

Rapid Border Intervention Teams

2006/0140(COD) - 11/07/2007 - Final act

PURPOSE: the establishment of Rapid Border Intervention Teams.

LEGISLATIVE ACT: Regulation (EC) No 863/2007 of the European Parliament and of the Council establishing a mechanism for the creation of Rapid Border Intervention Teams and amending Council Regulation (EC) No 2007/2004 as regards that mechanism and regulating the tasks and powers of guest officers (FRONTEX).

BACKGROUND: in 2004, the Council adopted Regulation (EC) 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX) (see [CNS/2003/0273](#)). The Agency, which became operational in 2005, aimed to improve the integrated management of the external borders of the Member States of the EU. While considering that the responsibility for the control and surveillance of external borders lies with the Member States, the Agency facilitated the application of Community measures relating to the management of external borders.

The current possibilities for providing efficient practical assistance with regard to checking persons at the external borders and the surveillance of the external borders at European level are not considered sufficient, in particular where Member States are faced with the arrival of large numbers of third-country nationals trying to enter the territory of the Member States illegally. A Member State should accordingly have the possibility of requesting the deployment, within the framework of the Agency, of Rapid Border Intervention Teams comprising specially trained experts from other Member States on its territory to assist its national border guards on a temporary basis.

CONTENT: **firstly**, it is the precise purpose of this Regulation **to establish a mechanism for the purposes of providing rapid operational assistance** for a limited period to a requesting Member State facing a situation of urgent and exceptional pressure, especially the arrival at points of the external borders of large numbers of third-country nationals trying to enter the territory of the Member State illegally, in the form of Rapid Border Intervention Teams (“the teams”). The Regulation also defines the tasks to be performed and powers to be exercised by members of the teams during operations in a Member State other than their own.

Secondly, the Regulation **amends Regulation (EC) No 2007/2004** as a result of the establishment of the teams and with a view to defining the tasks to be performed and powers to be exercised by border guards of the Member States participating in joint operations and pilot projects in another Member State.

PART I: Rapid Border Intervention Teams

The main points of the Regulation is as follows:

Composition and deployment of Rapid Border Intervention Teams: this will be determined by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the EU (“the Agency”), in accordance with Regulation (EC) No 2007/2004 as amended here. On a proposal by the Executive Director of the Agency, the Agency’s Management Board shall decide by a three-quarters’ majority on the profiles and the overall number of border guards to be made available for the teams (the Rapid Pool). Member States shall contribute to the Rapid Pool via a national expert pool on the basis of the various defined profiles by nominating border guards corresponding to the required profiles. The costs will be met by the Agency.

Instructions to the Rapid Border Intervention Teams: during deployment of the teams, instructions to the teams will be issued by the host Member State in accordance with the operational plan referred to Regulation (EC) No 2007/2004. The host Member State must take into consideration any views expressed by the Agency. Members of the teams may only perform tasks and exercise powers under instructions from and, as a general rule, in the presence of border guards of the host Member State. While performing their tasks, members of the teams may carry service weapons, ammunition and equipment as authorised according to the home Member State's national law. However, the host Member State may prohibit the carrying of certain service weapons, ammunition and equipment, provided that its own legislation applies the same prohibition to its own border guards. The host Member State shall inform the Agency of the permissible service weapons, ammunition and equipment and of the conditions for their use. The Agency must make this information available to all Member States participating in the deployment.

While performing their tasks members of the teams shall be authorised to use force, including service weapons, ammunition and equipment, with the consent of the home Member State and the host Member State, in the presence of border guards of the host Member State and in accordance with the national law of the host Member State. Service weapons, ammunition and equipment may be used in legitimate self-defence, in legitimate defence of members of the teams or of other persons, in accordance with the national law of the host Member State. Furthermore, the host Member State may authorise the members of the teams to consult its national and European databases which are necessary for border checks and surveillance. Member States shall, in advance of the deployment of the teams, inform the Agency of the national and European databases which may be consulted. Decisions to refuse entry in accordance with the Schengen Border Code ([COD/2004/0127](#)) shall be taken only by border guards of the host Member State.

Status, rights and obligations of members of the teams: members of the teams will remain national border guards of their home Member States and be paid by them. Border guards who are made available to the Rapid Pool must participate in advanced training relevant to their tasks and powers as well as in the regular exercises conducted by the Agency. Border guards will receive a daily subsistence allowance for the duration of their participation in training and exercises organised by the Agency and of their periods of deployment. Members of the teams shall wear their own uniform while performing their tasks and exercising their powers. They shall wear a **blue armband** with the insignia of the European Union and the Agency on their uniforms, identifying them as participating in a deployment of the teams.

Civil and criminal liability: with regard to the former, where members of the teams are operating in a host Member State, that Member State shall be liable in accordance with its national law for any damage caused by them during their operations. However, where such damage results from gross negligence or wilful misconduct, the host Member State may approach the home Member State in order to have any sums it has paid to the victims or persons entitled on their behalf reimbursed by the latter. Each Member State shall waive all its claims against the host Member State or any other Member State for any damage it has sustained, except in cases of gross negligence or wilful misconduct. With regard to criminal responsibility, members of the teams shall be treated in the same way as officials of the host Member State with regard to any criminal offences that might be committed against them or by them.

Costs: the costs of establishing and maintaining the Rapid Border Intervention Teams, including training, exercise and deployment, will be covered by the budget of the Agency.

Lastly, the Regulation shall apply without prejudice to the rights of refugees and persons requesting international protection, in particular as regards non-refoulement.

PART II: Amendments to Regulation (EC) No 2007/2004

The Regulation amends Regulation (EC) No 2007/2004 as a result of the establishment of the teams.

Amendments are made to the Frontex regulation concerning: the definitions of the tasks and competences; the composition of the intervention teams and the description of the situation, with modus operandi and objectives of the deployment, including the operational aim; the foreseeable duration of deployment of the teams; the geographical area of responsibility in the requesting Member State where the teams will be deployed; description of tasks and special instructions for members of the teams, including on permissible consultation of databases and permissible service weapons, ammunition and equipment in the host Member State.

Following the request from the European Parliament, the amended Regulation provides for the setting up of a **national contact point**. Member States shall designate a national contact point for communication with the Agency on all matters pertaining to the teams. The national contact point shall be reachable at all times.

Lastly, the amended Regulation lays down the conditions for the appointment of a **Coordinating Officer** who shall act on behalf of the Agency in all aspects of the deployment of the teams. In particular, the coordinating officer shall act as an interface between the Agency and the host Member State.

Territorial provisions: Regulation (EC) No 863/2007 shall apply to EU except for Denmark, Ireland and the United Kingdom. Denmark may decide within a period of six months after the date of adoption of this Regulation whether it will transpose it in its national law or not. It shall also apply to Norway and Switzerland.

The Commission shall evaluate the application of this Regulation one year after its entry into force and present a report to the European Parliament and the Council accompanied, if necessary, by proposals to amend this Regulation.

ENTRY INTO FORCE: 20/08/2007.