

# EUROPEAN PARLIAMENT

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**A6-0135/2007**

12.4.2007

## **\*\*\*I** **REPORT**

on the proposal for a regulation 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

(COM(2006)0401 – C6-0253/2006 – 2006/0140(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Gérard Deprez

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases  
covered by Articles 105, 107, 161 and 300 of the EC Treaty and  
Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission.)

### ***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

## CONTENTS

	<b>Page</b>
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION .....	5
PROCEDURE.....	23



## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation 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 (COM(2006)0401 – C6-0253/2006 – 2006/0140(COD))**

**(Codecision procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2006)0401)<sup>1</sup>,
  - having regard to Article 251(2) and Articles 62(2a) and 66 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0253/2006),
  - having regard to Rule 51 of its Rules of Procedure,
  - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A6-0135/2007),
1. Approves the Commission proposal as amended;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council and Commission.

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### AMENDMENTS BY PARLIAMENT

**to the Commission proposal for a**

**REGULATION 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 powers and tasks of guest officers\***

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 62(2)(a) and 66 thereof,

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<sup>1</sup> OJ C ... / Not yet published in OJ.

\* *Amended text is highlighted in bold and italics, deletions are indicated by the following symbol ▬.*

Having regard to the proposal from the Commission<sup>1</sup>,

*After consulting* the European Economic and Social Committee,

Acting in accordance with the procedure laid down in Article 251 of the Treaty<sup>2</sup>,

Whereas:

- (1) On 26 October 2004, the Council adopted Regulation (EC) No 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (“the Agency”).
- (2) A Member State facing circumstances requiring increased technical and operational assistance at its external borders may, without prejudice to Article 64(2) of the Treaty, **in accordance with Articles 7 and 8** of Regulation (EC) No 2007/2004, request the Agency for assistance in the form of coordination, where more Member States are involved. **In such a situation, the Agency may decide on the deployment of border guards of the Member States in the form of Rapid Border Intervention Teams.**
- (2a) **Effective management of the external borders through checks and surveillance helps to combat illegal immigration and trafficking in human beings and to prevent any threat to the Member States' internal security, public policy, public health and international relations. Border control is in the interest not only of the Member State at whose external borders it is carried out but of all Member States which have abolished internal border control.**
- (3) **Responsibility for the control of the external borders lies with the Member States.** Bearing in mind the critical situations which Member States from time to time have to deal with at their external borders, in particular as regards the arrivals at points of the external borders of large numbers of third-country nationals trying to enter illegally the **territory of the Member States, it may be necessary to assist Member States by providing appropriate and sufficient resources, in particular personnel.**
- (3a) **The current possibilities of rendering efficient practical assistance with regard to checking persons at external borders and the surveillance of the external borders at European level are not considered sufficient, in particular where Member States face the arrival of large numbers of third-country nationals trying to enter illegally the territory of the Member States.**
- (4) A Member State should **accordingly** have the possibility to request the deployment, in the framework of the Agency, of **Rapid** Border Intervention Teams comprising specially trained experts from other Member States to its territory to assist its national border guards on a temporary basis. **The deployment of the Rapid Border Intervention Teams will contribute to increasing solidarity and mutual assistance between Member States.**

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<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ C , , p. .

- (4a) *Rapid Border Intervention Teams will depend on the planned duties, availability and frequency of deployment. To ensure its effective operation Member States should provide the Rapid Pool with an appropriate number of border guards reflecting especially the specialisation and size of their own border guard organisations. The Member States should therefore create national pools of experts to help increase the effectiveness of this Regulation. The different sizes of the Member States and technical specialisations are taken into consideration by the Agency.*
- (5) A mechanism for the creation of Rapid Border Intervention Teams should therefore be established, *which offers both the Agency and the Member States sufficient flexibility and ensures that operations are carried out with a high level of efficiency and effectiveness.*
- (5a) *Best practices from numerous Member States show that knowing the profiles (skills and qualifications) of available border guards before deployment significantly contributes to the efficient planning and conduct of operations.*
- (5b) *The Agency's Management Board should determine the profiles and overall number of border guards to be provided for the Rapid Border Intervention Teams.*
- (5c) *The deployment of Rapid Border Intervention Teams to provide support for a limited period of time takes place in exceptional and urgent situations. Situations of this kind would arise when a Member State is faced with a mass influx of third-country nationals attempting to enter its territory illegally which requires an immediate response and where the deployment of a Rapid Border Intervention Team would contribute to providing an effective response. Rapid Border Intervention Teams are not intended to provide long-term assistance.*
- (5d) *When a Member State is faced with a mass influx of third country nationals attempting to enter its territory illegally, or another exceptional situation substantially affecting the discharge of national tasks, it may refrain from making its national border guards available for deployment following a specific request from the Agency.*
- (5e) *The Agency should, inter alia, coordinate the composition, training and deployment of the Rapid Border Intervention Teams. It is therefore necessary to introduce new provisions in Regulation (EC) No 2007/2004 concerning the role of the Agency with respect to those teams.*
- (6) In order to work effectively together with national border guards, the experts should be able to carry out tasks related to the *checks* of persons at and the surveillance of the external borders while deployed to the Member State requesting their assistance.
- (7) Similarly, the efficiency of joint operations coordinated by the Agency should be further improved by enabling, on a temporary basis, guest officers of other Member States to carry out tasks related to the *checks* of persons at and the surveillance of the external borders ■ .

- (8) It is therefore necessary to introduce new provisions in Regulation (EC) No 2007/2004 concerning the tasks *and powers* of guest officers █ deployed to a Member State at its request in the framework of the Agency.
- (9) ***This Regulation supports the correct application of Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code)<sup>1</sup>. To this end, the guest officers and members of the teams, while carrying out border checks and surveillance, should not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. Any measures taken in the performance of their tasks and in the exercise of their powers should be proportionate to the objectives pursued by such measures.***
- (10) █
- (11) ***This Regulation respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. It should be applied in accordance with the Member States' obligations as regards international protection and non-refoulement.***
- (11a) ***This Regulation should be applied with full respect for obligations arising under the international law of the sea, in particular as concerns search and rescue.***
- (11b) ***Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and of the free movement of such data<sup>2</sup> applies to the processing of personal data by the Member States in application of this Regulation.***
- (12) As regards Iceland and Norway, this Regulation constitutes a development of ***provisions of*** the Schengen acquis within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the ***latters'*** association █ with the implementation, application and development of the Schengen acquis<sup>3</sup> █ which fall within the area referred to in Article 1, point A, of Council Decision 1999/437/EC ***of 17 May 1999***<sup>4</sup> on certain arrangements for the application of that Agreement.
- (13) As regards Switzerland, this Regulation constitutes a development of provisions of the Schengen acquis within the meaning of the Agreement signed between the European Union, the European Community and the Swiss Confederation concerning the association of the Swiss Confederation with the implementation, application and development of the Schengen acquis, which fall within the area referred to in Article 1, point A, of Decision 1999/437/EC read in conjunction with Article 4(1) of Council

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<sup>1</sup> OJ L 105, 13.4.2006, p. 1.

<sup>2</sup> OJ L 281, 23.11.1995, p. 31.

<sup>3</sup> OJ L 176, 10.7.1999, p. 36.

<sup>4</sup> OJ L 176, 10.7.1999, p. 31.



Decisions 2004/849/EC<sup>1</sup> and 2004/860/EC<sup>2</sup>.

- (14) In accordance with Articles 1 and 2 of the Protocol on the *Position* of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. Given that this Regulation builds upon the Schengen acquis under the provisions of Title IV *of* Part Three of the Treaty establishing the European Community, Denmark should, in accordance with Article 5 of the said Protocol, decide within a period of six months after the ***date of adoption of*** this Regulation whether it will implement it in its national law or not.
- (15) This Regulation constitutes a development of provisions of the Schengen acquis in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC of 29 May 2000 **■** concerning the request of the United Kingdom *of Great Britain and Northern Ireland* to take part in some of the provisions of the Schengen acquis<sup>3</sup>. The United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to *its* application.
- (16) This Regulation constitutes a development of provisions of the Schengen acquis in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen acquis<sup>4</sup>. Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.
- (17) In this Regulation, the provisions of ***Article 6 (4c)*** and ***(4d)*** constitute, to the extent that they refer to access being given to the Schengen Information System (SIS), provisions building on the Schengen acquis or otherwise related to it within the meaning of Article 3(2) of the 2003 and ***Article 4(2) of the*** 2005 Acts of Accession.

HAVE ADOPTED THIS REGULATION:

#### Article 1 Subject matter

1. This Regulation establishes 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 arrivals at points of the external borders of large numbers of third-country nationals trying to enter illegally the ***territory of the Member State***, in ***the*** form of Rapid Border Intervention Teams. *This* Regulation also defines the tasks ***and powers*** to be performed by **■** members of the Rapid Border Intervention Teams during operations in a Member State other than their own.

***2. This Regulation amends Regulation (EC) No 2007/2004 as a result of the establishment of the mechanism referred to in paragraph 1 and with a view to defining the***

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<sup>1</sup> OJ L 368, 15.12.2004, p. 26.

<sup>2</sup> OJ L 370, 17.12.2004, p. 78.

<sup>3</sup> ***OJ L 131, 1.6.2000, p. 43.***

<sup>4</sup> OJ L 64, 7.3.2002, p. 20.

*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.*

3. *Necessary technical assistance to a requesting Member State shall be provided in accordance with Articles 7 and 8 of Regulation (EC) No 2007/2004.*

#### *Article 1a Scope*

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

### **CHAPTER I Rapid Border Intervention Teams**

#### **Article 2 Definitions**

For the purposes of this Regulation, the following definitions shall apply:

- (1) “the Agency” means the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union ;
- (2) ;
- (3) ;
- (4) ;
- (5) “members of the teams” means border **guards** of Member States serving with the Rapid Border Intervention Teams *other than those of the host Member State*;
- (6) “requesting Member State” means a Member State *whose competent authorities request* the Agency to deploy Rapid Border Intervention Teams in its territory;
- (7) “host Member State” means a Member State on the territory of which a deployment of Rapid Border Intervention Teams takes place;
- (8) “home Member State” means the Member State *of* which a member of the team is a border guard.

#### **Article 3 Composition and deployment of Rapid Border Intervention Teams**

1. The composition of the Rapid Border Intervention Teams shall be determined by the Agency in accordance with Article 8b of Regulation (EC) No 2007/2004. ***The deployment***

*shall be governed by Article 8f* of that Regulation.

2. ***On a proposal by the Executive Director of the Agency, 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.***

3. ***Member States shall 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.***

4. The costs relating to the activities referred to in ***paragraph 1*** shall be met by the Agency in accordance with ***Article 8ha*** of Regulation (EC) No 2007/2004.

#### Article 4



#### Article 5

##### ***Instructions to the Rapid Border Intervention Teams***

1. During deployment of the Rapid Border Intervention ***Teams***, ***instructions*** to the ***teams*** shall be ***issued*** by the host Member State in accordance with the operational plan ***referred to in Article 8g of Regulation (EC) No 2007/2004.***

2. ***The Agency, via its coordinating officer as referred to in Article 8h of Regulation (EC) No 2007/2004, may communicate its views on the instructions to the host Member State. If it does so, the host Member State shall consider those views.***

3. ***In accordance with Article 8h of Regulation (EC) No 2007/2004 the host Member State shall give the coordinating officer all necessary assistance, including full access to the teams at all times throughout the deployment.***

#### Article 6

##### ***Tasks and powers of the*** ***members of the teams***

1. ***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 of the European Parliament and of the Council of 15 March 2006 establishing a***

*Community Code on the rules governing the movement of persons across borders (the Schengen Borders Code), and that are necessary for the realisation of the objectives of that Regulation. The details for each deployment shall be specified in the operational plan of that deployment in accordance with Article 8g of Regulation (EC) No 2007/2004.*

*2. Members of the teams shall, in the performance of their tasks and in the exercise of their powers, fully respect human dignity. Any measures taken in the performance of their tasks and in the exercise of their powers shall be proportionate to the objectives pursued by such measures. While performing their tasks and exercising their powers, members of the teams shall not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.*

*2a. 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.*

*3. Members of the teams shall wear their own uniform while performing their tasks. 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 Rapid Border Intervention Teams. For the purposes of identification vis-à-vis national authorities of the host Member State and citizens, members of the teams shall at all times carry an accreditation document, as provided for in Article 9, which they shall present on request.*

*4. 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 its own legislation includes the same provisions for its own border guards. The host Member State shall, in advance of the deployment of the teams, inform the Agency of the permissible service weapons, ammunition and equipment and of the conditions for their use. The Agency shall make this information available to all Member States participating in the deployment.*

*4a. 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.*

*4b. By way of derogation from paragraph 4a, 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.*

*4c. 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. The members of the teams shall consult only the data which are required for performing their tasks. The Member States shall, in advance of the deployment of the teams, inform the Agency of the national and European databases which may be consulted. The Agency shall make this information available to all Member States participating in the deployment.*

**4d. The consultation as referred to in paragraph 4c shall be carried out in accordance with Community law and the national law of the host Member State in the area of data protection.**

**4e. Decisions to refuse entry in accordance with Article 13 of Regulation (EC) No 562/2006 shall be taken only by border guards of the host Member State.**

#### **Article 6 a**

##### **Status, rights and obligations of members of the teams**

1. Members of the teams shall remain national border guards of their Member States and shall be paid by them.
2. **Border guards who are made available to the Rapid Pool** pursuant to **Article 3** shall participate in **advanced** training relevant for their tasks as well as in the regular exercises provided by the Agency in accordance with **Article 8e** of Regulation (EC) No 2007/2004.
3. **Border guards** shall receive a daily subsistence allowance, **including accommodation costs**, for the duration of their participation in training and exercises organised by the Agency, and periods of deployment in accordance with **Article 8ha** of Regulation (EC) No 2007/2004.

#### **Article 7**

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#### **Article 8**

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#### **Article 9**

##### **Accreditation document**

1. The **Agency** shall, **in cooperation with the host Member State**, issue a document **in the official language of the host Member State and another official language of the institutions of the European Union** to members of the teams for the purpose of identifying them and as proof of the holder's rights to **perform the tasks and exercise the powers** as referred to in **Article 6(1)**. The **document** shall include the following features **of the member of the team**:

- (a) name and nationality ;
- (b) rank **and**
- (c) a recent **digitised photograph** .

2. The document shall be returned to the **Agency** at the end of the deployment of the Rapid Border Intervention **Team**.

**Article 9a**  
**Applicable law**

- 1. While performing the tasks and exercising the powers as referred to in Article 6(1), the members of the teams shall comply with Community law and the national law of the host Member State.**
- 2. While performing the tasks and exercising the powers as referred to in Article 6(1), the members of the teams shall remain subject to the disciplinary measures of their home Member State.**
- 3. Specific rules concerning the carrying and use of service weapons, ammunition and equipment, as well as the use of force are set out in Article 6(4), (4a) and (4b).**
- 4. Specific rules concerning civil and criminal liability are set out in Articles 10 and 11 respectively.**

**Article 10**  
**Civil liability**

- 1. 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** [ ] **.**
- 2. 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.**
- 3. Without prejudice to the exercise of its rights vis-à-vis third parties, 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.**
- 3a. Any dispute between Member States relating to the application of paragraphs 2 and 3 which cannot be resolved by negotiations between them shall be submitted by them to the Court of Justice of the European Communities in accordance with Article 239 of the Treaty.**
- 4. Without prejudice to the exercise of its rights vis-à-vis third parties, costs related to damage caused to the Agency's equipment during deployment shall be met by the Agency, except in cases of gross negligence or wilful misconduct.**

**Article 11**  
**Criminal liability**

**During** [ ] **the deployment of Rapid Border Intervention Teams,** [ ] **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.

**CHAPTER II**  
***Amendments to Regulation (EC) No 2007/2004***

Article 12

***Amendments related to Rapid Border Intervention Teams as well as joint operations and pilot projects***

Regulation (EC) No 2007/2004 is *hereby* amended as follows:

***In Article 1, the following paragraphs shall be added:***

- "5. For the purposes of this Regulation, "host Member State" means a Member State on the territory of which a deployment of one or more Rapid Border Intervention Teams or a joint operation or a pilot project takes place.***
- 6. For the purposes of this Regulation, "home Member State" means the Member State of which a member of the team or the guest officer is a border guard."***

Article 12a

***Amendments related to Rapid Border Intervention Teams***

***Regulation (EC) No 2007/2004 is amended as follows:***

***(1) In Article 1, the following paragraphs shall be added:***

- "7. For the purposes of this Regulation, "members of the teams" means border guards of Member States serving with the Rapid Border Intervention Team other than those of the host Member State.***
- 8. For the purposes of this Regulation, "requesting Member State" means a Member State whose competent authorities request the Agency to deploy the Rapid Border Intervention Teams in its territory."***

***(2) In Article 2(1), the following point shall be added:***

- "(g) deploy Rapid Border Intervention Teams to Member States *in accordance with Regulation (EC) No .../2007 of ... 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 powers and tasks of guest officers."****

***(3) Article 8(3) shall be replaced by the following:***

"3. The Agency may acquire technical equipment for *checks* and surveillance of external borders to be used by its experts and █ in the framework of █ the Rapid Border Intervention Teams for the duration of their deployment. █ "

(4) The following Articles █ shall be inserted:

“Article 8a  
Rapid Border Intervention Teams

*At the request of a Member State facing a situation of urgent and exceptional pressure, especially the arrivals at points of the external borders of large numbers of third-country nationals trying to enter illegally the territory of the Member State, the Agency may deploy for a limited period one or more Rapid Border Intervention Teams to a requesting Member State for the appropriate duration, in accordance with Article 3 of Regulation (EC) No .../... (this Regulation).*

Article 8b  
Composition of Rapid Border Intervention Teams

1. *In the event of a situation as described in Article 8a, Member States shall, at the request of the Agency, immediately communicate the number, names and profiles of border guards from their national pool which they are able to make available within five days to be members of a Rapid Border Intervention Team. Member States shall 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.*

2. When determining the composition of a Rapid Border Intervention Team for deployment, the **Executive Director** shall take into account the particular circumstances which the requesting Member State is facing. The team shall be composed in accordance with the operational plan referred to in **Article 8g**.

Article 8c

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Article 8d

█

Article 8e  
Training and exercises

The Agency shall provide border guards *who are part of the Rapid Pool with advanced training relevant for their tasks*. It shall also conduct regular exercises with those *border guards* in accordance with *an advanced training and exercise schedule referred to* in the Agency's annual *working* programme █ .

Article 8f  
Procedure for deciding on deployment of the Rapid Border Intervention Teams



1. A request for deployment of *the* Rapid Border Intervention *Teams* in accordance with Article 8a **shall include a description of the situation, possible aims and envisaged needs for the deployment**. If required, the Executive Director may send experts from the Agency to assess the situation at the external borders of the requesting Member State.

**1a. When deciding on the request of a Member State, the Executive Director shall take into account the findings of the Agency's risk analyses as well as any other relevant information provided by the requesting Member State or another Member State.**

**1b. The Executive Director shall immediately inform the Management Board of a Member State's request for deployment of the Rapid Border Intervention Teams.**

2. The Executive Director shall take a decision on the request for deployment of the Rapid Border Intervention Teams as soon as possible and no later than five working days from the date of the receipt of the request. The Executive Director shall simultaneously notify the requesting Member State and the Management Board in writing of the decision. The decision shall state the main reasons on which it is based.

3. If the Executive Director decides to deploy one or more Rapid Border Intervention Teams, an operational plan shall immediately be drawn up by the Agency and the requesting Member State in accordance with **Article 8g**.

4. As soon as the operational plan has been agreed, the Executive Director shall inform the Member States **of the requested number and profiles of** border guards **which** are to be deployed in the Rapid Border Intervention *Teams*. This information shall be provided, in writing, to the national contact points *designated* under **Article 8ga** and shall indicate the date on which the deployment is to take place. A copy of the operational plan shall also be provided.

**4a. If the Executive Director is absent or indisposed, the decisions related to the deployment of the Rapid Border Intervention Teams shall be taken by the Deputy Executive Director.**

**4b. Member States shall 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.**

5. Deployment of the Rapid Border Intervention *Teams* shall take place no later than five working days after the date on which the operational plan is agreed between the *Executive Director* and the requesting Member State.

#### Article 8g Operational plan

1. The **Executive Director** and the requesting Member State shall agree on an operational plan detailing the precise conditions for deployment of the Rapid Border Intervention *Teams*. The operational plan shall include the following:

**(-a) description of the situation, with modus operandi and objectives of the deployment,**

*including the operational aim;*

- (a) the *foreseeable* duration of deployment of the Rapid Border Intervention *Teams*;
- (b) the **█** geographical *area of responsibility* in the requesting Member State where the Rapid Border Intervention *Teams* will be deployed;
- (c) *description of tasks and special instructions, including on permissible consultation of databases and permissible service weapons, ammunition and equipment in the host Member State by members of the teams;*
- (d) the composition of the Rapid Border Intervention *Teams*;
- (e) **█**
- (f) **█**
- (g) the names and ranks of the host Member State's border guards responsible for cooperating with the teams, in particular those of the border guards who shall be in command of the Rapid Border Intervention *Teams* during the period of deployment, and the place of the **teams** in the chain of command;
- (ga) the technical equipment to be deployed together with the Rapid Border Intervention Teams *in accordance with Article 8*.

2. Any amendments or adaptations to the operational plan shall require the agreement of both the Executive Director and the requesting Member State. *A copy of the amended or adapted operational plan shall immediately be sent by the Agency to the participating Member States.*

*Article 8ga  
National contact point*

*Member States shall 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.*

Article 8h  
*Coordinating Officer*

1. The Executive Director shall appoint one or more experts from the staff of the Agency to be deployed as *coordinating officer* **█**. The Executive Director shall notify the host Member State of the appointment. *The coordinating officer shall act on behalf of the Agency in all aspects of the deployment of the teams.*

2. **█** In particular, *the coordinating officer* shall:

- (a) act as an interface between the Agency and the host Member State;
- (b) act as an interface between the Agency and the members of the *teams*, providing

assistance, on behalf of the Agency, on all issues related to the conditions for their deployment with the *teams*;

- (c) monitor the *correct* implementation of the operational plan;
- (d) *report to the Agency on all aspects of the deployment of the teams.*

**2a. In accordance with Article 25(3)f, the Executive Director may authorise the coordinating officer to assist in resolving any disagreement on the execution of the operational plan and deployment of the Rapid Border Intervention Teams.**

3. In discharging his duties, *the coordinating officer* shall only take instructions from the Agency.

#### *Article 8ha* *Costs*

**1. The Agency shall fully meet the following costs incurred by Member States in making available their border guards for the purposes mentioned in Articles 8a and 8e.**

- (a) *travel costs from the home Member State to the host Member State and from the host Member State to the home Member State;*
- (b) *costs related to vaccinations;*
- (c) *costs related to special insurance needs;*
- (d) *costs related to health care;*
- (e) *daily subsistence allowances, including accommodation costs;*
- (f) *costs related to the Agency's technical equipment.*

**2. Detailed rules concerning the payment of the daily subsistence allowance of members of the teams shall be established by the Management Board."**

#### *Article 12b* *Amendments related to joint operations and pilot projects*

**Regulation (EC) No 2007/2004 is hereby amended as follows:**

**(1) In Article 1, the following paragraph shall be added:**

**"9. For the purposes of this Regulation, references to guest officers means the officers of border guard services of other Member States than the host Member State participating in joint operations and pilot projects."**

**(2) Article 10 shall be replaced by the following:**

**“Article 10**  
**Tasks and powers of guest officers**

**1. Guest officers 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 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (the Schengen Borders Code), and that are necessary for the realisation of the objectives of that Regulation.**

**2. While performing these tasks and exercising these powers guest officers shall comply with Community law and the national law of the host Member State.**

**3. Guest officers may only perform tasks and exercise powers under the instruction and, as a general rule, in the presence of border guards of the host Member State.**

**Guest officers shall wear their own uniform while performing their tasks. 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 joint operation or pilot project. For the purposes of identification vis-à-vis national authorities of the host Member State and citizens, guest officers shall at all times carry an accreditation document, as provided for in Article 10a, which they shall present on request.**

**4. By way of derogation from paragraph 2, while performing their tasks, guest officers 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 weapons, ammunition and equipment, provided its own legislation includes the same provisions for its own border guards. Member States shall, in advance of the deployment of the guest officers, inform the Agency of the permissible service weapons, ammunition and equipment and of the conditions for their use. The Agency shall make this information available to Member States.**

**5. By way of derogation from paragraph 2, while performing their tasks, guest officers shall be authorised to use force, including service weapons, ammunition and equipment, with the consent of the home Member State and 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.**

**6. By way of derogation from paragraph 5, service weapons, ammunition and equipment may be used in legitimate self-defence, in legitimate defence of guest officers or of other persons in accordance with the national law of the host Member State.**

**7. For the purpose of this Regulation the host Member State may authorise guest officers to consult its national and European databases which are necessary for border checks and surveillance. The guest officers shall consult only the data which are required for performing their tasks. The Member States shall, in advance of the deployment of the guest officers, inform the Agency of the national and European databases which may be consulted. The Agency shall make this information available to all Member States participating in the deployment.**

**8. The consultation as referred to in paragraph 7 shall be carried out in accordance with Community law and the national law of the host Member State in the area of data protection.**

**Decisions to refuse entry in accordance with Article 13 of Regulation (EC) No 562/2006 shall be taken only by border guards of the host Member State.**

**Article 10a**  
**Accreditation document**

**1. The Agency shall, in cooperation with the host Member State, issue a document in the official language of the host Member State and another official language of the institutions of the European Union to guest officers for the purpose of identifying them and as proof of the holder's rights to perform the tasks and exercise the powers as referred to in Article 10(1). The document shall include the following features of the guest officer:**

- (a) name and nationality;**
- (b) rank and**
- (c) a recent digitised photograph.**

**2. The document shall be returned to the Agency at the end of the joint operation or pilot project.**

**Article 10b**  
**Civil liability**

**1. Where guest officers 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.**

**2. 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.**

**3. Without prejudice to the exercise of its rights vis-à-vis third parties, 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.**

**4. Any dispute between Member States relating to the application of paragraphs 2 and 3 which cannot be resolved by negotiations between them shall be submitted by them to the Court of Justice in accordance with Article 239 of the Treaty.**

**5. Without prejudice to the exercise of its rights vis-à-vis third parties, costs related to damage caused to the Agency's equipment during deployment shall be met by the Agency, except in cases of gross negligence or wilful misconduct.**

**Article 10c**  
**Criminal liability**

***During the deployment of a joint operation or a pilot project, guest officers 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."***

### ***CHAPTER III***

#### ***Final provisions***

##### ***Article 12c Evaluation***

***The Commission shall evaluate the implementation 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 amending this Regulation.***

##### **Article 13 Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

This Regulation shall be binding in its entirety and directly applicable in the Member States, in accordance with the Treaty establishing the European Community.

Done at Brussels,

*For the European Parliament  
The President*

*For the Council  
The President*

## PROCEDURE

<b>Title</b>	Rapid Border Intervention Teams			
<b>References</b>	COM(2006)0401 - C6-0253/2006 - 2006/0140(COD)			
<b>Date submitted to Parliament</b>	19.7.2006			
<b>Committee responsible</b> Date announced in plenary	LIBE 26.9.2006			
<b>Committee(s) asked for opinion(s)</b> Date announced in plenary	AFET 26.9.2006			
<b>Not delivering opinions</b> Date of decision	AFET 17.10.2006			
<b>Rapporteur(s)</b> Date appointed	Gérard Deprez 13.9.2006			
<b>Discussed in committee</b>	6.11.2006	19.12.2006	27.2.2007	20.3.2007
	11.4.2007			
<b>Date adopted</b>	11.4.2007			
<b>Result of final vote</b>	+: 42	-: 4	0: 0	
<b>Members present for the final vote</b>	Alexander Alvaro, Alfredo Antoniozzi, Philip Bradbourn, Mihael Brejc, Kathalijne Maria Buitenweg, Michael Cashman, Giuseppe Castiglione, Giusto Catania, Mladen Petrov Chervenjakov, Carlos Coelho, Fausto Correia, Elly de Groen-Kouwenhoven, Panayiotis Demetriou, Agustín Díaz de Mera García Consuegra, Claudio Fava, Kinga Gál, Patrick Gaubert, Roland Gewalt, Adeline Hazan, Livia Járóka, Ewa Klamt, Magda Kósáné Kovács, Stavros Lambrinidis, Dan Mihalache, Viktória Mohácsi, Claude Moraes, Javier Moreno Sánchez, Martine Roure, Inger Segelström, Károly Ferenc Szabó, Søren Bo Søndergaard, Adina-Ioana Vălean, Ioannis Varvitsiotis, Manfred Weber			
<b>Substitute(s) present for the final vote</b>	Inés Ayala Sender, Edit Bauer, Simon Busuttil, Gérard Deprez, Maria da Assunção Esteves, Luis Herrero-Tejedor, Sophia in 't Veld, Ona Juknevičienė, Sylvia-Yvonne Kaufmann, Jean Lambert, Jörg Leichtfried, Marian-Jean Marinescu, Witold Tomczak			