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- Draft report on AIR BORDERS

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Brussels, 9 March 2010

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RESTREINT UE

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## **REPORT**

from:	Air Borders Evaluation Committee
to:	Schengen Evaluation Working Party
Subject:	Schengen evaluation of ROMANIA
	- Draft report on AIR BORDERS

This report is based on Romania's replies 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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## Acknowledgements:

The members of the Evaluation Committee wish to thank the Romanian authorities and the staff of the Border Police at the airports visited for the good organisation of the visit and the cooperation and assistance provided by the staff on the spot in helping them to carry out their tasks during the visit.

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 and technical details for Schengen evaluations in 2009 (5160/1/09 REV 1 and subsequent REVs), experts carried out a Schengen evaluation of Romanian air borders.

Participants:

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The Evaluation Committee visited the following sites: Bucharest Henri Coandă International Airport and Timișoara International Airport. The EvalCom also paid a short visit to Bucharest Aurel Vlaicu International Airport.

### 2. MANAGEMENT SUMMARY

The evaluation report on Romanian air borders is based on replies to a questionnaire and to additional questions from the Member States provided by the 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 visit all the sites on the agreed programme. Throughout the report a number of recommendations are made, and equally, the EvalCom was able to identify several Romanian arrangements as best practice.

15 Romanian airports currently operate international flights. The air borders are not the most at threat from illegal immigration in Romania; however, there is considerable risk of illegal immigration at these borders too, especially taking into account the lifting of border controls at the future internal borders after Romania joins the Schengen area.

The EvalCom is of the opinion that border controls at Romania's air borders are, 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 management concept. 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 border management and of decision-making is clear. The responsibility for border control lies with a centralised public authority, the Romanian Border Police, which is subordinate to the Ministry of Administration and Internal Affairs, with a direct and clear chain of command between national, regional and local levels.

The EvalCom acknowledges that there is sound international cooperation with neighbouring Schengen countries and active participation by the Romanian authorities in FRONTEX cooperation. 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 personnel at the units visited sufficient and the necessary technical equipment was mostly available. The level of knowledge of Schengen provisions was found to be satisfactory. However, the EvalCom is of the opinion that there is still room for further improvement in border police officers' knowledge of Schengen provisions. There is clear understanding of the provisions of the Schengen Borders Code as regards border checks on air traffic. The EvalCom is of the opinion that the infrastructure for border checks meets the requirements of the Schengen Borders Code and the recommendations of the Schengen Catalogue in most cases; however, the future physical separation of Schengen and non-Schengen passenger flows could not be assessed properly since both the airports visited are currently under reconstruction. The reconstruction will cause considerable changes in infrastructure and border control facilities. The EvalCom calls for the construction work to be finished in good time and recommends that Bucharest and Timisoara airports be revisited before border checks are lifted at internal air borders

#### 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 external border (land, sea and air) and the Romanian external land border is one of the longest in the European Union. Accordingly, border management in Romania is important for internal security in the EU area of freedom, justice and security.

The border management system implemented in Romania is based on the principles set out in the Council Conclusions on Integrated Border Management of December 2006, the provisions of the Schengen Borders Code and the 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 the National Strategy) approved under Government Decision no. 324/28.03. 2007. The National Strategy takes into account the results of analysis of cross-border crime and the main trends in cross-border crime.

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

The implementing instrument of the 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 in the field.

According to the National Strategy, all the elements of the four-tier access control model have been adopted, and consist of measures in third countries of origin and transit of illegal immigration, a 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 the competent authorities at all levels. Resources for border control are deployed along the border on the basis of the threats identified and in pursuance of the plans for border control. If the operational situation changes due to the emergence of new threats the relevant relocation is carried out.

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

Romanian authorities cooperate actively with FRONTEX and with other Member States to improve effectiveness and to achieve uniformity of border controls.

As far as compensatory measures after the abolition of border control at internal borders are concerned, Romania has planned 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 a modification of the tasks of the remaining structures at the internal border.

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

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

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

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

Border surveillance between border crossing points is carried out with aim of preventing unauthorised border crossings, countering cross-border crime and taking measures against persons who have crossed the border illegally.

#### 3.1.3. Analysis of environment and threats

Romania has 2070,6 km of EU external borders, with Ukraine, the Republic of Moldova and Serbia. There are 1877,1 km external land borders with 25 border crossing points (BCPs) and 193,5 km of sea borders with 4 border crossing points. 15 airports operate international flights and have border crossing points.

The main threats that may affect border security are:

- illegal migration and trafficking in human beings;
- trafficking in counterfeit goods;
- smuggling of goods and trafficking in cigarettes;
- illegal trafficking in arms, ammunition, explosives and radioactive materials;
- trafficking in drugs and drug substitutes;
- stolen vehicles.

According to Romania, it is a country of transit for illegal migrants, which is reflected mostly at the land borders. 8140 illegal border crossings or attempted crossings were detected by the Romanian authorities during 2005-2007. The annual number of illegal border crossings (attempts) detected has decreased from 3749 cases in 2005 to 1611 cases in 2007. 90-93% of all cases occurred at land borders

#### Routes used by illegal migrants

- Routes used by people from Turkey: they enter with short-stay visas and leave Romanian territory illegally for Hungary Austria Germany.
- Routes used by Afro-Asian people: they enter with short-stay visas or illegally over the eastern or southern border (when they enter this way they apply for asylum) and then they leave illegally on the following routes: Romania Hungary Austria Germany or Romania Serbia Bosnia Italy.
- Routes used by people from the Republic of Moldova: they almost always enter legally and then try to leave Romania hiding in trucks or using forged passports/visas on the following routes:
  - to Germany via Hungary, Slovakia and the 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 countries of origin of illegal immigrants from third countries are the Republic of Moldova (1367), Turkey (771), China (155), Ukraine (130) and Serbia (122).

The EvalCom is of the opinion, based on the statistics presented by the Romanian authorities, that the air borders are not the most at threat in Romania as regards illegal border crossing and illegal immigration.

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

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

Cooperation with third countries (countries of origin or transit 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 (ILOs).

Cooperation with the neighbouring countries Serbia, the Republic of Moldova and Ukraine includes:

- cooperation between border delegates which allows mutual assistance in border issues, exchange of information and statistical data, and joint evaluation of the cases identified at the common border. There are no border delegates on the border with the Republic of Moldova. Exchange of operational data with the Republic of Moldova is carried out on the basis of a protocol signed between the border guard authorities;
- drafting annual cooperation plans and implementing them. The EvalCom notes that no cooperation plan for 2009 was signed with the Republic of Moldova;
- signing framework agreements in the field of local traffic regimes. However, no agreements on local border traffic were in force in the time of the visit<sup>1</sup>;
- organising joint patrols at the common border, which are currently carried out together with the Ukrainian Border Guard;
- carrying out information exchange through joint contact points. There is a bilateral contact point with the Ukrainian authorities in Siret-Porubnoe.
- joint investigations in illegal migration cases; and
- providing common training in matters of mutual interest such as border control, police cooperation, joint investigations, etc.

Romanian border authorities also cooperate with their Serbian and Moldovan colleagues in European initiatives such as the 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 annual cooperation plans, signing and implementing police cooperation agreements, signing and implementing border agreements to establish common control in the BCPs, the "one-stop control" model, setting up joint contact points, carrying out common patrols, joint investigation of border incidents in border issues, joint evaluation of the border situation and organizing common training sessions on border issues as well as for the improvement of language skills.

Romania is widely involved in multilateral and bilateral cooperation with other EU countries, signing and implementing cooperation agreements on combating cross-border crime, especially in combating illegal migration, exchanging intelligence and information, participating in joint investigation teams, participating in EUROPOL, FRONTEX, SECI, INTERPOL and ICE, organizing joint training sessions and carrying out cooperation between internal affairs attachés/liaison officers

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

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

RO: An agreement on local border traffic was signed with the Republic of Moldova on the 13th of November 2009, in Bucharest, and ratified on 22.01.2010.

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

- An important instrument of multilateral border guard cooperation between the Black Sea coastal states is the Black Sea Cooperation Forum, based on the Cooperation Agreement between the Border Police / Coast Guard authorities of the Black Sea states which was signed in 2006.
  - 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 cooperation with FRONTEX and in activities carried out by FRONTEX. The General Inspectorate of Border Police:

- represents Romania on the Management Board of 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 borders, maintained the Focal Points in Iaşi and Galaţi, organized a joint operation at the Black Sea in cooperation with Bulgaria and was involved in 4 other sea border operations with approximately 12-14 experts and in 5 air border operations, hosting 2 of them;
- participates actively in training provided by FRONTEX;
- regularly submits information for 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 the 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), subordinate to the Ministry of Administration and Internal Affairs 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 subordinate structures and carries out activities of investigation and inquiry into 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 Internal Affairs, 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 units or specialized in specific related issues.

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

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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 the activities of local units and representing the RBP in relations with similar institutions in neighbouring countries.

At the local level, each border police county inspectorate has under its authority **border police sectors** which are directly responsible for 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.

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

Of 75 operational BCPs, 51 are located on the EU external border.

Some structures with specific tasks are directly subordinate to the GIBP:

- The Operative Directorate for Maritime Ports, with its headquarters in Constanta Harbour, has responsibilities for preventing and countering illegal migration and cross-border crimes identified in the maritime and tourist harbours on the Black Sea.
- **4 training institutions**: the "Avram Iancu" Border Police Agents School in Oradea, the Initial and Continuous Training School in Constanţa, the Initial and Continuous Training School in Iaşi and the Training School in Orşova

The National Customs Authority (NCA) is subordinate 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 goods constitute a threat to national security (e.g. drugs, weapons) the RBP is entitled to perform checks with immediate notification of Customs. The mobile teams carry out their activity over the entire national territory, including the special customs surveillance area, which corresponds to the area of responsibility 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 illegal immigration is carried out by the Inter-ministerial Group for the Integrated Management of the Romanian State Border (IGIMRSB)

The IGIMRSB is an advisory body within the Ministry of Administration and Internal Affairs, formed of state secretaries from the ministries and authorities in the field of defence, public order and national security authorized to carry out activities for securing the state border, and also of heads of directorates within the MAI. The Group establishes the overall concept 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.

Government Emergency Ordinance no. 105/2001 on the Romanian state border provides that border control should be carried out in joint teams by 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 practical cooperation between RBP and NCA structures. However, both authorities have their own tasks, which are not shared.

The practical inter-institutional cooperation framework is empowered by co-operation protocols between the agencies with responsibilities 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 one-off actions.

The General Inspectorate of Border Police cooperates with the central public administration authorities, judicial institutions and 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 subordinate to the GIBP co-operate with local public administration authorities, judicial institutions, other state institutions and 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

The manpower of the Romanian Border Police consists of 16740 officers and agents and 1462 civilians. In August 2009 86% of officers' posts, 94 % of agents' posts and 80% of civilian posts were filled.

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. The main attention is paid to the future external borders of the EU (the 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 of service. Also, the shift leader has the possibility to relocate 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, stationary light sources and magnifiers. BCPs are in possession of sufficient numbers of Schengen-compatible entry and exit stamps. For this purpose, 1004 stamps have been manufactured and distributed to the BCPs.

Sophisticated modern equipment such as video spectral comparators and docuboxes is used for thorough examination of travel documents at the second line. The 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 the port of Constanţa and also 14 Border Police County Inspectorates are equipped with EURODAC terminals. The FADO system is fully implemented at the Forensic Service within the GIBP.

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

Since 2007 the Romanian Border Police has been using 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.

#### Communication equipment:

Police units are well equipped with communication devices. The 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, and receivers for video images transmitted from helicopters.

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

#### 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, including 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 the necessary connections have not been established yet and the relevant acquis has not been issued for Romania; however, relevant national databases are consulted regularly.

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

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

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

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

Situational awareness, which is needed for planning and carrying out border checks at airports, is maintained by information exchange within the Border Police, with airport authorities and air carriers and also by the availability of different databases used for risk analysis and by a clearly defined risk analysis system.

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

Allocation of human and technical resources in Romania is based on an independent assessment of the operational situation in the respective area of responsibility by the respective border police leader and his/her specific decision for the practical implementation of the protective activities to be undertaken. The EvalCom is of the opinion that the necessary human resources are available.

### 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 one of the major police values in Romania. Risk analysis structures have therefore been created within the central, regional and county headquarters of the Romanian Border Police. The 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 subordinate to the Directorate for Combating Illegal Migration and Countering Cross-border Crime within the GIBP. The personnel of the unit consists of 5 officers and 3 border police agents. The Risk Analysis Unit of the GIBP is a member of the FRONTEX Risk Analysis Network.

At the local level there are there are Risk Analysis Departments of 2 border police officers within each county inspectorate. Also, at the International airport of Bucharest – Otopeni a department specialised in risk analysis in the field of air borders carries out specific tasks in the Centre for Airports Surveillance and Border Checks, with a staff of 3 officers. In the sea border area, the Risk Analysis Office within the Operational Directorate for Maritime Ports has been set up in Constanţa, 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 the co-operation protocols of the 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 Police, Border Police and Customs centres. There are 5 such joint centres currently.

#### 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 the border, and false and forged documents used for entering the territory illegally.

The procedure of risk analysis is based on CIRAM, which provides the 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 basis of the following:

- Data and information from the Romanian Immigration Office, *eReporting* and *i2 iBase5* databases;
- Quarterly/ biannual/ annual FRONTEX risk assessments;
- Statistical data from ICOnet:
- Data supplied by the Romanian Immigration Office on asylum applications and on cases in which third country nationals have been found to be staying illegally in national territory.

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

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

The final documents on risk analysis are distributed monthly 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. The available databases are used for tactical risk analysis.

#### 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 draft monthly analyses 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 are drafted on the same issues.

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

#### 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 at 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 analyses on illegal migration and on cigarette 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 summary reports on 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 officers:

- extract statistical situations, centralized or structured by RBP level (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 suspect management and information analysis, aimed at detecting and combating crime and fraud by analyzing information from 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 an analysis tool and allows risk analysis structures to exchange information in real time.

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

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 the justice, public order or national security fields. 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 exchange can also be carried out upon written request, or within a joint investigation team (Romanian Police and Romanian Border Police / National Customs Authority), whenever such a team is constituted.

The Romanian Immigration Office exchanges information concerning illegal migration in real time with other institutions operating in the same field (Border Police, National Police). The RIO collects, stores, processes, uses and ensures exchange of data and information on migration routes and illegal aliens, as well as on aliens 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 is punishable by 3 months to 2 years imprisonment. If the offence was committed in order to elude punishment it is punishable by 6 months to 3 years of imprisonment. A person who has crossed the Romanian state border illegally will be banned from entering Romania for 5 years.

If a person has been declared undesirable or banned from entering or staying in Romania and has crossed the Romanian border illegally, he/she will be sentenced to 2 to 6 years of imprisonment. If the offence is repeated, the person will be sentenced to 3 to 7 years of imprisonment.

Recruiting, directing or guiding one or more persons in order to cross the state border illegally, and also organising this activity, is an offence punishable by 2 to 7 years of imprisonment.

The following deeds are to be considered minor offences:

• employment of an alien without a work authorization or work residence permit, sanctioned by a fine from RON 1,500 to 2,000 (approximately EUR 405 to 540). The fine cannot exceed RON 100,000 (approx. EUR 27,027);

• keeping an alien employed after expiry of the relevant work authorization, sanctioned by a fine from RON 1,500 to 2,000 (approx. EUR 405 to 504). The fine cannot exceed RON 100,000.

Also, according to the provisions of art. 141 of G.E.O. no. 194/2002 on the aliens' regime in Romania, the facilitation of illegal residence of aliens in Romania is an offence to be sanctioned by 6 months to 5 years of imprisonment. If the deed mentioned above was committed by two or more persons or has caused serious injury to the alien's life or to his/her physical integrity, the deed is to be sanctioned by 2 to 8 years of imprisonment. If the deed has caused the alien's death, the sanction is to be 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 sanction is to be increased by 3 years.

According to the provisions of art. 71 of G.E.O. no. 105/2001, recruiting, directing or guiding one or more persons in order to cross the state border illegally, and also organising this activity, are offences punishable by 2 to 7 years of imprisonment. Being associated or initiating 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 is punishable by 3 to 10 years of imprisonment. Attempting to commit these offences is also punishable.

## 3.5.2. Organisation

Government Emergency Ordinance no 194/2002 on aliens' regime in Romania also regulates 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 a specialized structure subordinate to the Ministry of Administration and Internal Affairs and Administrative Reform, exercising responsibility under the law for the implementation of Romanian policies in the field of migration, asylum and integration, as well as of the relevant legislation in these fields.

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

- detecting illegally resident aliens in places and areas frequented by aliens, in public and private institutions and on the premises of private economic enterprises.
- identifying aliens who have been found to be illegal residents, carrying out thorough checks on databases so see what legal measures can be imposed on them, within a timeframe of 24 hours from detection;

In the course of their activity, RIO police officers cooperate with other structures within the MAI, as well as with other governmental agencies with responsibilities in the field of aliens. There are cooperation protocols between the 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) and with other governmental agencies: the Work Inspectorate within the Ministry of Labour, the 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 action performed in the area of its competence. Cooperation between the two institutions is based on cooperation protocols concluded both at central and local level.

The agreements provide the framework for inter-institutional cooperation, along the following lines:

- common activities aiming to identify, apprehend and remove illegal aliens
- electronic data interchange (file transfers, ensuring access to IT applications)
- information exchange regarding operational data
- mutual assistance; exchange and sharing of 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 groups of
  illegal migrants, foreigners involved in cross-border document forgery and support for 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 immigration policy is concerned, these attachés are considered by the Romanian authorities as immigration liaison officers (ILO). Home affairs attachés are seconded to the following countries of origin of illegal immigration: the Republic of Moldova, Turkey, Ukraine, Serbia, Russia and the 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 the 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 Prosecutor's Office, 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 the task of establishing and maintaining 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 the EU originating from third states or transiting through third/EU countries is a part of their duties as 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 active mainly in the field of combating illegal migration related crime (illegal border-crossing, trafficking and smuggling human beings and counterfeiting or falsifying: visas, residence permits, identity and travel documents).

The procedures applicable in cases of illegal border crossing are based on the regular principles to be applied in any case of criminal activity and have their foundation in the Criminal Procedure Code. After the apprehension of illegal immigrants, the border police carries out:

- a 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 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.

Detained persons are driven to headquarters, where verification and investigation is carried out, including a 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 groups of illegal migrants, foreigners involved in cross-border document forgery and support for 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 the following main tasks:

- carrying out border checks and border surveillance
- enforcing the legal regime of the state border and surveillance and control of border signs;
- performing control of weapons, ammunition, 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 within its competence, carrying on investigations into these criminal offences; and
- ensuring public order at state border crossing points and, upon request from other state authorities, taking part in joint operations organized in localities near the border area.

The RBP has the following additional responsibilities at the blue border:

- observing compliance with the Romanian state's rights in territorial waters;
- preventing and countering piracy, terrorist acts and organised crime activities in Romanian territorial waters;
- performing controls on boats and vessels together with environmental territorial units in cases of pollution;
- taking part in surveillance, control, protection and preservation of natural hunting and fishing within territorial waters;
- performing search and rescue operations in territorial or international waters; and
- preventing foreign vessels from entering certain areas in territorial waters or navigable river channels, together with 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 must have Romanian citizenship and a domicile established in Romania:
- he/she must have graduated from high school:
- he/she must be a maximum of 27 years old;
- he/she must have been declared able, from a physical, psychological and medical point of view, following specific examinations;
- he/she must not have a criminal record or be under criminal investigation or on trial for having committed a crime;
- he/she must not be a member of a political party or of any other type of organisation of a political character.

#### 3.6.4. Basic training

Basic training for 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, in line with the policies and procedures generally applicable at 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 subordinate 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 inspector.

The curriculum for the students of the Police Academy includes:

- training in the judicial field;
- special training: border police theory and tactics, legal protection of human rights, technical systems of border control, the history of the Romanian borders and of the Border Police, cross-border cooperation, border police management, Schengen legislation and practices, the basis of intelligence activity, investigation of cross-border criminality, public relations;
- shooting and physical training and IT training;
- foreign language 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 Orşova, the Initial and Continuous Training School in Constanța and the Initial and Continuous Training School in Iași during two-year regular courses. Graduates get the professional rank of border police agent.

The curriculum is focused on further competences, providing 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 MAI's 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.) and the rank of police junior inspector.
- by the "Mircea cel Bătrân" Navy Academy in Constanța. After four-year regular courses the graduates get a degree in navy specializations needed for Border Police and the rank of police junior inspector.
- by the Warrant Officers Military School of the Navy. This school provides training for Border Police agents in technical specializations such as: the navy, weapons, communications, radio-electronics and electro-mechanics. Commissions are given following two-year regular courses. Graduates obtain the rank of Border Police agent.

Basic training for newly recruited external staff is delivered during 4 - 12 month courses at 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 at the implementation stage in all educational institutions of the Romanian Border Police. The relevant provisions were also included in the continuing 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 continuing training includes training delivered by the border police units, training provided by specialized educational institutions and self – training.

The training delivered by the border police units for both border police officers and agents aims to give thme 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 time allotted for specialised training activities is 12 18 hours/term. There is also on-the-job training from leaders.
- Shooting training, physical training (4 h/week; intensive 6h/week; special 10h/week),
- Tutorial programmes and professional guidance designed to ensure the professional and social integration of the police probationers and students, and to develop the 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. The Training School in Orşova provides continuing training for border police agents in Schengen-related areas, foreign languages, IT and communications and use of databases). Continuing training is also provided by the Constanţa and Iaşi training schools.

Regular further continuing training courses are provided in:

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

#### 3.6.6. Language training

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

Within each structure of the RBP (GIBP, BPD, CIBP) there has been a survey of the staff's foreign languages skills. In order to cover the lack of knowledge of foreign languages, a plan for improving the situation is being drafted at the level of the ministry. It covers 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 continuing training, organized in the RBP units for the detection of forgeries in documents and visas. This training is carried out by trainers from the initial and continuing training schools or by the document experts of the regional and local units of the RBP;
- by trainers with operational responsibilities at the border crossing points;
- by trainers from marine structures which carry out examinations of 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 promotion, holding managerial positions, changing the line of work).

## 3.7. Readmission, expulsion and illegal immigration, carrier liability

#### 3.7.1. Administrative structures and coordination

Readmission agreements have been signed with 23 Schengen States, three EU Member States and eight third countries (Albania, Bosnia and Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia, India, Lebanon, the Republic of 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 for refusals of entry is implemented as set out in the Schengen Borders Code and the relevant 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 the 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).

An alien who applies for a form of protection in Romania has to remain in the transit area of the border crossing point until she/he receives a decision allowing entry or until the final decision rejecting the asylum application, but no more than 20 days after she/he entered the transit area. If, on expiry of that period the asylum application has not been settled by a non-appealable decision, the alien will be allowed to enter Romania.

Asylum seekers may be accommodated at special accommodation centres near the border crossing points, with the legal regime of the transit area. There also are 5 open centres for the reception of asylum seekers. From the time moment of submission of the 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 with 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. Law no. 122/2006 on asylum in Romania also provides for an asylum procedure at the border.

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

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

The alien can lodge a complaint against the decision rejecting his asylum application two days after the communication of this decision. This complaint has to be lodged with the RIO structure which issued the decision, which will forward the complaint to the competent court. The court will deal with the complaint in 5 days and will deliver a grounded decision, by which it admits the complaint, grants entry to Romania and holds the case for resolution through the ordinary procedure or upholds the decision of RIO.

If the asylum application is rejected by non-appealable 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 to be 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 for organizing and implementing all the necessary measures to ensure the return of illegally resident third country nationals and the actual implementation of transfers based on the Dublin Regulation.

The legal framework which ensures the removal of illegal alien residents is the Government Emergency Ordinance no. 194/2002 on the 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 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, air ticket, etc.) to insure that he/she will leave Romanian territory within the time limit provided for in the return decision. The prerequisite for voluntary return is that the alien's identity is certain.

The decision on return under escort (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 an "undesirable person" on Romanian territory on national security or public order grounds;
- the expulsion is provided for 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 residence on Romanian territory cannot prove his/her identity.

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

Over 90% of 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 aliens concerned apply for asylum after the measure of return under escort has been ordered).

If the measure cannot be implemented within 24 hours (due to a 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 obtain a travel document.

The return decision can be appealed within 10 days from the date the alien concerned acknowledges 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 within 24 hours, the alien will be taken into public custody for a period of 30 days, based on a decision taken by a prosecutor upon RIO's request. The period of public custody can be extended by 5 months upon request by the RIO to the Bucharest Court of Appeal.

The aliens who cannot be returned/expelled may be granted tolerance status on Romanian territory. Tolerance status is not equivalent to a right of residence on Romanian territory and it ceases when the reasons for granting it are not longer fulfilled. Tolerance status is granted for a period of up to 6 months which may be extended for further periods of up to 6 months until the disappearance of the causes. The territorial validity of tolerance status is limited to the area of responsibility 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 coordinating the identification and investigation of illegal migration and cross-border crime, and activities related to prevention and countering of illegal migration and countering cross-border crime; it coordinates risk analysis activities at the level of the RBP, and performs forensic activities as well as the experts specialized in false or falsified documents in the border zone.

The EvalCom was told that responsibility for investigating trafficking of human beings was taken away from the Romanian Border Police in May 2009. The experts found that currently the Romanian Border Police personnel at the airports evaluated gets little or no information on human trafficking cases after these cases have been referred to the national police by the prosecutor.<sup>1</sup>

#### 3.7.6. *Implementation of carrier liability*

According to the provisions of Article 7 (carriers' obligations) paragraph 1 of G.E.O. no. 194/2002, carriers are forbidden to bring in aliens who do not fulfil the entry conditions for Romania. According to the provisions of Article 7 paragraph 2 and 3 if a carrier fails to comply with the above obligations it must ensure and bear the cost of the immediate transportation of the respective aliens to the place of embarkation or to any other place which the aliens have accepted or where they are accepted. If this is not possible, the carrier has to bear all the expenses for accommodation, subsistence and other expenditure related to their return.

These obligations are also applicable to carriers bringing aliens in transit to Romania, if the carrier that is to transport them to the country of destination refuses to embark them or if the authorities of the country of destination refuse the aliens entry and return them to Romania.

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

this crime.

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

specialized body within the National Police coordinating and monitoring all aspects related to

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RO: The Romanian Border Police has responsibility for investigating the smuggling of migrants, meaning a person or a group of persons which resort to the services of a guide in order to be taken across the border. The RBP has a general police responsibility for detecting offences, including trafficking in human beings; after completion of the preliminary investigation the prosecutor has to be notified, who will decide upon the competent authority to continue the investigation and the necessary measures to be taken.

The Romanian Border Police's responsibility for cases of persons found crossing the border for exploitation purposes (trafficking in human beings) has been transferred to the National Police due to the fact that the National Agency against Trafficking in Human Beings is a

#### 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 management model and there is a national strategy for accession to the Schengen area 2008-2011 and a Schengen action plan.
- Responsibility for border control lies with a centralised and clearly structured public authority, the Romanian Border Police, which is subordinate to the Ministry of Administration and Internal Affairs with a direct and clear chain of command between 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 also includes 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 the environment and threats.
- There is 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 for border guard training is currently at the implementation stage in all educational institutions of the 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 on the following points:

- The national legislation on the implementation of carrier liability is not fully in line with Council Directive 2001/51/EC of 28 June 2001 as regards applicable sanctions.
- 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.

#### 4. BUCHAREST HENRI COANDA INTERNATIONAL AIRPORT

#### 4.1. General information

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

Bucharest Henri Coandă International Airport is the main Romanian airport for domestic and international flights and holds more than 55% of total passenger traffic in Romania. At the airport there are 52 check-in counters and 10 boarding gates, out of which 5 are air bridges. There are plans to expand the number of boarding air bridges to 14, streamlining traffic connected with the two terminals. This will involve enlarging the International Departures and Schengen Terminals (about 19,600 sq. m) systematisation-related work outside the east side and access roads (about 5,000 sq. m), as well as the International Arrivals and Schengen Terminals (about 500 sq. m).

If the new terminal is not ready in time there is a contingency plan to ensure the Schengen requirements are met, as an intermediate solution for lifting air borders.

Henri Coandă Airport BCP is a specialized organisational structure within the Centre for the Surveillance and Control of Border Crossing at the Airport of Bucharest – Otopeni (CSCBCABO). The CSCBCABO also covers Banesea BCP (Airport Aurel Vlaicu), and units for Combating Illegal Migration, Combating Transborder Crime, Risk Analysis, Criminal Investigations and International Cooperation. The Centre ensures second-line and administrative activities for both Henri Coandă BCP and Aurel Vlaicu and coordinates how subordinate structures perform checks at border crossings.

During recent years the number of passengers has increased from 3.513.576 in 2006 to 5.064.230 in 2008. Due to the economic crisis in 2009 the number is assessed to be only 4.460.000 passengers. The number of non-Schengen passengers was 1.9 million in 2008 and the estimate for 2009 is 1.5 and for 2010 1.4 million passengers. This will be a little over 30% of the total passenger flow. Currently flights are operated from 21 non-Schengen destinations, inter alia Amman, Istanbul, Izmir, Beirut, Chisinau and Syria.

There were 131 illegal border crossings (84 in 2008), 35 forged documents (33 in 2008), and 4 cases of trafficking in human beings (16 in 2008) discovered at Henri Coandă Airport BCP in 2009.

Taking into account the number of flights from third countries which are regarded as countries of origin or transit for illegal immigration, the threat that Henri Coandă Airport could be used for smuggling persons and trafficking in human beings is obvious.

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

A dedicated unit of the Border Police is responsible for border control at the Border Crossing Point. Border control is carried out on the basis of risk analysis and also includes intelligence and criminal investigation. Border checks are carried out in compliance with the Schengen Borders Code, the Schengen Handbook and the Schengen Catalogue.

The personnel work shifts lasting 12 hours. Each shift is responsible for border control and for some other activities, such as access control, securing the detention room, transit area patrol and aircraft control. Depending on the operative situation, the shift leader can supplement the number of agents.

The EvalCom was told that a joint team has been established to carry out inter-agency cooperation including border police and customs officials, representatives of air companies and handling agents, human-health and veterinary personnel. In order to fight and prevent crimes in its area of competence, the Border Police cooperates with the local units of the National Police and the Intelligence Service.

Border Police and Customs cooperate on a daily basis and have action plans for flights which are subjected to thorough checks. Monthly meetings also are organized in which both institutions analyze their activities, the traffic as well as the co-operation process, the efficiency of control, the problems encountered, etc.

Since 2005 the Romanian authorities have had Trident offices for carrying out inter-agency cooperation between the national police, border police and customs. One of these offices is located at the airport. Its main task is combating cross-border crime related drug trafficking and economic crimes. It does not deal with cases of human smuggling or trafficking of human beings.

The BCP uses the Romanian ILOs network via the International Police Cooperation Centre in Bucharest.

Personnel of the BCP have participated in 12 FRONTEX coordinated joint operations during 2008 -2009. The BCP has also hosted three joint operations, namely Silence, Hammer phase 4 and Hammer phase 5.

#### 4.1.3. Risk analysis and intelligence functions

A risk analysis unit of three police officers was created at Otopeni Airport in 2009. Its main purpose is to prepare operational risk analyses on passenger flow via Bucharest airport. The unit also carries out risk analysis using E-reporting, ENO and other databases, and draws up documents regarding the risk indicators and the risk profiles at the airport.

The risk analysis is based mainly on the strategic risk analysis carried out by the Risk Analysis Service of the GIBP, and also on other information from the Romanian Border Police. The operational risk analysis is carried out once a month or for shorter periods, according to the operative situation. Since 2009 the combating of trafficking in human beings is a responsibility of the national police and the risk analysis group at the airport is not informed about this process any more.1

The unit drafts risk analyses and documented materials on the operative situation and on the passenger flows from third countries with migration potential which are distributed to the personnel. All the material is available on the computers in the first and second line and is constantly updated. The documents are presented to the personnel at the beginning of the shift and during the monthly training sessions.

<sup>1</sup> <u>RO</u> : See footnote	2.
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The operative officers carry out risk analysis based on the information received through the eAPIS on each shift. Information on third country citizens received through the eAPIS system is subject to thorough checks in the second line which are carried out with the information obtained from the operative risk analysis.

### 4.2. Infrastructure and equipment

#### 4.2.1. Signposting

The EvalCom found signposting not fully in compliance with the Schengen Borders Code as the colour scheme of the "All passports" pictograms did not follow the model sign set out in Annex III to the Schengen Borders Code. In addition, signs on the booths currently in use were rather too small, which made it difficult for passengers to identify clearly the right lane.

In addition to the model signs set out in Annex III to the Schengen Borders Code there were signs marked "Diplomats" and "CREW" for indicating lanes for border checks on diplomats and crew members. All signs were illuminated allowing quick redeployment of control lanes.

### 4.2.2. Separation of flows

The terminal operating international flights currently handles both Schengen and non-Schengen passengers. Domestic and international flights are physically separated. A transit zone is not provided.

The EvalCom was informed that overall reconstruction and extension of the terminal will take place in the next few months. The new airport infrastructure will provide for physical separation of Schengen and non-Schengen flights. The future non-Schengen terminal (both arrivals and departures) will be located on the ground floor, in place of the current domestic terminal, whereas Schengen arrivals will be handled on the first floor of the building (current international arrivals). Schengen departures will be organized in another building (current international departures).

Under the contingency plan no transit zone will be provided for non-Schengen/non-Schengen transit. Passengers will be taken by bus from the arrivals part of the non-Schengen terminal to the departures part. The future terminal, which is under construction, will be provided with a transit area.

#### 4.2.3. Lanes for checks

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 numbers of control lanes could be provided for persons enjoying the Community right of free movement and to all other persons. Separate lanes are designated for border checks on crew members and on diplomats.

#### 4.2.4. Control facilities

There are 12 control booths (4 on exit and 8 on entry) in place in the current terminal for international flights. At the time of evaluation, in the future non-Schengen area (in which domestic flights are processed today), two of these booths were located on the departures control flow and 2 booths on the arrivals flow to demonstrate the future situation. Each booth is designed with two workstations, however, at arrivals they were furnished with one set of equipment and manned by

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one border guard only. There is no separation between the booth and the ceiling (open space of about 2 meters). All the booths are fitted with locks to make them inaccessible when they are not in use. However, there are currently no barriers or doors between the booths.

All control booths provide for frontal observation of passengers in the queue. However, on entry only booths number 1 and 2 have enough space in front of them for observation of the passengers in the queue for profiling purposes. Passengers approaching the border checkpoint are stopped in front of control booths by stop marks. Monitors are not viewable from outside the booth.

The EvalCom was shown a model of the booth in the future arrival and departure part of the non-Schengen terminal. Each such booth was equipped for two border guards. The booths reached from the floor to the ceiling, facing the direction of the future passenger queue, and were fitted with locks to make them inaccessible when not in use. Further, lockable doors were installed between the booths.

The second line offices are situated just next to the first line.

There was no control booth in the general aviation terminal and a room without windows, equipped with a table and a chair, was designated for border checks. The door of the room, when opened, caused an obstacle to the movement of passengers.

#### 4.2.5. Equipment: first line, second line, mobile

All booths in the first line were equipped with computer terminals, optical passport readers, fixed UV lamps and magnifying glasses (4x, 6x or 8x magnifying power). Each border guard on duty had an entry or exit stamp. The construction and design of the stamp was found to be in compliance with the relevant specifications. However, the colour of the stamp-ink was found difficult to indentify (black-reddish) in some cases.

The second-line office was equipped with a VSC4 PLUSvideo-spectral comparator and identification material for travel documents and stamps..

Another room for further examination of documents is situated in the non-public area. This room is equipped with another VSC4 PLUS video-spectral comparator, a Stereo Discovery microscope (40x), a printer, a copy-machine and a scanner.

#### 4.2.6. Communication

Border control facilities were provided with access to computer and internal phone networks. In addition, some border police officers outside the booths were equipped with radios working on the police network, which is based on the TETRA standard.

The second line can receive information from the first line not only by phone but also by an alert transmitted by the intranet.

#### *4.2.7. Transportation and mobility*

The EvalCom was told that there are cars of various kinds available at the BCP . The EvalCom found the number of cars fully satisfactory.

#### 4.2.8. Access control / fencing

The entire perimeter of the airport is fully fenced. The Perimeter Protection System includes 22.3 kilometres of sensor fence and 1.7 kilometres of fibre-optic perimeter fence.

Access control is carried out by a private security company employed by the airport administration. The EvalCom was told that access control on pedestrians and cars is through gates with limited access. Access is granted on the basis of special proximity cards. The proximity readers have an automatic recognition system.

#### 4.2.9. Detention / readmission premises

The EvalCom visited a facility for temporary detention. It consisted of two rooms (one for men, another for women), each for two persons. They were located on the ground floor of the terminal. Relevant security measures were implemented. The facility was provided with the necessary rooms for hygiene purposes. The EvalCom was informed that a detainee can be kept in the facility for max. 24 hours.

Next to the detention facility there was a closed facility for asylum seekers which included two rooms with 3 beds in each. The facility fulfilled both security and hygiene conditions.

In addition, two rooms (men, women) were prepared for future use at the place next to the control booths on future arrivals for persons who were refused entry and had to wait for the return flight. These rooms are intended to be neither locked nor guarded.

#### 4.2.10. Storage of blank visas

Blank visa stickers were stored in a locked room adjacent to the office of the duty officer. Only the duty officer and his deputy have access to this room. Blank visa stickers were kept in a locked and sealed metallic safe. Any operation with a blank visa sticker is registered in a logbook. At the time of the visit 42 blank visas were stored in the safe.

#### 4.2.11. Storage of entry and exit stamps:

Entry and exit stamps were stored in the same room and under the same conditions as blank visas. The stamps are handed out to the border police personnel by the duty officer. Stamps are not personal; however, each shift (four shifts altogether, 20 border guards in each) has its own set of 20 stamps (10 entry, 10 exit stamps) which are stored in separate boxes. Issue of stamps for use was registered in a logbook and signed by border guards. The duty officer provided a complete list of the stamps to the EvalCom.

#### 4.3. Controls and procedures

#### 4.3.1. Traffic handling / traffic modes

For the planned date of Romania's accession to Schengen in March 2011, the initial intention of the Romanian authorities is to use the current domestic terminal for non-Schengen flights. All infrastructure will be on the ground floor, with one line of booths for exit checks and another line of booths for entry checks. Arriving and departing non-Schengen passengers will be separated.

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Non-Schengen transiting passengers will have to be brought to the transit area by bus from the arrival gate.

At departures, four booths with a total of 8 working positions, one of them exclusively for crews and diplomatic passports, will lead to the transit area, which has only bus gates.

At arrivals, passengers encounter a first booth for crews and persons with reduced mobility, and later on, a line of four booths with 8 working positions. These arrivals take place through only one bus gate. The EvalCom was told that all buses with non-Schengen passengers are escorted by a car of the Border Police.

After enlargement work on the terminals which is planned to be completed at the end of 2010, the situation will be completely different, with the non-Schengen area at the end of the current international terminal. Non-Schengen arrivals and departures will be separated on different levels and out of the 5 non-Schengen gates, 2 could also be used for Schengen flights.

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

Checks were carried out professionally and on the whole in compliance with the Schengen rules.

Persons enjoying the Community right of free movement were subject to minimum checks as set out in the Schengen Borders Code. Minimum checks also consist of verifying the security features of a travel document, with the additional aid of UV light. Databases are consulted randomly. The number and nationality of these passengers are entered in the eSIF.

Third-country nationals were subject to thorough checks which also included systematic consultation of databases. Data was usually inserted manually since the optical passport readers were said to be unreliable. Information is introduced into the Romanian entry-exit system. Reasons for entry and financial means were checked, asking for supporting documents and return tickets. The duration of previous stays was not counted. Profiling at the first line, in order to determine the depth of the verification process, was not optimal. Romanian visas were checked against the electronic national visa registers.

Stamps on visas and in passports of third country nationals were affixed regularly. However, the experts noticed that some border guards affixed stamps on previous stamps and in some passports the stamp was affixed on the machine readable zone of the visa.

CCTV cameras are used for recording all activities at the workstations at the first and the second line. Only the head of the Border Police at the airport has access to the recordings, which are kept for 30 days.

Checks at the General Aviation Terminal are carried out by one, sometimes by two officers. The relevant information about flights and passengers is not always received on time or is not received at all. A manual register is kept on the flights that are checked and on the number and nationality of crews and passengers.

#### 4.3.3. Utilisation of registers

<u>In the first line of border checks</u> third country nationals are verified in the alerts database of the Romanian Border Police. The registers currently used are those integrated in a special border checks application – e-SIF database via MAI Intranet (RCVD). SIS is not yet operational. This database includes alerts on travel documents, persons and vehicles entered by the law enforcement authorities. 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, the Schengen Handbook and national instructions for implementing 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 provided upon selection of 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 the following databases could also be utilised by border guards:

- e-Back Office a record of second line activities, including the Returnees register (persons returned by other states to Romania) and the 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.

A fully operational APIS is used for risk analysis on all flights from third countries. The EvalCom notes that advanced passenger information provided by air carriers has been saved in a database since August 2009. The Experts were not provided with the national law allowing storage of the data for more than 24 hours after transmission by carriers.

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

- iFADO administrated by the 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 Visaon-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;
- Wanted persons managed by the Romanian Police.

Access to the above 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 registers and systems are an important tool and source of useful information for optimal border control at Romanian borders.

## 4.3.4. Utilisation of the Schengen Handbook

The Schengen Handbook, including annexes, was easily accessible on the Intranet and border guards could find it without any problems, together with other national and European legislation.

#### 4.3.5. Processing of refusals and asylum applications

Refusals of entry are carried out in the second line and include procedures concerning the passenger as well as those concerning the airline. The corresponding decision is taken by the shift leader or by his deputy. 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 for appeals against such a decision. The refusal procedure was found by the experts to be in line with the relevant provisions of the Schengen Borders Code.

Refused persons are usually sent back on the same plane. However, sometimes they must wait for the next flight in the transit area which may take several days. The EvalCom wonders if this procedure will still be possible in the very small transit area after Schengen accession (unless the extension is already in use). The detention room is not used for refused persons as a rule.

1167 persons were refused entry in 2008. The main reasons were lack of sufficient means of subsistence and lack of a valid visa or residence permit. The number of refusals due to lack of a valid visa or residence permit remained high in the first six months of 2009, in spite of the efforts of the Romanian authorities to provide information about the new legal provisions for entering or transiting through Romania since 2007.

The top five nationalities of persons refused entry were Turkish, Egyptian, Indian, Chinese and Nigerian in 2008 and Turkish, Egyptian, Vietnamese, Nigerian and Chinese in 2009.

In the event of an application for asylum, the Border Police carries out the first interview and informs the person about the following procedure. An application form will be issued. The asylum applicant's fingerprints will be verified in Eurodac. The person has the right to an interpreter and will be handed over to the Romanian Immigration Office, which interviews the asylum seeker and decides on the application. After the application has been filed, the accelerated asylum procedure at the border will take a maximum of 3 days, during which the decision at first instance has to be taken. After this the asylum seeker has the right to appeal within 2 days before the court, and the court must decide within 5 days. If no decision has been notified within a time frame of 20 days, the person, who is kept at the border, has the right to enter Romanian territory and to the usual asylum procedure.

11 asylum applications were submitted by nationals of Iraq, Sri Lanka, Egypt, Congo and Nigeria in 2007, 6 applications by nationals of Egypt, Nigeria, Cuba and Congo in 2008 and 3 applications by nationals of Nigeria, Equatorial Guinea and Iran during the nine months of 2009.

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### 4.3.6. Issuance of visas

Visas are issued in the second-line premises using the Visa-on-line system. The picture of the travel document is scanned and the information is printed on the sticker. Registers are manual and the Border Police agents at the second line could not provide the EvalCom on the spot with information about previously issued visas or statistics.<sup>1</sup>

Blank visas are stored in a separate area and have to be retrieved individually each time.

The decision on granting the visa is taken by the head of the BCP and, in his absence, by the shift leader.

In 2008, 189 visas were issued. The main reason was participation in international meetings organised in Romania.

#### 4.3.7. Second-line activities

The second-line activities consist of thorough checks on travel documents and verification of entry conditions, and carrying out refusals of entry and issue of visas. Thorough second-line checks are registered in a database. This information could be verified if the same person is 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 the situation at the border. This information could also be used for continuous training of border guards.

The experts noticed that passengers were not given any information on the purpose of and procedure for such checks in line with Art. 7.5 of the Schengen Border Code. The EvalCom was shown an information sheet in Romanian, but no use was made of it.

False documents examined by the document experts, after elaboration of the technical report for the criminal proceedings, are handed over to the prosecutor. The document experts work from Monday to Friday, but someone is always available during the weekend. They also produce the relevant alerts about false documents. In 2008, 80 false documents were detected at the BCP.

Second-line staff was found to be competent in the examination of travel documents and use of equipment to detect false documents, although no practical case was observed during the visit. 45 travel documents had been examined thoroughly in the second line during 2009. The experts recommend carrying out thorough examination of travel documents more frequently.

#### 4.4. Border surveillance

The security of the border crossing point is ensured by the duty officer with video surveillance in the control area, the neighbouring area, and by a specialized security company. The EvalCom was informed that the surveillance system of the perimeter consists of 24 fixed cameras, eight speed domes, six thermal cameras and two radars.

RO: The overall statistics on visas issued at the borders are located at the General Inspectorate of the Border Police. Every time a visa is issued in a BCP, a report is submitted by telex to the Dispatch Office from the headquarters, informing it about the situation.

The Border Police has access to all the video recordings by request. Images are stored for 30 days. Also, there is video surveillance inside the border police booths belonging to the Border Police.

The perimeter is surveyed by 42 fixed posts manned by the airport security provider and 6 mobile patrols performed by mixed teams from the airport security provider and the counter terrorist unit.

### 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 to be motivated and aware of their duties. The EvalCom acknowledges the good knowledge of Schengen provisions and the language skills of border guards in the passenger terminal

#### 4.5.2. Selection criteria

See point 3.6.3.

#### 4.5.3. Basic training

Border police agents receive their basic training at schools for border agents of the MAI. The basic training includes tactics, forensics, document fraud, foreign languages, jurisdiction, psychology and analytical programmes in line with the common core curriculum for border guard training. Basic training takes two years.

Border police officers receive their basic training at the Police Academy for a period of three years. In addition to the education mentioned above, this includes on-the-job training. The on-the-job training is coordinated by the chief of the BCP and a team leader.

Border police agents and officers that are selected receive intensive training based on tutorship. The tutor has at least two years of relevant working experience. For agents this training takes 6 months, whilst for the officers it takes one year.

Afterwards they have to sit an exam. If they pass they are fully responsible for their own position, although they are supervised by more experienced colleagues.

See point 3.6.4.

#### 4.5.4. Further continuing education

The experts were told that after Police Academy, specific training is given within the premises of the airport. This training takes about 4 or 5 weeks and consists amongst, other things, of Border Control and surveillance, illegal immigration, Schengen related issues, a foreign language (English) and falsifications (national data base and iFado).

The participants have to pass a test. Depending on the outcome of the test the shift leader will decide on the specific task of the person, also depending on needs.

Agents and officers also receive continuing training, partly consisting of e-learning. This includes the following 3 training courses:

- specific training by the line manager to fulfil the particular needs of the agents / officers;
- general training of 2 hours per month which includes judicial, ethical, psychological, border control, surveillance and security issues;
- so-called support training, which may include 4 hours per month on forensics, criminal procedures, IT, foreign languages, risk analysis, asylum-, visa- and migration issues and 2 hours per month on Schengen and EU legislation.

Detailed briefings before each shift lasting 20-30 minutes are also used for on-the-job training.

The head of the Continuing Training Unit and the head of the BCP conduct evaluations monthly through written tests for each shift.

Materials prepared by FRONTEX such as Frontex Training Unit English for Border Control at airports and joint operations (February 2009) and the EU-Training Day materials on CD-Rom are also used for further training.

# 4.5.5. Language skills and training

The EvalCom was informed that the personnel of the Bucharest Otopeni airport BCP have knowledge of 11 different languages. 93% of all personnel is supposed to have varying skills in English (31% at medium and advanced level) and 38% in French. Border guards interviewed during the visit showed a satisfactory level of English; however in some cases the level of foreign language skills could be higher.

### 4.5.6. Specialised document checking skills and training

The document examination skills of the first-line border police agents are based on the basic training and some additional training.

7 officers and 11 agents are specialised in the examination of travel documents in the second line. These persons have received specialised training in detecting false documents. They provide on-the-job training for all personnel and prepare document alerts on counterfeit and false documents to be communicated via intranet to all BCPs.

The EvalCom found these document experts skilled in the examination of travel documents and use of equipment to detect false documents.

# 4.5.7. Specialised training for different managerial levels

See point 3.6.8.

### 4.5.8. Availability and permanency of staff

The staff of Bucharest Henry Coandă Airport BCP consists of 20 officers and 185 agents, a total of 205 persons. It is not planned to increase the number of officers and agents. The EvalCom found the number of staff satisfactory to meet current needs.

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The personnel of the BCP work 4 12-hour shifts. A shift is composed on average of 3-4 officers and 35 agents:

- a shift leader
- 2 deputy shift leaders (second-line document experts)
- agents carrying out first-line checks
- agents carrying out second-line checks (from the forensic department and the criminal investigation department)
- a duty officer
- a dog handler
- agents performing other specific activities (access control, securing the detention room, transit area patrol, aircraft control)

### 4.6. Readmission, expulsion and illegal immigration, carrier liability

4.6.1. Removal and readmission of persons who are not admitted or who are found to be present illegally

The Romanian Immigration Office is responsible for decision-making regarding the readmission and expulsion of illegal immigrants. The experts visited a closed accommodation centre for custody of refused asylum seekers or illegal migrants close to Henri Coandă airport. The centre is subordinate to the Migration Directorate, Romanian Immigration Office, Ministry of Administration and Internal Affairs.

The centre accommodates aliens who have received either a removal decision from the Immigration Office or a court decision, either as an expulsion measure or as an undesirable person as regards national security. The maximum capacity of the accommodation is 140. During the visit 14 people were held in the centre.

The maximum period of detention in this centre is 6 months for aliens who are subject to a removal decision by the immigration office. Persons who are subject to a court decision concerning expulsion can be held for a maximum period of 2 years; undesirable persons can be held for an unlimited period.

In the centre itself, there is a separation between these categories of persons, and there is also a separate room for women and families. Unaccompanied minors are not held in these centres, they are dealt with by the Social Assistance and Child Protection General Directorates.

The Escort and Return Unit of the Migration Directorate is responsible for the identification and removal of these persons. The Border Police provides assistance for returns from Romanian territory through Henri Coandă airport. This includes surveillance, if necessary, as well as check-in and boarding procedures.

The same assistance is provided for the transit of returnees from other countries. The experts were told that unescorted transit is not accepted.<sup>1</sup>

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RO: Unescorted transit is fully permitted at Otopeni BCP level. In these situations, notification is received 24 hours in advance for acceptance of the unescorted transit, in order for the Border Police to take the necessary measures for supervising the returnee in transit.

For persons readmitted to Romania relevant checks are carried out to ascertain their nationality. After confirmation, a statement is taken, together with their picture and fingerprints. The authority of their place of residence is informed. If the person entered the other country illegally, this can lead to criminal proceedings under Romanian law and sanctions can be imposed.

#### 4.6.2. Means deployed to combat illegal immigration networks

The Bureau for Combating Illegal Immigration, with 11 officers and 4 agents, is responsible for countering illegal immigration in the Centre for the Surveillance and Control of the Border Crossing at Bucharest-Otopeni Airport. 16 cases of trafficking in human beings (THB) were detected at Bucharest Henri Coandă airport in 2008 and 4 during the nine months of 2009.

The EvalCom was informed that since 2009 the responsibility for combating trafficking in human beings had been transferred to the national police and the risk analysis group at the airport is not informed about this process any more. The Criminal Investigation Bureau has participated in four THB cases but has only done some preliminary measures. <sup>1</sup>

#### 4.6.3. Sanctions imposed on carriers

116 sanctions were imposed on carriers in 2008. In spite of this, there is still room for improvement, taking into account that 358 persons were refused entry in the same period for lack of a valid travel document, visa or residence permit. The amount of the sanctions is not in line with Council Directive 2001/51 either. The Romanian authorities explained that these amounts, as established in their national law, will be revised in 2010.

#### 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 to be motivated and aware of their duties. The EvalCom acknowledges the good knowledge of Schengen provisions of the border guards interviewed.
- The EvalCom regarded the initial training at the BCP after graduation from basic training under tutorship, use of the e-learning system and regular testing of knowledge as best practice.
- Border checks are based on risk analysis. Border guards interviewed were aware of the risk indicators as regards illegal immigration.
- The EvalCom appreciates the fact that shift managers deliver a half hour briefing for staff in the beginning of every shift.
- Stamps and blank visas were stored in compliance with the recommendations of the Schengen Catalogue and all operations with stamps and visas were recorded.
- A wide range of registers and databases are available for border guards for risk analysis and verification of entry conditions for third country nationals which provide a good basis for planning and carrying out border controls and for assessment of the results of the measures implemented.
- Reasons for thorough second-line checks are recorded in a database, which could be regarded as best practice.

• The existence of a fast-track asylum procedure at border crossing points, during which asylum seekers are not given entry to Schengen territory. It is possible to verify asylum seekers' fingerprints in Eurodac at the BCP.

### The EvalCom took special note of the following facts:

- The EvalCom is of the opinion that 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 on the whole in compliance with Schengen provisions. The EvalCom recommends carrying out additional training on affixing stamps.
- Verification of entry conditions during first-line checks was found to be satisfactory in the main. However, the profiling could be improved. The experts also recommend carrying out thorough examination of travel documents more frequently.
- The EvalCom found use of e-APIS to be best practice to provide risk analysis on flights arriving from third countries. However, the EvalCom calls for advanced passenger information to be processed fully in compliance with Council Directive 2004/82/EC and relevant national legislation.
- Language skills were in general sufficient; however, regarding some border guards the level of skills could be enhanced.
- Equipment for verification of data in databases and examination of travel documents at first and second line was found to be modern and sufficient in the main. However, optical passport readers were said not to be working reliably. The experts recommend equipping control booths with proper magnifying glasses and improving the quality of entry and exit stamps.
- The EvalCom found signposting, on the whole, to be in compliance with the model signs set out in the Schengen Borders code, except the pictograms for "All passports". The EvalCom recommends adjusting the colours of the signs and increasing their size.
- The infrastructure provides for physical separation of international and domestic passenger flows and the workstations correspond to the recommendations of the Schengen Catalogue. The EvalCom recommends installing doors or proper obstacles between control booths from the moment of entry to the Schengen area to avoid uncontrolled passing of the control line.
- Fines on carriers who do not meet their obligations were imposed regularly; however, not in all cases. The EvalCom recommends changing national legislation as regards the amount of sanctions in compliance with Council Directive 2001/51/EC of 28 June 2001.
- The EvalCom appreciates the existence of rooms for asylum seekers at the BCP, although consideration should be given to extending the capacity of the asylum reception facilities.

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

- Border guards in the general aviation terminal should be provided with passenger information on private flights originating from third countries as set out in Annex 6 to the Schengen Borders Code.
- The EvalCom noticed that the Border Police do not get enough information regarding cases of trafficking in human beings and that there are no clear risk profiles or risk indicators as regards trafficking in human beings. The EvalCom is of the opinion that Border Police should participate more in investigation of trafficking in human beings.

This could be done by strengthening cooperation with the national police and the prosecutor's office and also involving the Trident office in combating trafficking of human beings. It is recommended that training as regards identifying victims and traffickers be stepped up. <sup>1</sup>

- Information sheets with information on the procedure and the purpose of second-line checks were available in Romanian. However, the EvalCom observed that these forms were not used in practice. The EvalCom recommends making these forms available in all the official languages of the EU and neighbouring countries and providing persons subject to the thorough second-line checks with this information.
- The EvalCom recommends using mainly booths 1 and 2 for border checks on third country nationals on entry as they provide better space for profiling.
- The passenger terminal was under reconstruction and new infrastructure for separation of Schengen and non-Schengen passenger flows and for border checks was not in place. The future separation scheme, as presented to the experts, was found sufficient. The EvalCom takes note of the "Contingency Plan" to be used in case the reconstruction of the terminal is not completed as planned; however, it invites the Romanian authorities to complete the construction works in good time and recommends a return visit for evaluation of the new infrastructure before lifting border controls at internal air borders.
- Infrastructure for border checks in the general aviation terminal does not meet the recommendations of the Schengen Catalogue. The EvalCom invites the Romanian authorities to provide border guards in the GAT with a control booth or to carry out necessary reconstruction of the existing room in line with the Schengen Catalogue.

# 5. TIMIŞOARA İNTERNATIONAL AIRPORT

#### **5.1.** General information

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

Traian Vuia Timişoara Airport is the biggest airport in Western Romania, serving an area of over 2 million inhabitants. There is construction work ongoing in order to build a new non-Schengen arrival terminal. The experts were told that work should be ready by June 2010.

The number of passengers has been increasing in recent years from 753.934 in 2006 to 890.137 in 2008. Despite the economic crisis in 2009 the number is assessed to be 957.000 passengers. The number of non-Schengen passengers was 95.246 in 2008 and 69.450 during the first six months of 2009. Non-Schengen destinations are Lvov, Odessa and Cernauti in Ukraine, Chisinau in the Republic of Moldova and London.

Timişoara Airport BCP is a specialized structure subordinate to the General Inspectorate of the Border Police and to its specialised Directorate for Surveillance and Control of Border Crossings, which caries out border controls at Timişoara airport.

 $<sup>\</sup>underline{RO}$ : See footnote 2.

14 illegal border crossings were detected at Timişoara airport BCP in 2008 and 11 during 2009. 10 forged documents were discovered in 2008 and 8 in 2009. False documents were mostly used for exit from Romania to the EU countries. 5 cases of trafficking in human beings were investigated in 2008. There were no cases of trafficking in human beings detected in 2009; however, taking into account the number of flights from third countries with a high risk of illegal immigration and connecting flights to countries of the EU, the experts were of the opinion that Timişoara Airport could be used for smuggling persons or trafficking in human beings.

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

A dedicated unit of the Border Police is responsible for border control at the Border Crossing Point. Border control is carried out on the basis of risk analysis and also includes intelligence and criminal investigation. Border checks are carried out in compliance with the Schengen Borders Code, the Schengen Handbook and the Schengen Catalogue. The personnel are organised in four shifts. Planning of each shift is carried out by the shift leader based on the "Daily action master plan".

There is cooperation with the airport authority and with carriers.

There is no direct cooperation with border control authorities at airports in neighbouring countries and third countries of destination.

The BCP call on the Romanian ILOs network via the International Police Cooperation Centre in Bucharest in case of need. The EvalCom was informed that there are working contacts with FBI liaison officers in Romania.

Personnel of the BCP participated in four joint operations coordinated by FRONTEX in 2008 and 2009. One officer has also participated in FRONTEX's RABIT activities.

# 5.1.3. Risk analysis and intelligence functions

Three databases are used for carrying out risk analysis; ENO, eReporting and eAPIS. The risk analysis covers the fields of illegal entries at border crossing points, facilitators, illegal stay and exit, refusals of entry, asylum applications at the border, and false documents used for entering the territory illegally.

On every shift there is an information agent who studies all the relevant databases and compares them with risk analysis, and if the risk indicators, risk profiles and typical modus operandi change, he/she revises the analysis. The shift leader ensures that the personnel know about the changes in the tactical risk analysis.

The assessment of individuals and flights selected for checks is based on the tactical situation. The tactical risk analysis is made by an information agent and the shift leader, e.g. the "Top ten" list . Information about the top 10 risk profiles was available to first-line officers, but only on paper. It is updated regularly. The experts noticed that some of the border guards interviewed were not fully aware of differences between threats, risk profiles and risk indicators.

At the local level, risk analysis is based on the following data and information such as crimes, volume of traffic, number of checks in the second line, returned persons, crime intelligence information, analysis received from the GIBP Risk Analysis Unit and FRONTEX, etc.

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### 5.2. Infrastructure and equipment

### 5.2.1. Signposting

The EvalCom found signposting fully in line with the Schengen Borders Code. All booths are equipped with pictograms as specified in Annex III to the Schengen Borders Code .The pictograms are operated manually from booths.

# 5.2.2. Separation of flows

The international terminal currently handles Schengen and non-Schengen passengers. Arrivals and departures, as well as transit passengers are physically separated. The EvalCom was informed that as a result of ongoing reconstruction the airport building will be divided in two terminals (Schengen and non-Schengen), with a common public area. Although both terminals are part of the same building they will be physically separated according to the provisions of the Schengen Catalogue provisions, through a glass wall and brick wall.

The EvalCom was told that on the apron there will be dedicated places for Schengen and non-Schengen flights, separatel from each other. In addition, a wall (approximately 30 m long) is already in place to divide the airside area. The construction is expected to be finished by 30 June 2010. According to the plan presented, the new terminal for non-Schengen flights will fulfil the requirements of Schengen regulations.

### 5.2.3. Lanes for checks

16 lanes are deployed for border checks in total. Due to the flexible system of signposting different numbers of control lanes could be provided for persons enjoying the Community right of free movement and for all other persons. The number of lanes is tailored according to passenger flow, taking into account the assessment of future development.

In all three control lines, one lane is reserved for crews, diplomats and persons with reduced mobility. The other lanes can be used flexibly for persons enjoying the Community right of free movements and for all other persons.

There will be four lanes provided for border checks on passengers on entry, exit and transit after reconstruction of the airport building. Separate lanes will be provided for persons enjoying the Community right of free movement, for all other persons and for crews.

### 5.2.4. Control facilities

There are currently eight control booths with 16 workstations (three booths with six workstations for border checks on entry, the same number for border checks on exit and two booths with four workstations for border checks on transit passengers). All the control booths provide for frontal observation of passengers in the queue and prevent computer monitors from unauthorised observation. All the booths are fitted with locks to make them inaccessible when they are not in use. There is no wall or a net above the booth up to the ceiling which leaves an open space of approximately 1,5 m.

The experts noted that workstations in the transit area are positioned low which complicates monitoring of passengers waiting for border checks. Each booth is equipped with a mirror for monitoring of passengers subject to first line checks in front of the control booth.

There will be six control booths in the non-Schengen Terminal, arranged as follows:

- two control booths with four workstations for border checks on entry and two control booths with four workstations for non-Schengen departures on the ground floor;
- two control booths for border checks on non-Schengen Schengen transfer flow on the first floor.

The EvalCom found the planned infrastructure and the number of facilities on the whole satisfactory for border checks in current conditions. However, in the event of the arrival of large aircraft from third countries or several planes at the same time the number of workstations on arrival could cause long waiting queues.

The second-line facilities are situated close to the first line in the arrival, the departure and also the transit area and consist of an interviewing room, a room for body search used also by customs and a special room for document examination. The size of a second-line office at arrivals was found to be rather small.

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

All booths are equipped with computer terminals, optical document readers, fixed UV lamps, a magnifying glass and a phone. The border guards in the booths can access the intranet site of the Romanian Border Police with EU and national legislation, document specimens and other information necessary for carrying out border checks. Each border guard on duty has an entry or exit stamp.

The document examination room was equipped with a video-spectral comparator, a fixed UV lamp, a printer, a copy machine, a desktop scanner and identification material on travel documents and stamps, however, there was no stereomicroscope.

Cameras recording checks in the first and second line are in place already in almost all the working positions. Sound is also recorded. This CCTV circuit is exclusive to the Border Police and can be watched in the second line.

The EvalCom found the design of the stamps in line with the specification (SCH/Com-ex (94) 16 rev,), however some of these stamps did not provide for bi-colour stamping as red ink was missing.

#### 5.2.6. Communication

Border control facilities were provided with access to computer and internal phone networks. In addition, all the border police officers were equipped with radios working on the police network, which is based on the TETRA standard.

The second line can receive information from the first line by phone, by TETRA radio or by an alert transmitted via the intranet.

# 5.2.7. Access control / fencing

The EvalCom was informed that the entire perimeter of the airport is fully fenced. Access control is carried out by a private security company employed by the airport administration. The EvalCom was told that access control on pedestrians and cars is through gates with limited access. Access is granted on the basis of special proximity cards.

#### 5.2.8. Detention / readmission premises

There is no facility for temporary detention. The EvalCom was told that, in case of necessity, the persons concerned are guarded in the transit area. The EvalCom was also informed that a detention room would be available when the works in progress were finished.

A specific building, used as a closed accommodation centre for asylum seekers, is located in the airport area, about 500 meters from the terminal. The building consists of three accommodation rooms (one for males, one for females, and one for families) a bathroom, a dining room and a toilet. It also includes a room for border police officers in charge of surveillance. The experts were of the opinion that the facility fulfils both security and social conditions.

# 5.2.9. Storage of blank visas

Blank visa stickers are stored in a safe in a room adjacent to the office of the duty officer. This room is also used for shift briefings. The key of this room is kept in the duty officer's office. Blank visa stickers are kept in a safe which can be opened by the head of the BCP. Any operation with blank visa stickers is recorded in a logbook. At the time of the visit 107 blank visas were stored in the safe.

### 5.2.10. Storage of entry and exit stamps:

Entry and exit stamps were stored in a metal locker in the office of the duty officer. The stamps are handed out to the border police personnel by the duty officer. Stamps are not personal. Issue of stamps for use is registered in a logbook and signed by border guards. 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

At Timişoara airport all departures and arrivals take place through bus gates. Currently there is a separation between domestic and international flows. These will be transformed into non-Schengen and Schengen flows respectively, but with the addition of a new section to the terminal in order to host non-Schengen arrivals (planned to be completed in June 2010).

Consequently, at the time of Romania's accession to Schengen the situation will be the following:

- On the ground floor, there will be a line of control booths for border checks on departure for non-Schengen flights and another line of booths for border checks on entry. Thus, the arrival and departure areas for non-Schengen flights will be separate. Only one passage, with security control, will lead arriving non-Schengen passengers to the non-Schengen departure area in case of transit.
- For non-Schengen to Schengen transit, checks will be carried out at an additional line of booths located on the first floor. These are the only booths currently in place, although now they are being used bi-directionally for border checks on transits between domestic and international flights.
- The general aviation crews and passengers should be integrated into the same flows as passengers and crews of the commercial flights.

Aeroplanes performing Schengen and non-Schengen flights will use separate parking bays. Different buses will be provided for both parking areas.

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

Checks are carried out professionally and mainly in accordance with the Schengen rules.

Persons enjoying the Community right of free movement were subject to minimum checks which also consisted of verifying the security features of travel documents under UV light. Databases were consulted according to profiling but, in total, in very few cases. The number and nationality of these passengers were entered in the e-SIF.

All third-country nationals were subject to thorough checks which also included the systematic consultation of databases. The available passport readers were used seldom. Questioning was found to be relatively exhaustive. Information on border crossing by third-country nationals was entered in the Romanian entry-exit control database. On exit, if someone is found to have overstayed, he is taken to the second line, where a financial sanction is imposed. Payment of these sanctions is made at the post office located inside the terminal, which is open 24 hours a day.

Stamping was observed to be done correctly. The codes of the stamps are changed on a monthly basis on the initiative of the General Inspectorate.

### 5.3.3. Utilisation of registers

The registers currently used are those integrated in the e-SIF, with SIS not yet operational. In addition to the usual national databases for wanted persons and objects, the entry-exit system is in place.

APIS is used for risk analysis on flights from third countries. The relevant information extracted from the system is communicated to the first line by the shift leader.

#### 5.3.4. Utilisation of the Schengen Handbook

The Schengen Handbook, including annexes, was easily accessible on the Intranet and border guards could find it without any problems, together with other national and European legislation.

# 5.3.5. Processing of refusals and asylum applications

Decisions on refusals of entry are taken by the head of the BCP or, in his absence, by the shift leader. The standard form for refusal of entry at the border in line with the Schengen Borders Code is filled in and a copy of the form is given to the refused person.

First-line officers were found to have a good knowledge of the entire procedure.

Since no special rooms are available, refused passengers stay in the transit area.

76 persons were refused entry in 2008 and 23 during the first months of 2009. The main reason was the lack of a valid visa. The top five countries of origin of refused persons in 2008 were the Republic of Moldova, Albania, China, Ukraine and Cameroon, during the first six months of 2009 Albania, Turkey, Ukraine, Morocco and India.

In the event of an application for asylum, the Border Police carries out the first interview and informs the person about the following procedure. An application form will be issued. The asylum applicant's fingerprints will be verified in Eurodac. The person has the right to an interpreter and will be handed over to the Romanian Immigration Office, which interviews the asylum seeker and decides on the application. After the application has been filed, the accelerated asylum procedure at the border will take a maximum of 3 days, during which the decision at first instance has to be taken. After this the asylum seeker has the right to appeal within 2 days before the court, and the court must decide within 5 days. If no decision has been notified within a time frame of 20 days, the person, who is kept at the border, has the right to enter Romanian territory and to the usual asylum procedure.

In 2008 only 2 asylum applications were submitted at the airport, by nationals of Cameroon.

# 5.3.6. Issuance of visas

Visas are issued in the second-line premises using the Visa-on-line system. The picture of the travel document is scanned and the information is printed on the sticker. Registers are manual and the Border Police agents at the second line could not provide the EvalCom with information about previously issued visas or statistics based on the Visa-on-line system.<sup>1</sup>

The decision on granting the visa is taken by the head of the BCP and, in his absence, by the shift leader. For cases of national interest or international obligations, the General Inspectorate has to be consulted first. A payment is made at a bank branch located in the airport.

One visa was issued in 2008 and during the nine months of 2009. Nevertheless, a high number of visa stickers (107) was stored. The experts were told that as Timişoara is a contingency airport for Belgrade, there could be a need to issue visas to all the passengers in the event of an emergency landing.

<sup>1</sup> RO: See foo	otnote 4.			
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#### 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. Second-line activities are carried out in several rooms, grouped in different areas in order to be close to the first lines. Plans for the future also locate second-line offices close to the booths.

Information sheets with information on the procedure for and the purpose of second-line checks were available in the Romanian, English, French and Russian languages. However, the EvalCom observed that these were not used in practice.

#### 5.4. Border surveillance

The security of the border crossing point is ensured by a duty officer responsible for video surveillance of the control and adjacent areas, by representatives of the Air Transport Police and by members of the antiterrorist brigade. Passengers flow is observed by border guard officers.

There are currently 81 cameras situated inside the terminals. The EvalCom was informed that after the reconstruction more than 150 cameras will be located outside and more than 120 cameras inside the terminal buildings. All the data from the camera system are recorded and information is stored for 2-3 weeks depending on the capacity of the hard disc.

The perimeter of the airport and the transit area is surveyed by 4 mobile and 4 fixed patrols.

### 5.5. Staff and training

### 5.5.1. Adequacy and the level of professionalism

The border control personnel of the BCP consist of specially trained professional border police officers and agents. Officers and agents interviewed by the experts were found to be motivated and well aware of their responsibilities.

5.5.2. Selection criteria

See point 3.6.3.

5.5.3. Basic training

See point 3.6.4.

Border agents receive their basic training at schools for border agents of the MAI. Basic training lasts two years and the training curriculum was said to be in compliance with the FRONTEX Common core curriculum for border guard training. The experts were told that after the school, specific training is provided at the BCP for 4-5 weeks. The training consists of border checks and surveillance issues, detection of illegal immigration, Schengen provisions, foreign language (English) and detection of falsifications, including use of national data bases and iFado. The participants have to pass a test.

Border officers receive their basic training at the Police Academy for a period of three years. In addition to the education mentioned above, this includes on-the-job training. The on-the-job training is coordinated by the training officer of the Timisoara Airport BCP and by the shift leader.

Border agents and officers that are selected receive intensive training based on tutorship. The tutor has at least two years of relevant working experience. For agents this training takes 6 months, whilst for the officers it takes one year.

Afterwards they have to sit an exam. if they pass they are fully responsible for their own position, although they are supervised by more experienced colleagues.

# 5.5.4. Further continuing education

Also agents and officers receive continuing training, partly consisting of e-learning. This includes specific training by a line manager to fulfil the particular needs of the agents / officers, general training of 2 hours per month on judicial, ethical, psychological, border control and security issues and so-called support training which may include 4 hours per month on forensics, criminal procedures, information technology, foreign languages, risk analysis, asylum-, visa- and migration issues and 2 hours per month on Schengen and EU legislation. The training officer conducts an evaluation monthly through written tests for each shift. Shift leaders test the personnel every week and check the results of e-learning tests on intranet.

Pre-service briefings of shifts are also used for continuing on-the-job training.

### 5.5.5. Language skills and training

The EvalCom was informed that the personnel of the BCP have skills in 8 different languages. 34 Police agents and officers have skills in English, 16 in Italian and 14 in French. Hungarian, Serbian, German and Russian are also spoken by some border guards. The experts noticed that in some cases the level of knowledge of English could be improved.

See General Information point 3.6.6

# 5.5.6. Specialised document checking skills and training

Second-line staff were found to have enough competence and equipment to detect false documents, although no practical case was observed during the visit. The experts were informed that second-line experts had been given a special 2-week training course on the examination of travel documents at the Orşova Border Police School.

See General Information point 3.6.7.

# 5.5.7. Specialised training for different managerial levels

See General Information point 3.6.8.

# 5.5.8. Availability and permanency of staff

The staff of the BCP consists of 10 border police officers, 75 border police agents and 3 administrative personnel, which makes a total of 88 persons. 61% of the personnel are used for border checks. 42 police agents are deployed for first-line checks and 12 border police officers and agents for second-line checks.

The personnel are organized in four shifts which are deployed by 12-hour periods for other border control activities. A shift consists on average of 17 border police officers and agents:

- a shift leader.
- two dispatch agents,
- three police agents to carry out second-line checks,
- an intelligence officer,
- a dog handler, and
- nine agents to carry out first-line checks.

The EvalCom found the number and permanency of personnel sufficient in the current air traffic situation.

#### 5.6. Readmission, expulsion and illegal immigration, carrier liability

5.6.1. Removal and readmission of persons who are not admitted or who are found to be present illegally

The Romanian Immigration Office has the power to take decisions on readmissions, returns and sanctions for carriers. The Border Police provides assistance for returns from Romanian territory through Timişoara International airport. This includes surveillance, if necessary, as well as check-in and boarding procedures. The same assistance is provided for the transit of returnees from other countries. Unescorted returnees are accepted in transit, which is often the case with Moldavians deported from Germany.

For persons readmitted to Romania, the relevant checks are made to ascertain their nationality. After confirmation, a statement is taken, together with their picture and fingerprints and entered in the e-Back Office system.

### 5.6.2. Means deployed to combat illegal immigration networks

There are an officer and three agents both in the Countering Cross-Border Crime Department and the Countering Illegal Migration Department, also responsible for combating illegal immigration networks. The EvalCom was informed that no human smugglers or traffickers have been detected at Timişoara Airport during recent years.

# 5.6.3. Sanctions imposed on carriers

15 sanctions were imposed on carriers in 2008 and one sanction during the first six months of 2009. The EvalCom was of the opinion that Council Directive 2001/51 was not being fully followed, taking into account that 55 persons were refused entry for lack of a valid visa or residence permit in 2008 and 26 persons during 2009. The EvalCom was also told that Romanian law does not provide for sanctions from the first case, but allows for initial warnings.

The amount of sanctions is not in line with Directive 2001/51 either. The Romanian authorities announced that these amounts, as established in their national law, will be revised next year.

#### 5.7. Conclusions and recommendations:

The EvalCom was appreciative of the following facts:

- The high professional competence and generally satisfactory level of knowledge of the Schengen provisions.
- The procedure for border checks meets the requirements of the Schengen Borders Code on the whole.
- Regular professional on-the-job training is carried out at the BCP.
- The risk analysis system, particularly use of e-APIS prior to border checks, is in line with the recommendations of the Schengen Catalogue and represents best practice.
- The registers available in the first and second line are of added value for border checks and further investigations.
- The signposting as used and planned for the new infrastructure meets the requirements of the Schengen Borders Code and provides for quick redeployment of the control lanes. The system of redeployment of control lanes in the passenger terminal could be regarded as best practice.
- The separation of flows is planned to be extended to the platform and different buses are used for the transport of Schengen and non-Schengen passengers.
- The asylum facility has a relatively high number of rooms and beds and meets high social standards.
- Acceptance of the transit of unescorted returnees.

### The EvalCom took special note of the following facts:

- The EvalCom recommends continuing the improvement of the language skills of border guards.
- The EvalCom appreciated the risk indicators and risk profiles provided for officers on the ground. However, the EvalCom invites the Romanian Border Police to distribute the risk analysis products electronically instead of in hand-out format. In addition there was no full awareness of threats, risk profiles and risk indicators by some border guards. The EvalCom invites the Romanian Border Police also to draft risk profiles as regards human smugglers and traffickers
- Information sheets with information on the procedure and the purpose of second line checks were available in Romanian, English, French and Russian languages. However, the EvalCom observed that these forms were not used in practice.
- The EvalCom recommends consulting national and European databases on a non-systematic basis more often when carrying out minimum checks on persons enjoying the Community right of free movement.

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

• Some of the entry and exit stamps did not meet the requirements of the specification set out in SCH/Com-ex (94) 16 rev as regards the use of ink in two colours.

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- The EvalCom is of the opinion that the legal provisions implementing Directive 2001/51 in Romanian law should be thoroughly revised concerning not only the amount of the fines but also the immediacy of sanctions.
- There is no direct cooperation with border control authorities at airports in neighbouring countries and third countries of destination.
- The room for thorough examination of travel documents at arrivals does not provide normal working conditions for experts due to its small size.
- The EvalCom recommends additionally equipping the second-line office for thorough examination of travel documents with a stereomicroscope in line with recommendation 46 of the Schengen Catalogue.
- The EvalCom was not able to evaluate infrastructure for the separation of Schengen and non-Schengen passenger flows and for border checks due to very early phase of construction work. The EvalCom calls for the construction works to be completed in good time and recommends a return visit to Timişoara airport before lifting border checks at internal air borders.

#### 6. GENERAL CONCLUSIONS INCLUDING RECOMMENDATIONS AND FOLLOW-UP

- Border management in Romania is carried out according to the Schengen integrated border management concept and there is a national strategy for accession to the Schengen area 2008-2011 and a Schengen action plan.
- Responsibility for border control lies with a centralised and clearly structured public authority the Romanian Border Police subordinate to the Ministry of Administration and Internal Affairs 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 properly 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.
- 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 the active participation of the Romanian Border Police in the European border police cooperation coordinated by FRONTEX.
- The EvalCom appreciates the comprehensive risk analysis system of the Romanian Border Police. The EvalCom stresses the importance of fast and smooth vertical dataflow between various levels along the chain of command, as well as interagency exchange of information between various authorities and neighbouring units. The EvalCom recommends creating conditions for providing the border guards in the first line with local risk profiles on-line.
- The EvalCom is of the opinion that the Romanian Border Police should put more effort into revealing and detecting human traffickers at air borders. This could be done by strengthening cooperation with the national police and prosecutors and also involving the Trident office in combating trafficking of human beings. 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. 

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<sup>1 &</sup>lt;u>RO</u>: See footnote 2.

- Legislation on carrier liability and administrative practice on imposing fines on carriers are not fully in line with Council Directive 2001/51/EC of 28 June 2001. The EvalCom stresses a need to adopt national legislation and administrative practice on implementation of carrier liability fully in compliance with above Council Directive.
- The Common Core Curriculum of the Border Guard Training is currently at the implementation stage in all educational institutions of the Romanian Border Police. The EvalCom invites the Romanian authorities to implement CCC fully. The EvalCom regards the training at the BCP after graduation from basic training under tutorship, continuous on-the-job training, including elearning and regular testing of knowledge as best practice.
- The EvalCom found the number of the personnel of the units visited sufficient. The EvalCom acknowledges the good knowledge of Schengen provisions by border guards on the whole. The EvalCom recommends continuing to provide personnel with thorough training on the Schengen Borders Code and the Schengen Handbook and also continuously improving the language skills of the personnel.
- The planned schemes for physical separation of passenger flows presented to the EvalCom were found appropriate.
- Equipment used for the first and the second line checks is mainly sufficient. In the conclusions and recommendations on the sites visited the EvalCom noted some minor shortcomings which should be improved.
- The EvalCom is of the opinion that border control of the air border in Romania is in the main carried out in accordance with the Schengen acquis. Some shortcomings noted by the EvalCom should be corrected or improved. The EvalCom was not able to evaluate infrastructure for the separation of Schengen and non-Schengen passenger flows and for border checks due to the very early phase of construction work. The EvalCom calls for construction work to be completed in good time and recommends return visits to Bucharest and Timisşoara airports before lifting border checks at internal air borders.