the access gates with barriers and mobile patrols inside, outside and at the harbour's gates.

Border Police is patrolling with mobile patrols inside the gates according to the risk analysis additionally to the mobile patrols of the private company. During the time of the visit of EvalCom at BCP Constanta Sud Agigea Cargo Port 3 mobile patrols were available.

In cases of any occurrence all patrols are coordinated by the BCP Constanta Sud Agigea Cargo Port. If due to the size of the occurrence further patrols are required, these can be requested by the Constanta Naval Group.

The video-surveillance-system is operated and constantly monitored by the port authority. Border Police has no access to the system, however, the system can be monitored and records can be obtained, upon requested. Images are stored for 30 days and are available for Border Police.

The area of the port mainly is illuminated.

Surveillance of the stationary vessels in the port is performed by the Border Police. The security of the perimeter is ensured by the harbour administrator and by each company operating in the premises of the harbour by means of private security companies and technical measures (CCTV, access points etc). Also, according to art 588 of the Government Decision no 707/2006, the Customs Authority is responsible for the surveillance of goods on vessels, in the harbour area and of persons exiting, entering or performing activities in the respective area.

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Tomis marina

The area of Tomis marina is a public area surveyed by mobile patrols. Ships entering and leaving the marina are monitored by the existing radar surveillance system and reported to the BCP.

4.5. Staff and training

4.5.1. Adequacy and the level of professionalism

Border control is carried out by professional and specialised border police officers and agents who were found motivated and aware of their duties. The EvalCom acknowledges good level of knowledge of Schengen provisions and language skills of border guards in the passenger terminal. The EvalCom notes that some of the border police agents at the BCP Constanta Sud were not fully aware of provisions of the Schengen Borders Code. The EvalCom was informed that some of the border guards have passed the basic border guard training with duration of three months and after that were provided just with short continuing training.

4.5.2. Selection criteria

See point 3.6.3.

4.5.3. Basic training

See point 3.6.4.

4.5.4. Further continuing education

Besides the basic training provided at central level, further continuing training to police officers is provided at local level. Specifically, once a month the personnel participate in a centralized programme at the Naval Group's headquarters. Also, before starting the shift, the personnel on duty is briefed for 20-30 minutes on legal matters by the head of the shift or by the head of the BCP. The EvalCom was informed that at least once a week, the personnel professional knowledge is verified through professional tests. The personnel also prepare itself individually while on duty. An e-learning intranet site is available for this purpose. The most important training fields are: naval related issues, Schengen related issues, border checks and border surveillance and foreign languages.

4.5.5. Language skills and training

The EvalCom was informed that the majority of border guards at Constanta BCP can communicate in at least one foreign language. The main foreign language spoken by police officers is English. Some of the officers can communicate in Turkish and Russian. The EvalCom acknowledges good English skills of the border police agents interviewed in the passenger terminal. However, the EvalCom is of the opinion that there is room for improvement of linguistic skills of border guards. The latter also applies to the knowledge of English language. The EvalCom noted lower skills in English and Russian at the BCP Constanta Sud compared with the BCP Constanta.

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4.5.6. *Specialised document checking skills and training*

8 experts specialised on examination of travel documents are stationed at Constanta BCP. Those experts have regular common meetings (every four months) with other experts at the level of Constanta County Inspectorate of the Border Police where they discuss their new experience about new falsified documents. In every shift there are 2 experts. In any way at least one expert is always on duty in every shift.

Document examination skills of the first line border police agents are based on the basic training and some additional training. Border guards at the BCP Constanta have quite limited possibilities for gaining of the experience in examination of travel documents due to lack of passenger ferry traffic and specific characteristic of cruise passengers. The EvalCom recommends considering temporary rotation (work on probation) of the personnel to the International airports.

4.5.7. *Specialised training for different managerial levels*

See point 3.6.8.

4.5.8. *Availability and permanency of staff*

BCP Constanta is subordinated to Constanta Naval Group which is deploying its staff to border checks at the BCP Constanta according to operational situation. There are 71 border police officers, agents and employees deployed for border checks at the BCP in 4 shifts. These persons are permanently used for border checks.

The number of border guards in shift is 14-17 for the first and second line checks. Second line checks are carried out by a team leader and 3 border guards in each shift. Depending on the operative situation and risk analysis the number of officers could be increased up to 25.

The EvalCom found the number of staff satisfactory to meet current needs.

4.6. Readmission, expulsion and illegal immigration, carriers liability

There are no persons who are expelled through the BCP of Constanta. All persons whose entry was refused are readmitted from Romania.

4.6.1. *Means deployed to combat illegal immigration networks*

There are no special means deployed to combat illegal immigration networks at the BCP Constanta.

Nevertheless, there are 3 units responsible for countering illegal immigration in Constanta area: the office for countering illegal immigration of the Constanta County Inspectorate of Border Police, the compartment for Countering Cross Border Criminality within Constanta Naval Group, which coordinates Constanta BCP and the Office for Countering Illegal Migration within the Operative Directorate for Maritime Ports.

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4.6.2. *Sanctions imposed on carriers*

In 2008 2 fines were imposed to the owners of cargo ships in case of illegal immigration of crew members. These two persons of Egyptian nationality were found later illegally in the country.

There are no fines imposed on the owners of the passenger ships, despite the fact that there is a significant number of refusals of entry due to lack of visa or valid travel document. The EvalCom was told that the reason for this is the fact that in the past the Romanian court has decided positively to the appeal of the several carriers. Due to this reason no fines are imposed anymore.

4.7. **Conclusions and recommendations**

The EvalCom was appreciative of the following facts:

- Border control is carried out by professional and specialised border police officers and agents who were found motivated and aware of their duties. The EvalCom acknowledges good level of knowledge of Schengen provisions and language skills of border guards interviewed in the passenger terminal.
- The EvalCom is of the opinion that the border checks as described by the Romanian Border Police, monitored by the EvalCom and identified on the basis of verification of documents by the EvalCom are in the line with Schengen provisions.
- Border checks are based on the risk analysis. The EvalCom found a good practice to maintain risk analysis table on the Border Police's briefing room wall. Border guards interviewed in the port of Constanta Sud were aware of the risk indicators as regards illegal immigration.
- The EvalCom appreciates that shift manager delivers half hour briefing for the staff in the beginning of every shift.
- A wide range of registers and databases are available for border guards for risk analysis and verification of entry conditions of third country nationals. The EvalCom is of the opinion that these databases and information systems provide good basis for planning and implementation of border control as well for assessment of results of implemented measures..
- Reasons for thorough second line check are being recorded in a database which could be considered as good practice.
- Control facilities and signposting in the passenger terminal were found in line with recommendations of the Schengen Catalogue, Flexible use of traffic lanes and possibility for quick redeployment on the lanes are the best practice.

The EvalCom took special note of the following facts:

- The EvalCom notes that some of the border police agents at the BCP Constanta Sud were not fully aware of provisions of the Schengen Borders Code
- Control of containers transported by cargo vessels is carried out by customs with aim to reveal illicit goods and drugs. The EvalCom invites the Romanian authorities to assess threats of use sea containers also for smuggling in illegal immigrants and to carry out checks on containers also with this prospective.

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- The EvalCom took a positive note that regarding to two cases of illegal immigration in 2008 was imposed fines for carriers. However, a significant number of persons is refused annually due to lack of visa or valid travel document. The EvalCom recommends following national legislation as regards sanctions on carriers and Council Directive 2001/51/EC of 28 June 2001 fully.
- The EvalCom invites the Romanian Border Police to improve the access to information as regards time of arrival and departure of vessels calling in port of Constanta.
- Equipment for verification data in databases and examination of travel documents at first and second line was found modern and sufficient in the main. The EvalCom recommends deploying stereomicroscopes for thorough examination of travel documents in second line.

The EvalCom considers that there is room for improvement in the following points:

- Infrastructure for border checks in Tomis marina does not provide for normal conditions for service and could be used just for storage of equipment and documentation.
- Some of the entry and exit stamps did not meet requirements of the specification set out in SCH/Com-ex (94) 16 rev as regards use of ink in two colours.
- The experts were told that cruise passengers of Russian nationality to go ashore for 48 hours without a visa, based on bilateral agreement between Russia and Romania. The experts found these provisions not in line with EU visa policy.
- The EvalCom recommends providing the Romanian Border Police with access to the database of the Inland Waterways Administration on traffic via Black Sea-Danube and to other similar databases of the Inland Waterways Administration.
- The EvalCom notes good skills in English of the border guards interviewed in the passenger terminal. However, not all border guards were able to communicate with the experts during the visits to other sites. Some border guards at the BCP Constanta Sud had only limited skills in English or in Russian.

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5. PORT OF TULCEA

5.1. General information

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

The port of Tulcea is situated between Mm 34 and Mm 42 and includes the touristic harbour, industrial harbour, commercial harbour, the shipyard and the anchorage places between Nm 35 and Nm 42. The Commercial Port of Tulcea is designated also for passenger's traffic and serves entirely the Danube delta area.

Border checks in port of Tulcea are carried out by the border crossing point Tulcea . The BCP Tulcea is a specialized structure within Tulcea Border Police Sector. Tulcea Border Police Sector is one of the units of the Tulcea Border Police County Inspectorate, responsible for border checks and border surveillance and fulfilling of other tasks of the border police.

The Committee was told that illegal migration, or even stowaways are not a significant threat. In regard of crime statistics, in 2008 there were no illegal border crossings discovered, however there was a case of detection of human trafficking and one case of detection of a counterfeited document in 2009

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

All international water traffic coming from Black Sea to Danube via Sulina channel is checked at Port Sulina. Ukrainian vessels coming via Chilia channel are subjected to entry checks at Port Tulcea or Port Galati. Exit checks are carried out at last Romanian port namely Tulcea, Galati or Sulina. There are no international BCPs across the river border until Galati. Three border crossing point for local border traffic exist but they have not been operative since 2006. Negotiations of local border traffic treatment are underway.

Local Coordination Centre (LCC) Tulcea of the Tulcea County Border Police Inspectorate maintains 24/7 situational picture of the operating area covering whole Danube delta area. LCC monitors AIS information provided by Naval Administration and checks ships information against databases. It also receives information of incoming ships and delivers information including tactical risk analysis data to BCP concerned.

The Romanian Border Police patrol in Danube delta area mainly with boats as this area is very remote, having only one road near the river and little population. In addition to that fixed observation posts and mobile land patrols are used. There is no technical surveillance along the river area. During the visit number of patrols (23) was found generally sufficient when taking into account geography of the area and current illegal immigration situation.

Border Delegates system at the Romanian- Ukrainian border includes regular meeting at regional and local level in order to discuss situation along the border and exchange information. At local level meeting are organized in every three month. The Romanian Border Police carry out common boat patrolling with Ukrainian Border Guard service at least once in month. Cooperation with the corresponding crossing points in Ukraine, Reni and Izmail is carried out through exchange of information with the Tulcea County Inspectorate of the Border Police or by work meetings.

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In order to fight and prevent the crimes in the competence area, the Border Police structures cooperate with the local structures of the Romanian Office for Immigration and Romanian Police.

Monthly meetings are organized between the heads of the Tulcea BPS and County Office of the Customs. During these meetings, both institutions analyze their activity, the traffic as well as the co-operation process, the efficiency of controls, the problems encountered etc. Joint action plans are made for control of ships which are subjected to a thorough check.

Co-operation with Tulcea Harbour Master is based on the Protocol signed on 17.06.2006 by the General Inspectorate of the Romanian Border Police and the Tulcea Harbour Master.

Co-operation with the Romanian Immigration Office takes place according to the Cooperation Protocol signed on 07.06.2006 by Tulcea Border Police County Inspectorate and territorial structure of the Romanian Immigration Office. The two institutions carry out actions regarding the fight against illegal migration in Tulcea harbour.

5.1.3. Risk analysis and intelligence functions

The EvalCom was told that all ships arriving and/or leaving Romania are subject to border checks based on results of tactical risk analysis performed at the level of BCP prior of arrival.

Risk analysis is based on several factors, such as: the vessels flag; the 's cargo; the nationality of crew members; the nationality of passengers on board; the last and the next ports of call; the historical records on previous call of the vessel, etc.

After this risk analysis border checks are performed at three different levels: at minimum level, at average level and at above average.

5.2. Infrastructure and equipment

5.2.1. Signposting

The EvalCom found signposting fully in line with the Schengen Borders Code. Additionally to model signs set out in the Annex III to the Schengen Borders Code there were signs "CD", "CREW" and "PRM" for indicating lanes for border checks on diplomats, crew members and persons with reduced mobility respectively. All signs were illuminated allowing quick redeployment of control lanes

5.2.2. Separation of flows

The passenger terminal consists of an entry hall and an exit hall, physically separated. It is noted that the construction of the control facilities and the infrastructure makes possible the relocation of the flows if required. The physical separation of entry and exit consist of a partition wall made of aluminium in sufficient height. It is noted that a net secures the area between partition wall and ceiling. In principle there is also possible to carry out border checks on passengers arriving/departing from/ to third countries simultaneously to disembarkation/embarkation Schengen passengers.

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5.2.3. *Lanes for checks*

3 control lanes are available for border checks on entry and 3 control lanes for border checks on exit. The flexible system of signposting provides for quick redeployment of control lanes according to situation in the terminal. In principle there is possible to have separate lanes for the persons enjoying the Community right of free movement, for other persons and for crews (diplomats and persons with reduced mobility) simultaneously or to vary them according to composition of passengers.

The construction of control facilities provides for use of all of them or for entry checks or for exit checks if required. According to the traffic flow the electronic signs can redeploy the lanes.

5.2.4. *Control facilities*

There are 3 control booth with 2 workstations each; 3 workstations on entry as well as 3 workstations on exit. All booths provide for border checks on both directions in case of need. The booths provide for frontal observation of passengers in queue and prevent computer monitors from unauthorised observation.

The experts noted that due to the construction of the booths do not provide for observation of passengers, especially children under some angles. The EvalCom is of the opinion that installation of additional mirrors could be a solution for this minor problem.

The second line office for thorough examination of travel documents and thorough second line verification of entry conditions is located next to the control booths.

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

All workstations at the first line were equipped with a computer terminal, an optical passport reader connected to the terminal and an UV light source with a magnifier. There were no retro-reflective lamps available in the booths.

For border checks on board of vessels and examination of vehicles are available a laptop with Internet connection, a magnifying glass, a control mirror for examination of cars, two radioactivity detectors and three flashlights. There are no mobile UV light sources, retro-reflective lamps available for mobile use.

The second-line equipment comprises additionally a video spectral comparator VSC4PLUS, a fixed UV lamp model CHECKPOINT-D (1), two scanners, two printers, a copy machine and a fax.

The EvalCom was informed that access to EURODAC is available in the Border Police County Inspectorate Tulcea.

14 entry and exit stamps were located at the BCP in total. 12 stamps (6 entry and 6 exit stamps) were deployed for border checks on maritime traffic and two for air traffic (one entry and one exit stamp). The EvalCom found design of the stamps in line with a specification (SCH/Com-ex (94) 16 rev), however some of these stamps did not provide for bi-colour stamping as red ink was missing.

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5.2.6. *Communication*

Border control facilities passenger terminal Tulcea BCP were provided with access to computer and fixed phone networks. Besides these means police officers and service cars were equipped with radios working in the police network, based on the TETRA standard. The first line booths, were also equipped with radios. The computer network at the first line of border checks, in the booth, is capable of transmitting the information, consisting also of images.

5.2.7. *Transportation and mobility*

Vehicles and boats, needed by the shift at the BCP will be provided by the BPS Tulcea and are available 24/7.

5.2.8. *Access control / fencing*

The port area is fenced and guarded by a specialised security company that is also responsible for access control. The perimeter is under CCTV camera surveillance. The area of the passenger terminal of the BCP Tulcea is fenced. The EvalCom is of the opinion that there is a need to improve the fencing between the terminal and the berth for passenger vessels. Access control to the area of border checks is carried out by the border police.

5.2.9. *Detention / readmission premises*

Two detention rooms with two and three iron beds respectively were located at the first floor of the passenger terminal. These rooms could be used either for female or for male persons or for both. Facilities for hygiene needs were available and security measures were also in place. During the visit the EvalCom noted that there were no mattresses on the iron beds. The Committee was told that the iron beds are used without mattresses.⁵

No information was available about rights of the detained persons to be provided to them in case of detention. A detainee could be kept in these detention premises no more than 24 hours.

Two rooms for asylum applicants are also situated in the passenger terminal. The rooms were comfortable and responded to needs of hygiene. The EvalCom was told that the rooms have phone communication with office of the shift leader.

⁵ RO: The detention rooms from the premises of Tulcea BCP are used mainly for violent/turbulent persons detained for a maximum period of 24 hours. Those premises are not used for accommodating persons; they are used for short term periods, until the clarification of the situation of the person. The border authorities could have used benches instead, but most likely the beds were available.

The measure of using beds without mattresses is a measure meant to protect persons from harming themselves; for this reason, the beds are attached to the floor, there are no objects which could break or could be used for suppressing someone's life, including sockets, even the shoe laces are removed from the detained person. Mattresses could also be used for such a purpose.

This is a basic police tactics' measure and it was adopted after several cases of detainees suppressing their lives occurred.

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5.2.10. *Storage of blank visa*

At the time of the visit 3 blank visas were stored in a locked and sealed safe in the duty officer office – also called “dispatch room.” Only head of BCP had access to the safe, and when he is not there, the shift leader has access.

5.2.11. *Storage of entry and exit stamps:*

Entry and exit stamps were stored in a locked and sealed safe in the duty officer’s office. The use of stamps was strictly registered in a log. The shift leader provided a complete list of the stamps to the EvalCom.

5.3. Controls and procedures

5.3.1. *Traffic handling / traffic modes*

Checks are performed by border police on cargo ships, passenger ships and pleasure boats. There are no fishing vessels calling from/to third countries or staying out of the harbour more than 36 hours and no checks on fishing vessels are carried out. Border checks on cargo vessels and pleasure boats are carried out on board the vessels, passenger (cruise) vessels moor next to the passenger terminal and border checks are carried out in the terminal.

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

The EvalCom was told that all persons crossing the border are subject of minimum control at least.

However the experts were told by a border guard that also third country nationals who do not need a visa are subject of minimum checks.⁶ Only the check of the identity and check of travel documents is being provided. Furthermore, these persons are verified in national databases only in case that there is a tip. This applies also for persons who have the right of free movement. The EvalCom found this practice not in line with the provisions of the Schengen Borders Code.

All border checks on ships are carried out on board ships. Border checks on board of a ship are carried out by border guards being a part of a joint control team, which includes also customs employees, representatives of Tulcea Harbour Master as well as a sanitary agent and carries out different respective controls. Along with the control team, the access on the commercial vessel is also granted to a ship’s agent.

In case a different authority carries out a separate control, a report regarding the result of the control is handed out to the chief of the control group from the Border Crossing Point.

The sanitary human and veterinary control and the one regarding the environment protection are carried out before any other control.

⁶ RO: All third country nationals are checked against the databases on the basis of passengers list when crossing the border (prior to arrival, passengers ships are checked against databases and when entering Romania, according to Article 7 of the SBC).

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If a crew list (and a passenger list) is forwarded to the BCP in due time before arrival of the vessels, crew members and passengers will be verified in databases by a system operator before border checks on board the vessel. Before carrying the border checks, the team leaders perform a risk assessment and establish the type of control to be performed.

High-risk vessels are subjected to a thorough check, immediately after arrival or before departure, which implies the direct control of persons on board and a thorough check of the vessel. In these situations, the vessel remains under the permanent control and supervision of the authorities during the time spent in the port and all persons going ashore are being controlled.

When suspicions regarding the identity of a person or the validity of a document occur, the additional checks will be conducted in the second line of control by the border policeman specialized in forgery detection for travelling documents.

Thorough checks on board of vessels consist of:

- Examination of the travel documents;
- Identification of persons based on the photo in the presented and checked document
- Verification of rooms and areas on board by using the technical equipment (CO2 detector, radiation detector, etc);
- Verification of transported containers and rescue boats;
- Control of the vessel's documents in order to establish its owner (especially for pleasure ships);
- Control for transported goods and justifying documents for those goods.

Checks on the different types of vessels (cargo ships, passenger ships and pleasure boats) are performed as follows:

Cargo ships

Border checks on persons on cargo ships are carried out on board, upon arrival as well as upon departure from the port. Before the control, the border guard is informed by the ship's captain about presence of any clandestine persons on board. Before starting the control, the ship's captain provides a list of the crew and passengers in duplicate, a general statement, a merchandise statement and a statement proving if weapons, ammunition, explosives, narcotics and clandestine persons are on board.

A copy of the two lists, stamped by the border police is returned to the ship's captain who will present it upon the request of the authorities while the vessel is in port.

The border policeman provides a list in duplicate with the port regulations, compulsory for all crewmembers. A stamped and signed list is returned to the border guard, while the other one is kept on board.

After the border checks the border guard writes a report note regarding the control performed in which the captain of the vessel includes objections, if the case, about the control procedure.

Passenger ships

For the passenger ships, the ship's captain, ship-owner or owner's agent, sends the itinerary, cruise schedule and lists of passengers and crew to the border guard, at least 24 hours before the arrival of the vessel. The lists are sent to the coordination centre that performs the checks and sends the lists to the BCP by e-mail or fax.

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In order to avoid any unnecessary delay during the control procedure, when requested by captain or ship agent, the control team can approach the vessel while entering the port, so that the procedures can be finalized by the time of docking.

Border checks on passengers that go ashore are made in the control area designated to international traffic.

If a cruise ship arrives from a port situated in a third country and calls for the first time in Romania the crew and passengers shall be subject to entry checks according to the nominal lists of the crew and passengers. The passengers going ashore shall be subject to entry checks in the control area or on board the vessel in order to verify if they meet the entry conditions.

If a vessel arrives from a port of a member state, the border control will only consist in a short verification of the crew and passenger list on board. Still, based on the risk analysis regarding the internal security and illegal migration, controls of crew and passengers may be carried out.

At departure, if the itinerary of a cruise ship comprises other Romanian ports, the BCP's at those ports will be informed; if a vessel is heading directly to foreign port, exit checks on the vessel leaving will be carried out.

The EvalCom visited the terminal for border checks on passenger ships. The experts found the knowledge of the Schengen provisions of the border guards quite basic, particularly as regards stamping of travel documents, minimum and thorough checks and profiling. Furthermore, the level of English language should be improved too.

Pleasure boats

During the border checks when entering the country, the captain of the pleasure boat hands over to the border police a document regarding all the technical characteristics of the vessel and the name of all persons on board. A copy of this document, stamped by the border police remains on board and will be presented by the captain of the pleasure boat at the request of the border authorities during the time of travel through the Romanian territory. This document will be handed over to the border police when the exit control is carried out.

There are no fishing vessels in the region of the Port of Tulcea.

The EvalCom was not able to monitor any border checks due to short time of the visit and lack of information about any vessels calling in Tulcea during the visit. Procedure of border checks as described by the border police meets requirements of the Schengen Borders Code in the main, except absence of thorough checks on all third country nationals.

5.3.3. Utilisation of registers

The registers and systems available to the border guard in the first and second line are the same as in Constanta.

The EvalCom is of the opinion that the national database, and later the SIS, should be used much more often. This applies in particular to the third country nationals who are not obliged to have a visa and the persons enjoying the right of free movement.

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5.3.4. *Utilisation of the Schengen Handbook*

The Schengen Borders Code and Schengen Handbook are available in the first and second line in electronic version and on paper.

5.3.5. *Processing of refusals and asylum applications*

Statistics provided to the EvalCom shows that 187 persons were refused entry to Romania in 2007 and 23 persons in 2008. No persons refused of entry during the first half of 2009. Persons refused entry in 2008 had following nationalities: 14 Ukrainians, 6 Chinese, 2 Serbians and 1 Egyptians. Out of 23, 21 persons did not possess valid visas or stay permit, one did not possess a valid document for crossing the border and one (Egyptian) presented a document with a false stamp for prolongation of validity. The Romanian representatives were of the opinion that behind the decrease of the numbers of refusals was active work of the Romanian authorities on explaining new demands for entry in Romania, after becoming part of the EU. The refusal of entry indicated in the statistics referred only to passengers of cruise vessels.

In case of refusal of entry, the decision is made by the chief of the BCP or, in his absence, by the team leader. The standard form for refusal of entry at the border in line with the Schengen Borders Code is filled in and copy of the form is given to the refused person.

In case of a application for asylum, the Border Police starts with the first interview with the asylum seeker, informs the person about the procedure and the fact that fingerprints will be taken and checked in EURODAC. There are two rooms in which asylum seekers can be held before they are handed over to the Romanian Immigration Office which is responsible for further procedure.

5.3.6. *Issuance of visas*

The procedure of issuance of visa is similar to the procedure in Constanta (See point 4.3.6). The EvalCom was told that due to a bilateral agreement with Ukraine, the Ukrainian seamen do not need transit B-visa to enter Romania in order to travel to their country or to a vessel if they are in possession of a seafarer's identity document.

One transit visa was issued in 2008. No visas issued during the first half of 2009.

5.3.7. *Second line activities*

Second line activities consist of thorough second line verification of entry conditions, thorough examination of travel documents, processing refusals of entry and asylum applications and issue of visas. There is one border police official for the second line checks in each shift.

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5.4. Border surveillance

The port authority is responsible for security in the port and necessary measures are implemented by security personnel employed by the port authority. The EvalCom was told that the port area was patrolled by the border police, transport police, community police and the Romanian Gendarmerie

The area between the berth and the passenger terminal was under permanent CCTV camera surveillance. Four CCTV cameras inside the terminal were used for monitoring of the area in front of the control booths. All the cameras were operated 24/7 by the Border Police.

5.5. Staff and training

5.5.1. Adequacy and the level of professionalism

Border checks are carried out by professional border police personnel of the Tulcea Border Police Sector, specialised on border control and provided with relevant training. There is no permanent staff for border checks except the head of the BCP Tulcea. Border guards, interviewed during the visit were motivated and aware about their tasks as regards border checks and had basic knowledge of provisions of the Schengen Borders Code. The EvalCom is of the opinion that there is need to improve knowledge of the personnel, particularly as regards rules of minimum and thorough checks, stamping of travel documents and also tactical risk analysis.

5.5.2. Selection criteria

See point 3.6.3.

5.5.3. Basic training

See point 3.6.4.

5.5.4. Further continuing education

All border police officials of the BCP Tulcea have followed a training programme (career development course), organized by the training schools of the MAI. Besides that, personnel takes part in courses of continuous training, organized by various training centers of RBP in Orsova, Constanta, Timisoara and Iasi.

Training of Tulcea BCP's personnel is also carried out by attending courses organized by the Tulcea Border Police County Inspectorate, on specific fields of activity, such as: Schengen issues, police cooperation, countering documentary fraud, combating trafficking in arms and ammunitions, improving the foreign languages, communication, control procedures, etc.

Training sessions were also organized at the level of BPS Tulcea and BCP for all the staff. The duration of this training is 6 hours per month and includes topics, such as national security, public order, juridical knowledge, and police ethics. 2 hours of this training are dedicated to Schengen issues.

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The training on supporting disciplines takes place at Tulcea BPS premises with all the staff – 4 hours per month – and provides information from the fields of activity (IT, management, psychology) necessary not only for fulfilling work tasks, but also for individual professional development.

Also, on the job training is provided. On the job training is coordinated by the chief of the BCP and by the shift leader. This is about 20 to 30 minutes and it takes place during the working hours (usually before starting the shift). The content of the training is prepared and given by the shift leader along with each border policeman, according to its training needs. The shift leader has the obligation to support his/her subordinates and to guide them in order to improve the level of performance according to their obligations.

The personnel also prepare itself individually while on duty. The forms and ways of individual training is being communicated to the shift leader.

The chief of Tulcea BCP conducts the evaluation monthly through electronically and written tests for each shift.

5.5.5. *Language skills and training*

See General Information point 3.6.6

According to provided information 7 border police officials from the BPS Tulcea participated at the foreign language courses during 2007-2009. The EvalCom was also informed that from 19 persons, used for border checks at the BCP Tulcea 15 persons are able to communicate in English, 4 of them at the level of a beginner and 11 at the medium level, 8 border guards in French, one at the level of a beginner and 7 at the medium level and 1 border guard has skills in Russian at the medium level. The EvalCom is of the opinion that not all interviewed border guards were able to communicate in English satisfactory and there is room for improvement as regards language linguistic skills of border guards.

5.5.6. *Specialised document checking skills and training*

4 experts specialised on travel documents examination are stationed at Tulcea BPS. Expertise is delivered within specialised schools at Oreada and Bucharest.

5.5.7. *Specialised training for different managerial levels*

See point 3.6.7.

5.5.8. *Availability and permanency of staff*

BCP Tulcea is subordinate to the Tulcea BPS. There is no permanent staff at the BCP except the Head of the BCP. The other border guards are seconded to the BCP by the management of the BPS just for the time of a shift and do not work at the BCP each day. On average, there are four police agents in every shift for border control. One of them is the duty officer, one is deployed for the second-line checks and the other two perform surveillance and control activities. Depending on the operative situation, the shift leader from the BPS can supplement the number of police officers. There also are one administrative agent and one security access agent. The number of staff was regarded satisfactory to meet current needs.

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5.6. Readmission, expulsion and illegal immigration, carriers liability

5.6.1. Sanctions imposed on carriers

There were no sanctions imposed on carriers in previous years. The EvalCom was told that the carriers have been warned in cases in which the passengers did not possess a visa or valid travel documents. In the past years the number of refusals of entry due to lack of visa has decreased rapidly.

5.7. Conclusions and recommendations

The EvalCom was appreciative of the following facts:

- The risk analyses system prior to the border checks is in the line with recommendations of the Schengen Catalogue and represents a good practice.
- The registers available in the first and second line are of added value for the border control and further investigations.
- The knowledge of the second line personnel was at good level, especially regarding the examination of travel documents.
- All border checks on cargo vessels are carried out on board vessels.
- Infrastructure modern and functional, signposting meets requirements of the Schengen Borders Code fully and provides for quick redeployment of the control lanes. System of redeployment of control lanes in passenger terminal could be considered as best practice.

The EvalCom took special note of the following facts:

- The EvalCom is of the opinion that border checks and border surveillance in Danube delta area is sufficient taking into account current situation. However, after Schengen accession illegal immigration pressure could increase especially in Galati-Isaccea area. Therefore the EvalCom recommends introducing technical surveillance along river border covering at least vulnerable spots. Fixed technical surveillance should be completed with mobile technical equipments as vans with installed thermo cameras.
- The EvalCom recommends installing additional mirrors for observation of the area between control booths by the border guards in the booths.
- The experts recommend supplying beds in detention rooms with mattresses and to have information on rights of the detained persons available.⁷
- The necessary equipment for examination of travel documents was mainly in place and is used by the personnel. There were no retro-reflective lamps available in the booths. The EvalCom recommends equipping the second line office with a stereomicroscope.

⁷ RO: See footnote 4.

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The EvalCom considers that there is room for improvement in the following points:

- Some of the entry and exit stamps did not meet requirements of the specification set out in SCH/Com-ex (94) 16 rev as regards use of ink in two colours.
- The EvalCom is of the opinion that there is room for improvement of linguistic skills of border guards.
- The knowledge of Schengen provisions is basic and should be improved.
- The EvalCom was told that third country nationals who do not need a visa are subject to minimum checks in Tulcea. The EvalCom found this practice not in line with the provisions of the Schengen Borders Code and invites the Romanian authorities to give necessary instructions on this issue.

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6. MARITIME BORDERS SURVEILLANCE IN ROMANIA

6.1. Introduction:

The EvalCom visited the Naval Group Constanta (including a visit of the patrol boat MAI 1101“Paraschiv” and MAI 1104 and Land Border section, Border Checks and Surveillance Compartment and the Work shift), the Naval Traffic Management Centre in Constanta port (VTMIS) and the Tulcea Aviation Unit of the General Aviation Inspectorate of the MAI.

6.1.1. Legal framework

The national legal framework for maritime surveillance consists of:

- Government Emergency Ordinance no 104/2001 on the organization and functioning of the Romanian Border Police, approved with amendments by Law no 81/2002, later amended
- Government Emergency Ordinance no 105/2001 on the Romanian state border, approved with amendments by Law no 243/2002, later amended
- Government Decision no 445/2002 approving the methodological norms for the application of Government Emergency Ordinance no 105/2001 on the Romanian state border, later amended
- Government Decision no 943/2001 establishing the Inter-ministerial Group for the Integrated Management of the Romanian State Border.

6.2. Environment, structure of organisations, threats, crime statistics

Romania has quite short sea border (193, 5 km) and exercises its sovereign rights in 12 nautical miles wide territorial waters and rights as regards control of customs and immigration rules in contiguous zone with width of 12 nautical miles from outer limit of the territorial sea. The exclusive economical zone extends 200 miles from the basic line of the territorial waters.

Romania has three major seaports: Constanta, Mangalia and Midia. Port Sulina in the Danube delta is used mainly by the Sulina Shipyard. The port of Constanta is the ninth busiest [cargo port](#) in Europe and the main container hub in the [Black Sea](#)

Border surveillance at sea is carried out by following structures of the RBP and supporting authorities:

Constanta Naval Group is the territorial structure of the Romanian Border Police with territorial competence at the blue border, from Cap Tuzla to the maritime border with Ukraine. To the East the competence area covers the interior maritime waters, the territorial sea, the contiguous zone, to the limit of the exclusive economical zone and on land from Cap Tuzla up to Gura Portiței (the administrative limit that separates Constanta and Tulcea counties), 30 km inland from the shore. The Constanta Naval Group is subordinated to the Constanta Border Police County Inspectorate.

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Constanta Naval Group is structured into the compartments which are coordinated by two deputies of the Chief of the Constanta Naval Group - Deputy Chief for Land Borders and Deputy Chief for Maritime Border. Under the command of the Deputy Chief for Maritime Border of the Constanta Naval Group are **the Constanta Naval Compartment and the Sulina Naval Compartment.**

Aviation support to border surveillance is provided by the **Aviation Unit in Tulcea** which is a part of the General Aviation Inspectorate of the MAI. The Aviation Unit in Tulcea is responsible for the area of the Border Police County Inspectorate Tulcea and Border Police County Inspectorate Constanta. The Area of responsibility is about 17000 km² (without the territorial waters and the contiguous zone).

The main tasks of the Aviation Unit are search and rescue, surveillance of the blue and land border, transport flights, surveillance of the rivers, supervision of traffic, fishery protection, combating of smuggling of goods and surveillance of the air space

There is an annual plan for the air missions. The authorities request a number of flight hours and the MAI allocates the flight hours to the Border Police Directorates. For 2009 the Constanta BPCI had requested 200 flight hours and 120 flight hours were allocated.

The Aviation Unit carries out many tasks for other authorities of Romania, e.g. Ministry of Public Defence, Ministry of Environment and the Ministry of Transportation and Infrastructure.

6.3. Strategy of the border surveillance, inter-agency cooperation, international cooperation

Border surveillance at sea is based on the tactical and operational risk analysis implemented at the Constanta Naval Group level. Constanta Naval Group classifies risk areas as high risk, medium risk, and low risk areas. The surveillance of the sea borders is planned and organized in accordance with the “four alignments” principle, as follows:

First alignment includes the contiguous zone and the exclusive economical zone (12-180 nautical miles from the shore). It consists of deploying the Naval Group’s surveillance and/or patrolling vessels on the basis of the monthly planning by the Naval Control and Surveillance Bureau within BPCI Constanta.

Second alignment includes the territorial sea from 5 to 12 nautical miles from the shore. In this area, the surveillance is ensured with the patrolling, harbour control and intervention vessels of the Naval Group on the basis of its own plans and tactical needs. It also provides for an optimal level of intervention of the RBP vessels situated at their docking facilities.

Third alignment is situated near the harbours, from the coastline to 5 nautical miles from the shore. In this area, agents planned and deployed by the border police sectors and naval groups perform the following tasks:

- Direct surveillance of vessels presenting a high risk degree (e.g. deploying agents at the boat ladder or surveillance on water from the opposite side of the docked vessel);
- Surveillance of private ports and docking facilities situated outside the perimeter of the harbour and inspections performed on the pleasure boats and persons on them, located in the area of competence;

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- Coordinated actions of all forces in this area when there are serious suspicions that from a vessel in the territorial sea persons and goods are illegally disembarked.

Fourth alignment is situated on the shore and 30 km within the territory. These activities are performed by agents of the border police sectors in the competence area, rapid intervention teams and other operative structures from the Border Police County Inspectorate with use of cars, ATVs, motorcycles.

Sea Border Surveillance of the RBP includes two parts:

- Command and coordination is achieved by the Naval and Coordination Office using its Command and Control Centre.
- Planning and execution is carried out by territorial units along the coast (Naval Groups of Constanta and Mangalia), and river Danube (Tulcea Border Police Sector).

According to the places visited and the information collected by the EvalCom, those territorial Units provide 24/7 surveillance, allocating the personnel according to a daily "Action Plan" where it is reflected all activities to be performed during the shift and resources to be used (cars, communications, etc). The EvalCom was informed that the "Action Plan" is prepared by a shift leader during 30 minutes before shift briefing starts.

When preparing the Action Plan the shift leader relies on following information prepared by the supporting sections of the Naval Group:

- naval means on duty,
- mobile means available,
- communication means and
- vessels' expected arrivals and departures.

The whole land activity of the Naval Group Constanta relies on the shift leader, under the superior command of the Deputy Chief for Land Border of the Naval Group.

Personnel is fixed and assessed monthly, dividing all staff into 4 working groups, keeping a balance among them. Shift leader also has the data about suspicious vessels elaborated by the CCC and available in Tornado data base.

The Naval Group Constanta covers some fixed posts, as BCP,s and gates of some Ports, and the rest of the personnel are engaged in mobile patrols, either by car or pedestrian. There also are a reserve in the Naval Group and another one in the headquarters of the County Inspectorate. It is supposed that all personnel deployed outside the BCPs are tasked to perform surveillance and border checks if it is necessary. With the deployment of resources, all areas of interest are covered and the shift leader has at his disposal enough means to carry out all missions.

The main objective of the proposed Black Sea surveillance system is to guarantee the control along the Romanian territorial waters by performing traffic control of all vessels and vessels coming into or leaving them.

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For the achievement of this target, the proposed system has been designed to guarantee the early warning detection of small ships and boats in a way that they can be located before approaching the coast shore and, therefore, providing the RBP with essential reaction time in order to take the necessary actions. The decisions will be taken from a Command and Control Centre (CCC) where all the information collected by the system sensors will be available and presented in an organized and structured way. In addition to this, communication links will be available to a higher level of CCCs and other external agencies and organizations.

Patrolling at sea is carried out by the Border Police vessels allocated in the Naval Groups, and distributed in such a way to allow quick reaction and proper coverage of the coast. The EvalCom was told that according to risk analysis and characteristics of the area, there are some assets deployed permanently in predefined areas: Constanta and Sulina harbors, Tomis Marina, and Periboina area; those are from different kind and have different reaction time and capabilities. Planning schedule of the boats is made by the Deputy Chief for Maritime Border of the Naval Group.

There is also aerial component, provided by the helicopters of the General Aviation Inspectorate of the MAI and directly from its subordinated unit established in Tulcea. These helicopters are not at the disposal of the Border Police and need to be requested, in an ordinary or urgent way. The operational coordination and tasks to perform are directed by the CCC.

Coordination of all resources is achieved in the CCC, where is concentrated all the information obtained and where the situation awareness is displayed in a common Border Police picture. The Centre has also the operational command of all patrols at sea and land, although shift leader at Naval Group can, in coordination with the Centre, relocate the deployment or reassign tasks to a particular patrol.

To experts was told that the patrols in the EPN area H 4 are coordinated with the Bulgarian Border Police.

6.4. Risk analysis and intelligence functions

The Romanian Naval Authority carries out their own risk analysis, regarding their tasks. The tactical risk analysis is drafted on the basis of the passengers' list transmitted to the Romanian Border Police by the ship agents before the arrival of the vessel. Passengers and crew members on the list are pre-checked against the Border Police alerts database and data on vessel is verified in the LOSS list.

The tactical analysis on surveillance has the purpose to prevent illegal border crossing and to combat cross-border crime and is based on:

- the data received from the observance of the maritime traffic with the surveillance means in the endowment of the RBP;
- information received from other law enforcement agencies (national and international).

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6.5. Operational effectiveness

6.5.1. Resources:

Human resources:

The Number of personnel of the Constanta Naval Group is 566 of which were available 560.
The number of personnel of the Mangalia Naval Group is 345 of which 333 were available
The number of staff of the Aviation Unit Tulcea is 22.

Technical resources:

Naval resources

The Border Police is in possession of 10 patrol vessels with length of 38.5 metres and speed of 24-30 knots (project P-157 and 0111C), 3 vessels with length of 22,5 metres and speed of 50 knots (project 834M), 12 patrol boats for port surveillance and control with length of 11,5 metres and speed of 28 knots (project R1120), 9 RIBs with length of 5,4 metres and speed of 30 knots (project SLP 5400), 6 hovercraft and 5 patrol and intervention boats at river.

The EvalCom is of the opinion that the Romanian Border Police is highly supplied with patrol vessels and patrol boats. There is 1 offshore patrol vessel per each 15 kilometres of the sea border, additionally large number of patrol boats and RIBs

For land patrols are used 26 patrol cars and 12 all terrain vehicles (ATV).

There are 43 different types of patrol boats, of which 18 are allotted to the Constanta Naval Group, 6 to the Sulina Naval Compartment, 8 to Sulina BPS and 11 to Mangalia Naval Group.

Vessels allotted at Constanta Naval Group:

- 2 patrol maritime vessels P 157;
- 3 patrol maritime vessels 0111C;
- 1 intervention maritime vessel, 834 M;
- 1 SRS;
- 5 SCPS R1120;
- 4 RIB;
- 1 tanker;
- 1 river fast boat Gamma 300.

Vessels allotted at Naval Component Sulina:

- 1 patrol maritime vessel P 157;
- 1 patrol maritime vessel 0111C;
- 1 SRS;
- 2 SCPS R1120;
- 1 RIB.

Vessels allotted at Mangalia Naval Group:

- 1 patrol maritime vessel P 157;
- 2 patrol maritime vessels 0111C;

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- 2 intervention maritime vessels 834 M;
- 3 SCPS R1120;
- 3 RIBs.

Aerial resources:

In Tulcea is based one helicopter, but it is possible to have additional assets if needed or if a planned mission takes place. The following types of helicopters could be located in Tulcea: MI-8, MI-17, Alouette and very seldom EC 135.

Helicopters MI-8 and MI-17 are twin engine helicopters, built in the former Soviet Union. The maximal endurance of the flight with additional fuel tanks is four and a half hours with maximum speed of 250 km/h. The helicopters have no special surveillance equipments. There are only binoculars and communication devices on board. The helicopters can provide flight in a distance of 24 nautical miles from the coast line, covering territorial waters and the contiguous zone.

Helicopter EC 135

The EC 135 is the most modern helicopter of the General Aviation Inspectorate. The EC 135 is a twin engine vehicle. The maximal endurance of the helicopter is 2 hours and forty minutes (maximum speed 250 km/h). The helicopter is able to flight under all condition and also in the night. It is equipped with infrared camera. The equipment is well suited for carrying out surveillance flights along the border. The camera is compatible with the surveillance of SCOMAR. The video stream of the camera can be transmitted via the sensor stations in real time. The helicopter can provide flights in a distance of 24 nautical from the coast line.

Helicopter Alouette

The Alouette is a French built single engine helicopter. There isn't special surveillance equipment for the border surveillance. It is not allowed to fly over the sea, due to the single engine (maximum distance to the shore 3 km). The maximal endurance of the flight is about 3 hours and thirty minutes.

All helicopters are equipped with TETRA radio stations, GPS, transponder and weather radio. There is no VHF radio for the communication with sea-going vessels (channel 16 or Digital Selective Call on channel 70)

Coastal surveillance systems:

SCOMAR is an integrated coastal surveillance system of the RBP consisting of several sub-systems and covering all Romanian coastline and territorial waters. The SCOMAR is described more details under the point 6.5.3. Compared with the VTMIS, SCOMAR has a wider range of action (for the entire Romanian Black Sea Coast) and better capabilities (detection of small vessels). In order to ensure a good cooperation between the RBP and the Romanian Naval Authority, SCOMAR consoles will be installed at the Port Masters' offices in Sulina, Midia, Constanta and Mangalia.

Vehicles:

For land patrols are used 26 patrol cars and 12 all terrain vehicles (ATV).

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6.5.2. *Level of controls at external borders*

Border surveillance at sea is mainly based on coastal radar and electro-optic surveillance provided by SCOMAR. The SCOMAR provides for full coverage of the territorial sea and in the most cases also for identification of the targets. The role of the patrolling in border surveillance at sea remains secondary and is mostly carried out in the high risk areas.

CNG is planning the duty schedule of all patrol boats for the next month and coordinates it with the SCOMAR. However the vessels are mostly in the harbours in the readiness, not carrying out the active patrols. CCC has the power to command the vessels operationally. Every boat has only one crew.

On the day the experts visited the CNG, six police vessels were on duty. (MAI 1102 (crew 18) in Constanta, MAI 2106 (16) in Sulina, MAI 3005 (4) in Tomis, MAI 4026 (1) in Tomis, MAI 4025 (2) in Periboina, MAI 4029 (2) in Sf Gheorghe.) The active patrol time at sea is low. The visited police vessel MAI 1104 had been at sea patrolling in 2009 in average 17 hours per month (19 hours per month in 2008; 11 hours per month in 2007). The experts were told that at least two patrol vessels are on duty every day. They are patrolling on sea but stay also in the harbour in standby. The time for standby in the harbour depends from the weather condition, risk analysis and additional tasks.

To experts were told that crews of the border police vessels carry out the inspection of commercial vessels and pleasure craft and persons on the board if needed. They do not carry out border checks as provided for by (set out in) Article 7 of the Schengen Borders Code. The experts were told that crew members of the vessels have not received the training on border check and there are no entry-exit stamps on the board of border police vessels. No one of the crew members of the border police vessels is used for carrying out border checks in the harbours or marinas.

For an efficient border surveillance police officers work in shifts (12/24h – 12/48h) patrolling and surveying specific areas considered to have a high risk of criminality. The deployment of border police assets is done according to the risk analysis, information received from SCOMAR, characteristics features, weather conditions, respecting the “four alignments” principles, for maritime borders, using tactical police methods and procedures of permanent and unannounced change of patrolling paths and surveillance points.

Main tasks of patrol vessels:

- border surveillance (patrolling) in the first, second and third zone to prevent and counter illegal migration and cross-border criminality;
- control of suspicious vessels and on a random base other vessel in the territorial waters;
- identification of detected vessels;
- interception of suspected vessels;
- carrying out search and rescue operations;
- participation in the environment protection
- prevention and countering piracy, terrorist actions and the organized crime at sea areas under the Romanian jurisdiction.

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The Border Police can order the helicopters for patrolling on a scheduled basis. During these flights a police officer is on board of the helicopter for surveillance and communication with coastal and naval units. Due to limited hours for patrolling and poor surveillance equipment of the vast majority of helicopters their role in sea surveillance remains marginal. So in the patrol schedule of the County Inspectorate of Border Police Constanta are only 72 hours per year and only 6 hours of this is patrolling time. The helicopters have more important role in case of need for reaction.

The naval Croups carry out regular land patrols in their area of responsibility, in particular at the approaches to the ports and on the territory of the ports. For the 5 September 8 a.m. – 8 p.m. By the Constanta Naval Group were planned 6 patrols (one with car) by 9 persons:

- 4 fixed patrols by 1 person,
- 1 car patrol with 3 persons, and
- 1 patrol with 2 persons.

6.5.3. *Situational awareness*

Situational awareness as regards border surveillance is based on a complex surveillance system at the Black Sea – SCOMAR, complemented by use of VTMIS information and large variety of available databases, patrolling, inter-agency and international information exchange. Important role in guaranteeing of the situational awareness belongs to Black Sea Cooperation Forum and its Coordination and Information Centre.

SCOMAR

SCOMAR is a complex surveillance system that complements the existing national systems managed by the Romanian Naval Authority (VTMIS in Constanta harbour and RO-RIS on the Danube River) and the surveillance system at the Black Sea used for military purposes by the Ministry of Defence. However, there are no direct links between these different systems and between data bases connected with these systems.

The main characteristics of SCOMAR:

- Interoperability: exchange of information is possible between Romanian Border Police, Ministry of Defence, Romanian Naval Authority and other Institution on demand. The EvalCom was told that this capacity is being enhanced at the present and it will allow in the future the creation of a common situational picture of the maritime domain.
- Modular design: main sub-components can be replaced without affecting the system's functionality.
- Upgradable architecture: other sensor stations (or sensor type) can be integrated in the system.

The system is composed of the following subsystems:

Sub-system 1 - Command and Control Centre (CCC): located in the Naval Surveillance and Control Office in Constanta, receives, processes, presents and stores all information from the coast surveillance stations (CSS). It also manages the configuration of the different sensors (radar, optronic, video encoders, AIS stations, weather stations etc) and the remote control of the revolving optronic platform.

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The local operation consoles will allow the operators and administrators to work according to the tasks assigned. Through the user passwords and entries, the local console identifies the user type (operator or administrator) and activates the assigned console functions. It is possible to assign different function levels of access depending of the user profile stored in the database. One of the local operation consoles supplies the output of the video map for the CCC presentation subsystem, so the scenario map can be shown in the big CCC screens.

In the CCC a videoconference system is installed which have a collateral in the General Inspectorate of the Border Police in Bucharest (GIBP) and allows in certain operations to transfer the scenario and sensor information to the national command at Bucharest.

Subsystem 2 – Communications: allows the Centre to receive the information generated by the system and provides the link between it and the patrolling units, and amongst them. It also enables the connection of units to the different data bases and with other Institutions. Each operator has access to the communications network, both to communicate by voice and short messages, to exterior communications networks such as TETRA, PMR, RTB, RDSI, etc. The HF/VHF voice communication system is based on GMDSS communication equipments that work in the HF and VHF bands. Also, VHF radio modem equipment for the transmission of data among the patrol units and the CCC is incorporated.

- Subsystem 3 - Sensor Stations: complex stations with radar, optoelectronic device (thermal and daylight camera), or others to detect and track vessels along the coastal waters of Romania. There are 9 different stations, from North to South:

- Sulina: radar, optoelectronic, AIS, and weather station
- Sf. Gheorghe: radar, optoelectronic, helicopter video receiver, and weather station
- Perisor: radar, optoelectronic, helicopter video receiver, and weather station
- Portita: optoelectronic and weather station
- Sinoe: radar, helicopter video receiver and weather station
- Chituc: optoelectronic and weather station
- Midia: radar, optoelectronic, and weather station
- Constanta: radar, optoelectronic, helicopter video receiver, and weather station
- 2 Mai: radar, optoelectronic, AIS, helicopter video receiver, and weather station

The remotely operated coastal surveillance stations two sensors, one specialized sea radar to detect small boats in complex sea conditions, and medium – large crafts. The radar, as an early alert sensor is supported by an optronic platform of day – night vision that will be used to identify the crafts. The surveillance station includes all communication elements for linkage with the CCC.

- Subsystem 4 - Mobility means: according to the information available in the CCC, the resources are directed to accomplish the necessary measures. CCC has the command and coordination role, directly or under the direction of the Naval and Control Office leaders. The means are those deployed on land and sea by the Naval Groups (Constanta and Mangalia), and Tulcea Border Police Sector and helicopters provided by the Tulcea Aviation Unit.

The EvalCom visited the Command and Control Centre of SCOMAR and found the system modern, efficient, multifunctional and fully responding to the needs of the RBP as regards border surveillance and the other responsibilities of the RBP at sea. The experts found that not all the operators are fully aware of the functional capabilities of the system. Thus one of the operators was

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not aware how to identify a track which had stopped an hour ago at the distance of six miles from the port of Constanta.

Important role in guaranteeing of the situational awareness belongs to the Naval Surveillance and Control Office. The Naval Surveillance and Control Office is a unit of the Border Police County Inspectorate of Constanta, and it is commanded by the Deputy Chief for Maritime Affairs.

The Naval Surveillance and Control Office is divided into two sections:

- Coordination Section: receives the information about vessels arrivals to Constanta, Sulina and Mangalia Ports via the internet page of National Company for Naval Radio Communications (RADIONAV), introduces the data of interest in the Ministry of Administration and Interior Data Base TORNADO, where they are crossed with other internal and external data bases about suspected vessels, adding an alert where it is necessary.
- Surveillance Section: directly supervising the maritime surveillance system of the Romania Border Police, through the managing of the technical system SCOMAR and providing the necessary coordination and direct command of the on duty patrols (sea and land).

The Office allocates 48 people having 77% of this posts covered with 11 Officers and 26 agents (total number of actual working staff is 37). The EvalCom was said that this lack of personnel will be ended this year with new graduates and it is not affecting the operative of the unit.

The core of the Office is the Command and Control Centre (CCC), operative 24/7 and whose personnel works in 2 shifts, 12 hours each, having 4 groups to cover them; each group is composed of 1 shift leader (officer), and 4 agents. As a rule, 1 agent is in charge of the coordination issues and the rest of the surveillance, dividing the coast into 3 sections corresponding to the 2 Naval Groups (Constanta and Mangalia), in order to better coordinate the patrols of these areas. The allocation of the personnel is not fixed, so their surveillance areas could be changed by the shift leader, depending on the situation and available personnel.

Technical equipment of the Command and Control Centre is quite complete, having access to all data bases available to Border Police, internet, TETRA communication system, IP and satellite phones and radio communications (VHF and HF). All vehicles and patrol boats can be tracked using the AVL system of TETRA (bigger vessels can also be tracked through AIS system).

The Office also plays an important role in the cooperation policy of the Romanian Border Guard, in the internal side (inter-agency with Ministry of Defence, Ministry of Transport, Ministry of Environment, Customs and other structures within MAI), and in the international side, being the National Coordination Centre of the Black Sea Cooperation Forum and of the European Patrol Network within Frontex.

Constanta VTMIS (Vessel Traffic Management and Information System) managed by the Vessels' Traffic Department of the Romanian Naval Authority through the Maritime Coordination Centre. VTMIS is an integrated system of maritime traffic management which ensures the collecting, processing, management, stocking, interrogation and presentation of the system and peripheral sensors data, from sources such as AIS, coastal radars, weather stations, video cameras and integrated VHF communication stations. The main tasks of VTMIS Constanta are to follow, direct, supervise and control the traffic in order to assure the safety of the navigation, In this centre is also located the SAR (Search and Rescue), Oil Response Departments and the Vessel Traffic Service of the Romanian Naval Authority.

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The Romanian Border Police has access to the information provided by the system through a specialized border police officer present in the command centre in Constanta. This officer inserts information important for border police from VTMISS into the police IS Tornado. The Centre gets a notification of every vessel which is bound to a Romanian port 24 hours before arrival. The ETA is in the most cases approximately and the representative of the Border Police gets the exact time of berthing only when a pilot embarks. Due to human reasons there might be a delay or lack of some important information. In the end of the shift border police officer reports to the SCOMAR the locations and movements of vessels in harbour and in anchorage.

6.5.4. *Reaction capability (ability to encounter incidents/ routine situations and situations posing an intensified threat)*

If an incident at sea occur, the Naval Surveillance and Control Centre (SCOMAR) orders the vessel direct to the position of incident. The patrol vessels have also access to the data provided by the SCOMAR. At least in 10 minutes a patrol vessel can leave the harbour if necessary. On board of the vessel exists a so called "Role plan" which determines the tasks of every crew member in special case.

Depending on the operative situation following means of mobility can be used:

- 2 patrol vessels (P157 / 0111C) are ready for intervention in a timeframe of 30 min response from Constanta and Sulina harbours;
- fast boat RODMAN type are ready for intervention in a timeframe of 10 minutes from Tomis Marina;
- 2 fast boats RODMAN type are ready for intervention in a timeframe of maximum 60 minutes from locate in Constanta and Sulina harbours;
- 2 fast boats RIB type are ready for intervention in a timeframe of 10 minutes from Tomis Marina and Periboina area.

According to the operative situation, all Constanta Naval Group's vessels can be ready for intervention in approximately 120 minutes.

In the case of emergency or an incident the reaction time of a helicopter situated in Tulcea airport is between 15 and 30 minutes during the service time. A flight during the night is normally not possible. Reinforcement can be ordered from the General Aviation Inspectorate in Bucharest if necessary.

6.6. **Communication and encryption**

The vessels type "P-157" are equipped with different means of communication. The crew of the vessel has the ability to check the data of persons. This system works only in the port and in the vicinity of the coast, due to the kind of transfer of the data. The crew can use VHF radio for the communication with sea- and land stations. They use TETRA for the communication with other police stations. The crew has access to the intranet, so they can get all relevant information of the Romanian Border Police.

Border guards have the possibility to communicate via telephone and TETRA radio.

Helicopters have TETRA radio for internal police communication. The helicopters are not equipped with communicative devices for the communication with sea-going vessels or coastal stations, due to this fact there is a lack in the chain of communication, especially in emergency cases.

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6.7. Personnel and training

Border Police training of the personnel of the maritime units is based on three main issues: Schengen issues, foreign languages and IT. The EvalCom could see that the level of knowledge on English and system details of the agents working during the visit was quite satisfactory.

The crew members have had a relevant maritime training before entering the service as a crew member of the Border Police vessels.

Every day the commander of the vessel should conduct training for the crew during 20 minutes. Every week a short test for every police officer is obliged. The communication in foreign languages, especially in English, is a common task. During the visit all explanation were provided and all communication with the crew members took place in English. The knowledge of the Schengen regulation especially Schengen Borders Code and also the knowledge of the national law regarding the penalties for illegal crossing border are on a sufficient level.

The crew of a border police vessel visited during a special border surveillance exercise told that the vessel took part in the Joint Operation "Poseidon" in August 2009. During this operation they were very well trained regarding illegal immigration cases. They rescued almost 200 immigrants near the island Lesbos. The EvalCom found professionalism of the crew, showed in the process of the exercise, very high. They showed a situational awareness of a good trained team, which took all measures for the safety of the immigrants as well as for the security of the vessel and they also carried out the first measures to secure all evidences.

The officer on duty has got the training for border police officers. There was no further training regarding his duty in the Border Police.

Crews of the helicopters are well trained as aviators. They do not have any Border Police training or training on Schengen related issues.⁸

6.8. Conclusions and recommendations on border surveillance

The EvalCom was appreciative of the following facts:

- The command chain in the maritime component of the Romanian Border Police is clear.
- Coastal surveillance system SCOMAR is efficient, multifunctional and fully responding to the needs of the RBP as regards border surveillance at sea. The EvalCom is of the opinion that the SCOMAR represents best practice.
- The coordination and communication with the VTMIS in Constanta is an example of a good interagency cooperation and provides for situational awareness.
- The language skills and the knowledge of the main Schengen regulations by an interviewed patrol vessel's crew were on sufficient level.

⁸ RO: During the border surveillance activities, border police specialised personnel is allocated on board the helicopter.

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- The EvalCom acknowledges good level of training exercise observed by the experts and the skills of the crew as regards actions in case of discovery of illegal immigrants at sea.
- The centralization of the command and control in one single point, in the command and control centre of the Naval Surveillance and Control Office in Constanta is considered to be as a best practice in this subject.
- The number of manpower for border surveillance at sea was sufficient and the number of patrol vessels for sea patrolling is more than satisfactory.

The EvalCom took special note of the following facts:

- The situational awareness and reaction capability of the maritime units of the Romanian Border Police are on the sufficient level in the present conditions. However, the vessels are mostly in the harbours in the readiness, not carrying out the active patrols at sea. Reaction capabilities of the helicopters are limited during night time.⁹
- The EvalCom recommends providing continuous training on actions in case of discovery of illegal immigrants at sea to all crews.
- The officer on duty has got the training for border police officers; however there was no further training provided regarding his duties in the VTS centre
- The EvalCom is of the opinion that there is still room of improvement in use of all possibilities provided by SCOMAR as in the moment of the visit by the EvalCom the system had been in use only short time and not all operators were fully aware of use of it.
- The number of the border police vessels was found more than sufficient. As these vessels have only one crew and stay most of the time in a harbour the EvalCom recommends considering decreasing the number of vessels which could provide for increasing of patrolling hours of remaining vessels and for more efficient use of the personnel.¹⁰
- The EvalCom recommends considering integration of data on situation at sea, produced by different surveillance systems maintained by the Border Police, the Naval Authority and the Navy to create single comprehensive situation picture at sea.

The EvalCom considers that there is room for improvement in the following points:

- The information of the arrival of cargo vessels which are bound for a Romanian port is received 24 hour before, but the real time of berthing is available only when a pilot embarks the vessel (approximately 1 hour before). The EvalCom recommends implementing of a procedure of providing information about the exact time of arrival of the cargo vessels in due time.
- Helicopters are used for border surveillance at sea very seldom. The EvalCom recommends considering increasing of flight hours for border surveillance. The EvalCom invites to equip all helicopters with VHF radio stations with marine channels for communication with commercial vessels and pleasure boats and with infrared or thermal cameras as well as daylight cameras, which will promote also efficiency of search and rescue operations.

⁹ RO: See footnote 1.

¹⁰ RO: See footnote 1.

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7. GENERAL CONCLUSIONS INCLUDING RECOMMENDATIONS AND FOLLOW-UP

- Border management in Romania is carried out according to the Schengen integrated border management concept and there are a national strategy for accession to the Schengen area 2008-1011 and a Schengen action plan.
- Responsibility for border control lies on a centralised and clearly structured public authority the Romanian Border Police subordinate to the Ministry of Administration and Interior with a direct and clear chain of command between the border police units at national, regional and local level.
- Border control is carried out by specialised and trained professional border police officers and agents. Border control which includes also risk analysis, intelligence and investigation follows the main recommendations and several best practices of the Schengen Catalogue. Military personnel are not engaged in border control activities.
- Border control is managed on the basis of a centralised planning system at all levels, supported by centralised resourcing, supervision and instructions for border control. Strategic and operational planning, allocation of personnel and technical resources are based on constant analysis of environment and threats.
- The EvalCom acknowledges active participation of Romania in FRONTEX cooperation and good level cooperation activities in the framework of the Black Sea Cooperation Forum. The EvalCom appreciates cooperation in blue border surveillance between Romania and Bulgaria in the framework of the EPN concept of FRONTEX.
- The Border Police units are well equipped with patrol vessels, means of transport and with communication devices. Communication system at the sea border provides for image, voice and data transmission.
- Border control, intelligence, risk analysis and investigation in the framework of border management respond to many recommendations and best practices described in the Schengen Catalogue. Border control is carried out by especially trained professional police officers and military personnel are not engaged in border control activities.
- There is generally clear understanding of the provisions of the Schengen Borders Code as regards border checks on maritime traffic. The EvalCom invites reconsider the procedure on border checks at the BCP Tulcea on third country nationals who are not obliged to have a visa.
- The EvalCom appreciates the comprehensive risk analysis system of the Romanian Border Police. The EvalCom stress the importance of fast and smooth dataflow from down to up and from top to bottom along the chain of command, as well as exchange of information between inter-agency authorities and neighbouring units. Tactical risk analysis in Tulcea as regards illegal immigration.
- Legislation on carriers' liability and administrative practice on imposing fines on carriers are not fully in line with the Council Directive 2001/51/EC of 28 June 2001.

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- Issue of transit visas to seamen is processed satisfactory. The experts were of the opinion that providing cruise passengers of Russian nationality with right to go ashore for 48 hours without a visa is not in line with EU visa policy.
- The EvalCom recommends providing the Romanian Border Police with access to the database of the Inland Waterways Administration on traffic via Black Sea-Danube and to other similar databases of the Inland Waterways Administration.
- The Common Core Curriculum of the Border Guard Training is currently in the stage of implementation within all education institutions of Romanian Border Police and approximately 80% of the content of the Common Core Curriculum has been implemented in the RBP training schools curricula and also in the Police Academy. The EvalCom invites the Romanian authorities to implement CCC fully. The EvalCom regards the e-learning system of the Romanian Border Police as best practice.
- The EvalCom found the number of the personnel of visited units sufficient. The EvalCom acknowledges deep knowledge of Schengen provisions by some border guards and found knowledge of these provisions at all visited sites satisfactory in the main. However, not all border guards were fully aware of provisions of the Schengen Borders Code. The EvalCom recommends continuing providing the personnel with additional thorough training on Schengen Borders Code and the Schengen Handbook.
- The EvalCom is of the opinion that the infrastructure for border checks and signposting in passenger terminals in the port of Constanta and in the port of Tulcea responds to requirements of the Schengen Borders Code and recommendations of the Schengen Catalogue and could be considered as best practice. The EvalCom invites the Romanian authorities to improve working conditions of the border guards in Tomis marina.
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- Equipment used for the first and the second line checks is mainly sufficient and modern. In the conclusions and recommendations on visited sites the EvalCom noted on some minor shortcomings which should be improved.
- The EvalCom is in the opinion that the currently implemented forms of cooperation between the Police and the Customs contribute positively to increase of security at sea border.
- The role of the Romanian Border Police in immigration control within the country is currently marginal. The EvalCom recommends considering increasing the role of the Romanian Border Police in these activities,
- The EvalCom is of the opinion that in general, taking into account availability of necessary resources, clear command chain, functional risk analysis system, good situation awareness and satisfactory reaction capability as well as good internal and international coordination and cooperation, border surveillance at the Romanian sea border is implemented in line with the Schengen Borders Code and the Schengen Catalogue.

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- The EvalCom acknowledges good level of training exercise observed by the experts and the skills of the crew as regards actions in case of discovery of illegal immigrants at sea. The EvalCom recommends providing such continuous training to all crews as well as continuous training in border control.
- The EvalCom found the integrated surveillance system SCOMAR efficient multifunctional and responding fully to the needs of the RBP. The EvalCom is of the opinion that the SCOMAR represents best practice. There is still room of improvement in use of all possibilities provided by SCOMAR as in the moment of the visit by the EvalCom the system had been in use very short time and not all operators were fully aware of use of its advanced functionalities.
- The situational awareness of the maritime units of the Romanian Border Police was found on the good level. The EvalCom recommends considering integration of data on situation at sea, produced by different surveillance systems, maintained by the Border Police, the Naval Authority and the Navy with aim to create a single comprehensive situation picture at sea. The EvalCom invites to consider possibilities of more active use of helicopters for sea surveillance and to equip helicopters with necessary observation and communication equipment for patrol and search flights at sea.
- The EvalCom found the reaction capability satisfactory in the present conditions. However, the vessels are mostly in the harbours in the readiness, not carrying out the active patrols at sea. Reaction capabilities of the helicopters are limited during night time.
- The EvalCom recommends considering decreasing the number of patrol vessels which could provide for increasing of patrolling hours of remaining vessels and for more efficient use of the personnel.
- The EvalCom is of the opinion that border control of the sea border in Romania is in the main carried out in accordance with the Schengen acquis. Several shortages noted by the EvalCom should be corrected or improved.