

# Rapid Border Intervention Teams

2006/0140(COD) - 26/04/2007 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution drafted by Gerard **DEPREZ** (ALDE, B), with 526 votes for, 63 against and 28 abstentions, and approved the position of its competent committee, making some amendments to the Commission's proposal.

**Aim of the regulation:** Parliament considers that the Rapid Border Intervention Teams must be established to provide rapid operational assistance for a limited period to a requesting Member State facing a situation of urgent and exceptional pressure. Accordingly, the Regulation amends Regulation (EC) No 2007/2004 (FRONTEX Regulation; please see CNS/2003/0273) as a result of the establishment of the mechanism for the purposes of providing rapid operational assistance 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.

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

**Composition and deployment of Rapid Border Intervention Teams:** the Agency's Management Board shall decide by a three-quarters' majority the profiles and the overall number of border guards to be made available for the Rapid Border Intervention Teams (the Rapid Pool). The same procedure shall apply with regard to any subsequent changes in the profiles and the overall number of border guards of the Rapid Pool. Member States shall contribute to the Rapid Pool via a national expert pool based on the different defined profiles by nominating border guards corresponding to the required profiles. They will make the border guards available for deployment at the request of the Agency, unless the Member State faces an exceptional situation substantially affecting the discharge of national tasks. The autonomy of the home Member State in relation to the selection of staff and the duration of their deployment shall remain unaffected.

**Tasks and powers of the members of the teams:** instructions to the teams shall be issued by the host Member and the Agency may communicate its views on the instructions to the host Member State. If it does so, the host Member State shall consider those views. Members of the teams shall have the capacity to perform all tasks and exercise all powers for border checks or border surveillance in accordance with Regulation (EC) No 562/2006 (the Schengen Borders Code). The details for each deployment shall be specified in the operational plan of that deployment in accordance with the FRONTEX Regulation. 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. Members of the teams must fully respect human dignity and shall not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. Team members 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 its own legislation includes the same provisions for its own border guards. The host Member State shall inform the Agency of the permissible service weapons and of the conditions for their use. While performing their tasks, members of the teams shall be authorised to use force, including service weapons 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, for the purpose of this Regulation 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 of members of the teams:** border guards who are made available to the Rapid Pool shall participate in advanced training relevant for their tasks. Team members shall comply with Community and national law of the host Member State, and shall remain subject to the disciplinary measures of their home Member State.

**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.

Parliament went on to make the necessary amendments to the FRONTEX Regulation in order to reflect those had been made here, and made provision for Member States to designate a national contact point for communication with the Agency on all matters pertaining to the Rapid Border Intervention Teams. The national contact point shall be reachable at all times. Parliament stipulated that the Agency must meet the costs incurred by Member States in making available their border guards for the Rapid Border Intervention Teams and training exercises. The costs are: travel costs from the home Member State to the host Member State and from the host Member State to the home Member State; costs related to vaccinations, and to special insurance needs; costs related to health care; daily subsistence allowances, including accommodation costs; and costs related to the Agency's technical equipment.

Lastly, the Commission must evaluate the implementation of the Regulation one year after its entry into force and present a report accompanied, if necessary, by proposals for its amendment.