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**COMMISSION STAFF WORKING DOCUMENT**

**on implementation of the Special Kaliningrad Transit Programme (2004-06)**

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## 1. PURPOSE

The Special Kaliningrad Transit Programme (established by Commission Decision C(2003) 5213) was a financial instrument to assist Lithuania in managing the transit of persons between the Kaliningrad Oblast and other parts of the Russian Federation using the Facilitated Transit Document (FTD) and the Facilitated Rail Transit Document (FRTD). With a total budget of EUR 40 million, **the Fund was implemented between May 2004 and December 2006 with the eligibility period for additional costs extended to June 2008**. It covered foregone fees from transit visas and the additional costs incurred in operating the FTD/FRTD arrangements<sup>1</sup>.

The aim of this working document is to:

- record and draw lessons from the experience of implementing the Fund;
- review options for maintaining the Fund in coming financial programming periods.

This ex-post evaluation report is produced pursuant to Article 27 of the Financial Regulation and Article II.6 of the grant agreements concerned.

## 2. METHODOLOGY

This report is based mainly on desk research and the analysis of a series of documents, including the Lithuanian authorities' answers to a questionnaire (submitted on 22 November 2010), a report by an external contractor and other relevant background documents.

A number of problems caused by administrative constraints and issues related to timing led to a delay in the performance of the evaluation exercise.

The report takes into account the findings of the external contractor and European Commission assessments.

## 3. GENERAL CONTEXT OF THE SKTP PROGRAMME

The Copenhagen European Council of December 2002 concluded that 10 of the 13 candidate countries (Cyprus, Estonia, Hungary, Poland, the Czech Republic, Slovenia, Latvia, Lithuania, Malta and Slovakia) fulfilled the conditions for joining the European Union. The Act of Accession was signed on 16 April 2003 in Athens and the countries officially joined on 1 May 2004, following the completion of ratification procedures.

In extending the EU's external border to the east, the 2004 enlargement drew increased attention to the Kaliningrad Oblast. Kaliningrad is a region of the Russian Federation that is geographically separated from the rest of the country and now surrounded by EU Member States (Lithuania and Poland). The situation of the Kaliningrad Oblast was discussed at the EU-Russian Federation summit of 11 November 2002 and a Joint Statement was issued which

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<sup>1</sup> Commission Decision C(2003) 5213.

included a specific point on transit between the Kaliningrad Oblast and the rest of the Russian Federation<sup>2</sup>.

The Schengen *acquis* was at the core of Chapter 24 of the accession negotiations, on ‘Justice, freedom and security’. As regards Lithuania’s accession, the European Council agreed on the political priority of supporting the country in developing a transit solution to enable facilitated visa arrangements for travel between the Russian ‘mainland’ and the Kaliningrad Oblast<sup>3</sup>. Protocol 5 of the Act of Accession<sup>4</sup> provided for Lithuania to be given financial support for implementing the FTD/FRTD arrangements.

The relevant provisions became part of the EU *acquis* on 14 April 2003 with the adoption by the Council Regulation (EC) No 693/2003 establishing a specific Facilitated Transit Document (FTD), a Facilitated Rail Transit Document (FRTD) and amending the Common Consular Instructions and the Common Manual<sup>5</sup>, and Regulation (EC) No 694/2003 on uniform formats for Facilitated Transit Documents (FTD) and Facilitated Rail Transit Documents (FRTD) provided for in Regulation (EC) No 693/2003<sup>6</sup>.

The two Regulations were drafted so as not to apply only to Lithuania and the Kaliningrad Oblast of the Russian Federation; they sought to cover all possible cases of ‘special transit’ through EU Member States. Until the time of finalisation of this ex post evaluation report (3<sup>rd</sup> quarter 2013), no other such cases have arisen.

As an integral part of the Schengen *acquis*, the special transit scheme was dealt with in the context of the negotiations for the Act of Accession for Lithuania<sup>7</sup>.

The general objective of the Special Kaliningrad Transit Programme (SKTP) was to assist Lithuania financially in implementing the FTD/FRTD arrangements established by Council Regulations (EC) Nos 693/2003 and 694/2003.

Provisions on the financial support to Lithuania were set out in Commission Decision C(2003) 5213 and covered:

- foregone fees for transit visas, calculated on the basis of the transit visa fees in Annex 12 to the Common Consular Instructions on visas<sup>8</sup>;

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<sup>2</sup> Joint Statement of the European Union and the Russian Federation on the transit between the Kaliningrad Region and the rest of the Russian Federation, point 7 (11 November 2002).

<sup>3</sup> Report from the Commission on the functioning of the facilitated transit for persons between the Kaliningrad region and the rest of the Russian Federation, COM(2006) 840.

<sup>4</sup> Protocol 5 of the Act of Accession (see footnote 7) on the transit of persons by land between the region of Kaliningrad and other parts of the Russian Federation: ‘The Community shall assist Lithuania in managing the transit of persons between the region of Kaliningrad and the other parts of the Russian Federation and shall, notably, bear any additional costs incurred by implementing the specific provisions of the *acquis* providing for such transit’.

<sup>5</sup> OJ L 99, 17.4.2003, p. 8 –14.

<sup>6</sup> OJ L 99, 17.4.2003, p. 15 –21.

<sup>7</sup> Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded, OJ L 236, 23.9.2003.

<sup>8</sup> Article 2(3) of Commission Decision C(2003) 5213: ‘The foregone fees shall be calculated on the basis of the level of fees for transit visas established in Annex 12 to the Common Consular Instructions on visas’. The amount constitutes a financial compensation for collecting only EUR5 for each FTD and giving the FTRD free of charge, instead of collecting the usual EUR35 fee for a transit visa.

- additional costs incurred in implementing the FTD/FRTD arrangements, e.g. investments in infrastructure, the costs of training staff and other additional operational costs.

The SKTP also sought to ensure that border management, cooperation of law enforcement bodies and electronic data security in the Kaliningrad transit area complied with EU and Schengen requirements on situational awareness and response capability.

The SKTP was managed by the European Commission according to the direct centralised management model, i.e. through grant agreements with Lithuania on the basis of annual work programmes.

#### **4. EVALUATION QUESTIONS**

##### **4.1. Were the actions and measures financed under the SKTP relevant?**

The SKTP was drawn up especially for Lithuania and was well tailored to the requirements of issuing FTDs and FRTDs to Russian citizens travelling through Lithuania to and from the Kaliningrad Oblast.

Lithuania considered that SKTP funding was relevant because it provided the funding necessary for implementation of the FTD/FRTD arrangements, including:

- employing additional staff;
- expanding and maintaining border surveillance systems and infrastructure, especially at railroad border crossing points (BCPs);
- acquiring additional mobile equipment for examining travel documents at road BCPs;
- acquiring new vehicles and upgrading existing vehicles;
- upgrading computer equipment , especially mobile terminals and passport readers;
- ensuring support for information systems and the system for train monitoring on Lithuanian territory;
- acquiring additional equipment for examining fingerprints and documents;
- providing training for police units.

Given the specificity of the SKTP and the fact that the programmes and corresponding grant agreements were drawn up annually, **there was little need for corrective action and revision.** The Lithuanian authorities detected some price variations, but there was scope in the grant agreements for transfers between budget lines, which the authorities made use of for the 2006 programme. In the end, the 2006 programme finished with some under-spend due to lower-than-expected prices.

*4.1.1. Did the management and control systems and the Extended Decentralised Implementation System (EDIS) function properly?*

The same management and control system was used for the SKTP as for the Schengen Facility<sup>9</sup>. As it was accredited under the Extended Decentralised Implementation System (EDIS), the Commission ceded to the accredited institutions of the Member State its decision-making role in the selection of projects and public procurement procedures and in concluding contracts with selected contractors for EU-funded projects.

**Differences between the Schengen Facility and the SKTP** primarily concerned the implementing and administrative decisions; in particular, the SKTP was subject to direct centralised management, rather than the decentralised system used for the Schengen Facility. As a result, the SKTP implementing rules were set out in the grant agreements signed between the Commission and the Lithuanian Ministry of the Interior, which acted as the single contact point.

The Central Project Management Authority (CPMA) was appointed as SKTP Implementing Agency and received EDIS accreditation by Commission Decision C(2004) 2901. The Ministry of the Interior acted as Responsible Authority for the SKTP and identified needs on the basis of input from the main beneficiaries. Annual grant agreements between the Commission and the Ministry were prepared in the light of these needs and of each year's allocations.

In implementing the SKTP in 2004-06, Lithuania **relied partly on the experience gained from managing pre-accession funds**. Other monitoring and reporting activities carried out by the Implementing Agency, the CPMA, were based on the same procedures as for the Schengen Facility.

Lithuania exercised its responsibilities in implementing the SKTP 2004-06 without prejudice to the Commission's responsibility for implementing the general budget of the European Communities and in accordance with Financial Regulation provisions on decentralised management.

Although the Lithuanian authorities considered the cooperation to be satisfactory, some challenges were encountered during implementation. They highlighted some difficulties in communication with the Commission during the first phase (2004-06); in particular, more timely clarifications would have been helpful. The authorities indicated that communication with the Commission improved significantly from 2007 and they were satisfied with the Commission's support during implementation of the programme.

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<sup>9</sup> The Schengen Facility (2004-06) was a temporary financial instrument used following the 2004 enlargement to help seven of the new Member States (Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia) implement the Schengen acquis and carry out controls at the EU's new external borders. It had a total budget of EUR 961 453 271.

#### 4.2. Were the actions and measures financed under the SKTP effective?

4.3. The degree of effectiveness is measured by the extent to which the objectives set in the SKTP were achieved as well as the impact of the programme in managing the transit of persons between the Kaliningrad Oblast and other parts of the Russian Federation.

The most important result of the SKTP was Lithuania's proper implementation of the FTD/FRTD arrangements, while applying the Schengen *acquis* and pursuing the objective of joining the Schengen Area.

The effective implementation of the SKTP allowed for the smooth functioning of transit by Russian citizens, which had a positive impact on relations with the Russian Federation while ensuring Lithuania's accession to the Schengen Area.

The scheme provided the financial means for the acquisition of new equipment and the implementation of actions necessary for the processing of FTD/FRTD applications within the timeframe laid down in Council Regulation (EC) No 693/2003.

More specifically, the SKTP helped to ensure:

- proper documentation of the activities of consular staff deployed in transit trains, consulates and the Lithuanian Embassy in Moscow;
- additional jobs (from 83 in 2003 to 120 in 2006) for staff carrying out checks on Russian citizens travelling in Lithuania;
- good management of transit-related information by the Ministry of Foreign Affairs, the Police Department and Border Guards (detection equipment, surveillance equipment for three railway BCPs, better-trained staff, improved information systems);
- no transit train delays thanks to the on-board issuing of travel documents;
- no falsified FTDs/FRTDs were detected in 2004-06.

Figure 3: Number of FTDs issued

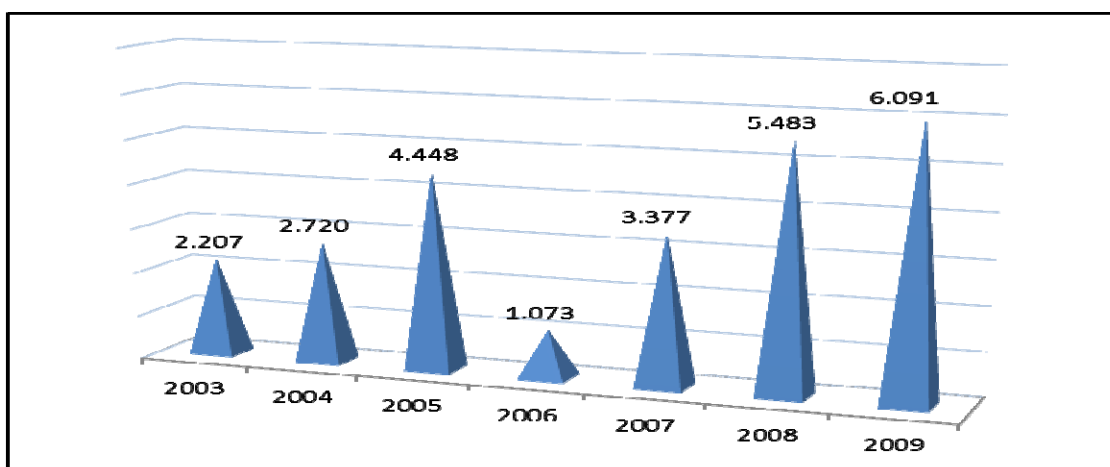
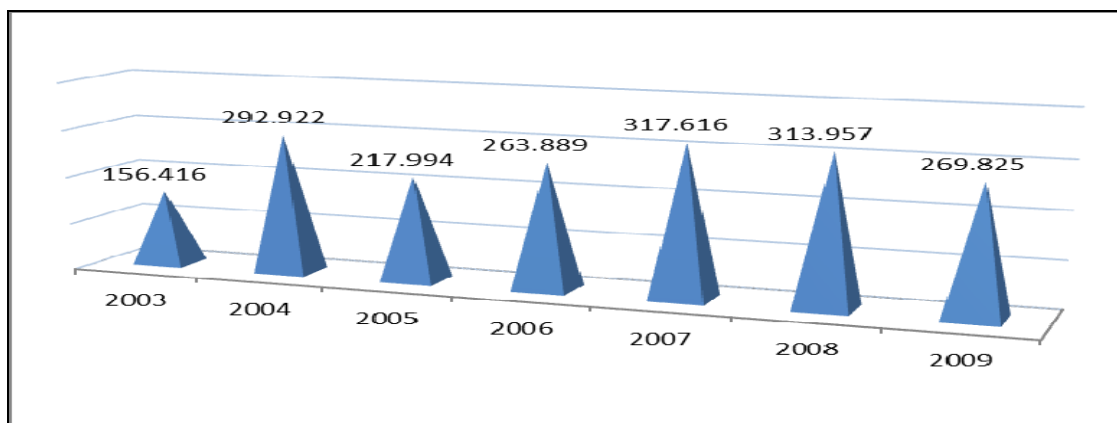


Figure 4: Number of FRTDs issued





Note: the FTD provides for multiple transit journeys in a 24-hour period, whereas the FRTD is for a single journey (a return trip from ‘mainland’ Russian Federation to the Kaliningrad region would require the issuing of two FRTDs).

**Table 2: Number of persons travelling to and from the Kaliningrad Oblast checked by Lithuanian authorities**

		2003	2004	2005	2006	2007	2008	2009
FRTDs	In	249 594	511 736	387 932	473 453	522 274	516 287	486 682
	Out	245 218	506 787	386 376	472 699	519 653	504 376	484 873
	Total	494 812	1 018 523	774 308	946 152	1 041 927	1 020 663	971 555
FTDs	In	1 233	10 574	32 328	34 912	31 804	20 006	18 427
	Out	1 228	10 318	34 575	36 036	30 139	20 548	18 409
	Total	2 461	20 892	66 903	70 948	61 943	40 554	36 836
Total FRTDs and FTDs		497 273	1 039 415	841 211	1 017 100	1 103 870	1 061 217	1 008 391

The effective implementation of the FTD/FRTD arrangements in cooperation with the competent Russian authorities, backed by an efficient information campaign in the Russian Federation, led to increasing numbers of Russian citizens crossing Lithuania in 2004 and 2005. Figures have been stable since 2006.

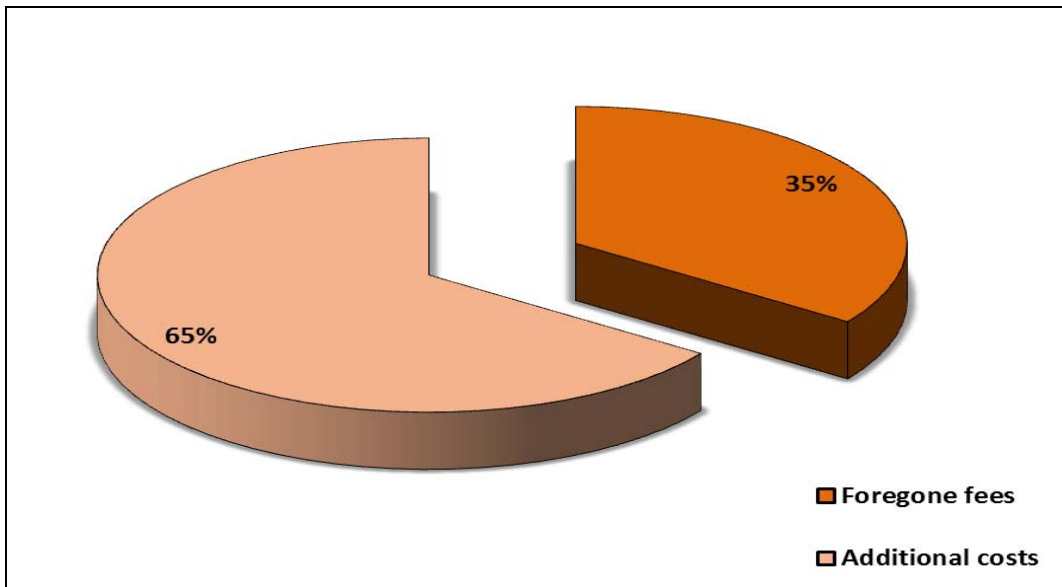
SKTP implementation by Lithuania involved the following activities, which we can analyse in quantitative and qualitative terms:

- effective processing of applications and issuing of FTDs and FRTDs;
- effective checks on transit passengers and vehicles;
- enhanced cooperation and coordination between border authorities.

Of the EUR 40 million financial support allocated to Lithuania, one third was earmarked to cover foregone visa fees<sup>10</sup>, while two thirds were to be used for investments and training and to cover additional operational costs.

**Figure 1: Distribution of EUR 40 million allocated for SKTP 2004-06**

<sup>10</sup> See footnote 8 for calculation criteria.

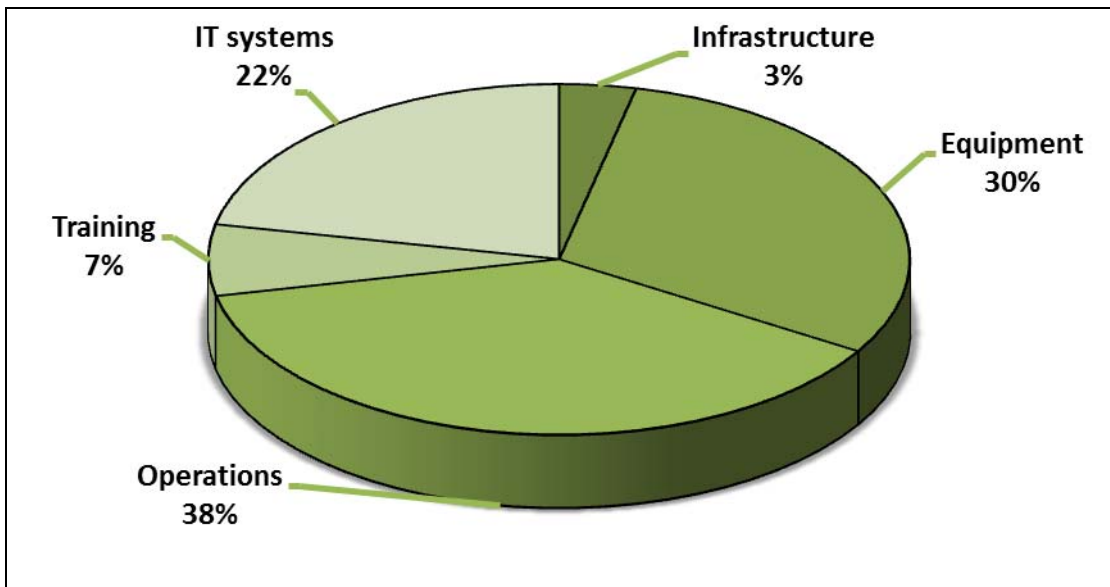


The amount for **additional costs** (€26 121 744)<sup>11</sup> was used in five areas:

- Infrastructure
- Equipment
- Operational costs (human resources)
- Training
- IT systems

Investments in infrastructure, equipment and IT systems made up more than half (55%) of the additional costs, with operational costs accounting for approximately 38%. The smallest portion, less than 7%, was for training.

**Figure 2: Distribution of funding for additional costs of SKTP 2004-06**<sup>12</sup>



<sup>11</sup> After ex-post control by the Commission, EUR23495715.87 was considered eligible.

<sup>12</sup> The analysis is based on data in Lithuania's SKTP evaluation report. The graph focuses on the main actions financed (EUR 21.3 million)

Main actions (> EUR 1 million) under the SKTP in 2004-06 included:

- Covering costs of consular staff (7), state employees (7) and IT experts (4) processing FTD/FRTD applications at the Embassy in the Russian Federation and the Consulates-General in Kaliningrad and Saint Petersburg;
- Covering costs of consular staff deployed in transit trains (19), state employees (6), IT specialists (3), drivers (3), filing clerks (4) and special couriers (45) to issue FTDs and FRTDs;
- Purchasing police vehicles (85) with special equipment;
- Purchasing pieces of equipment (782) for verifying documents;
- Covering costs of staff implementing the FRTD scheme (82 officers in 2004 and 2005; 120 officers in 2006);
- Training of police officers (6138) to carry out checks on persons and vehicles entering and leaving the Kaliningrad Oblast.

Other examples of the effectiveness of the SKTP are the **shorter times needed to process FTDs and FRTDs** (also fewer mistakes and improved communication with applicants) and **for border control procedures**, both on board the transit trains and on vehicles and passengers (15-20% quicker when using the new laptops, passport readers, IT systems, etc.).

**Box 1: Projects linked to video surveillance**

The following projects were financed under the SKTP:

1. Existing video surveillance systems at Kena and Kybartai BCPs were expanded and maintenance stations acquired to serve them.
2. Relevant workplaces were equipped with software aimed at ensuring transit, organising and executing border control, and collecting information.

The technical support meant that officers were able to carry out thorough checks on people and transit trains and prevent illegal attempts to pass through the BCPs.

To ensure appropriate monitoring of transit trains, video cameras were mounted in Vilnius Railway Station and video systems installed in transit stations (from Kena to Kaunas) and next to the main railway bridges.

#### **4.4. Were the actions and measures financed under the SKTP efficient?**

##### *4.4.1. EU resources made available to Lithuania*

Lithuania considered that the objectives of the SKTP were achieved at a reasonable cost and described the scheme as 'definitely cost-effective'.

Financial provision was for EUR 13 million in 2004, EUR 13 million in 2005 and EUR 14 million in 2006. It was stipulated that one third of the allocated amount should be used to cover foregone fees and two thirds for additional costs (see above). The implementation period was initially May 2004 to December 2006, but this was extended until 30 June 2008 for expenditure relating to additional operational costs. On completion of the programme, overall eligible disbursement amounted to EUR 37 373 971 (of which EUR 13 878 256 was for foregone visa fees and EUR 23 495 715 for additional costs). The overall rate of absorption of the EU assistance exceeded 93% of the total allocation, with

100% absorption of the foregone visa fees component and nearly 90% absorption of the additional costs component.

The grant agreement provided that the Commission should contribute 100% of the actual eligible costs it approved. Thus, no national co-financing was required.

It should be noted that no technical assistance or special budget line to cover administrative costs was available. Only costs arising at the level of the beneficiaries were considered eligible. The scheme was implemented by 10 employees of the Ministry of the Interior and 15 employees of the Implementing Agency (CPMA) working part-time on it alongside responsibilities relating to the Schengen Facility and other EU instruments.

Lithuania pointed out that the main efficiency gain was the development of excellent inter-institutional cooperation among the three main beneficiaries of the SKTP, i.e.:

- the Ministry of Foreign Affairs (MFA);
- the Police Department (PD), under the Ministry of the Interior; and
- the State Border Guards Service (SBGS), under the Ministry of the Interior.

Inter-institutional cooperation also improved between the Ministry of the Interior (Responsible Authority) and the Central Project Management Authority (Implementing Agency).

This fruitful experience proved to be of great benefit for implementation and management of the External Borders Fund and operational cooperation in border management in general (e.g. as regards quicker police intervention). This also led to increased anticipation and risk mitigation for previously identified problems.

The PD and the SBGS have entered into inter-institutional agreements to redefine their respective remits, with the PD being given a stronger role in checks on foreigners within the country and the SBGS focusing on migration at external and internal borders.

The SKTP also involved joint training with Latvia and Poland and led to joint patrolling, even though neither Poland nor Latvia applied the FTD/FRTD arrangements. The good cooperation with Russian authorities was not only a key factor in the success of the scheme, but successfully contributed to the fight against irregular immigration.

Efficiency should also be taken into account as regards implementation of the Schengen Facility, as the positive implementation of both programmes meant that Lithuania's accession to the Schengen Area went ahead on schedule.

Another example of increased efficiency is the reduced time for reacting to unauthorised train stops detected by the VSATORAS<sup>13</sup> system. Given that the transit route is 227 km long, dispatching a border patrol to the location of an incident could take up to two hours and incur significant extra costs for the SBGS. Thanks to the new reaction system based on interdepartmental cooperation under the SKTP, however, territorial police commissariats along the transit route can react to unscheduled stops by sending a patrol to the location of the incident within 15-30 minutes.

Finally, the good cooperation between institutions, together with the experience gained in implementing the SKTP, proved to be valuable assets for implementing subsequent EU instruments, in particular the 2007-13 External Borders Fund.

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<sup>13</sup> VSATORAS is the system used by the SBGS for the surveillance of transit trains.

#### **4.5. Were the objectives of the SKTP in line with overall policy?**

The SKTP was a unique instrument available to Lithuania for the purposes of implementing the provisions of Council Regulation (EC) No 693/2003. Consequently, complementarity with other financial instruments was rather limited.

The SKTP was implemented alongside application of the Schengen *acquis* and Lithuania's efforts to join the Schengen Area.

Specific examples of complementarity were observed in the following fields:

- Management: Staff managing the SKTP at the Ministry of the Interior (10) and at the CPMA (15) were working on implementation of the Schengen Facility and other EU instruments at the same time. This made it much easier to coordinate fund management and allocation;
- Investments in infrastructure: Complementarity in border management infrastructure investments should be assessed in the context of the strategy for achieving the objectives of the national Schengen Action Plan (SAP). As far as implementation by Lithuania was concerned, the objective was to implement the FTD/FRTD arrangements without damaging its prospects of joining the Schengen Area. All EU and other funding sources were used to address needs and shortcomings in these areas.

#### **4.6. What were the advantages of acting at EU level and what wider effects were generated?**

To gauge the EU value-added of this intervention, we need to ask two separate questions: to what extent could the Member State have achieved the same results without EU intervention? and what have been the advantages of taking the initiative at EU level?

A clear answer to the first question is given by the Lithuanian authorities when they say that 'in the absence of the SKTP providing the required financial support, the implementation of the FTD and the FRTD would not have been possible'.

Secondly, since this scheme enabled it to intervene in support of visa and travel workload processes in a specific border area, the EU gained in terms of targeting support where it was seen to be most needed, but also as regards coordinating and ensuring complementarity or continuity with other financial instruments. In practice, the two types of intervention facilitated by the SKTP and the Schengen Facility, implemented in parallel in Lithuania, were later brought together under the External Borders Fund (EBF), a single funding instrument for the 2007-13 programming period which provides for annual allocations for the Special Transit Scheme (STS – successor to the SKTP).

The Lithuanian authorities have welcomed the inclusion of the STS in the EBF framework from the point of view of the good inter-institutional cooperation and experience gained in implementing the Schengen Facility and the SKTP. However, implementing two instruments with different legal bases under the umbrella of a single Fund, with one set of implementing rules to cover different types of intervention, has brought challenges when it comes to interpreting eligibility rules and in simple management terms.

Looking to the future (2014-20) programming period, the Commission has proposed that the STS be financed under the Internal Security Fund<sup>14</sup> with an allocation for the period of EUR 150 million. At the time of writing, the proposal is still under discussion. In the light of

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<sup>14</sup> COM(2011) 750 final.

their experience in operating the STS under the EBF, the Lithuanian authorities have called for separate implementing rules in future in order to facilitate implementation and management of the Scheme.

## **CONCLUSIONS**

The Special Kaliningrad Transit Scheme was a success in that it was instrumental in ensuring that Lithuania applied the FTD/FRTD arrangements and the EU maintained good relations with the Russian Federation following the 2004 enlargement, without compromising Lithuania's prospects of joining the Schengen Area. The high rate of absorption of the EU allocation is due to the quality of the management scheme put in place. This is confirmed by Lithuania's recognition that the arrangements would not have been implemented without EU financial support.

The key factor in this success was the programme structure based on annual indicative (not financially binding) schedules. This system proved to be both flexible and efficient in giving the Member State a high degree of responsibility for fund allocation in response to identified needs.

The pertinence of the SKTP is illustrated by the fact that specific financial support (the STS) for managing the transit of persons between the Kaliningrad Oblast and other parts of the Russian Federation has been maintained in the 2007-13 programming period and that it is proposed that the same provisions be incorporated into the Internal Security Fund (2014-20).