



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 10 October 2006**

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**LIMITE**

**FRONT 205  
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COMIX 819**

**OUTCOME OF PROCEEDINGS**

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of : Working Party on Frontiers/Mixed Committee (EU-Iceland/Norway/Switzerland)  
dated: 25 September 2006  
No. Cion prop. : 11880/2/06 REV 2 FRONT 152 CODEC 849 COMIX 673 + ADD 1, 2 and 3  
Subject : 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) 2007/2004 as regards that mechanism

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At its meeting on 25 September 2006, the Working Party on Frontiers started the first reading of Articles 1 - 4 of the above-mentioned proposal. The text of the Articles, with delegations' positions in footnote, is set out in annex. Changes agreed at the meeting are shown in bold.

The recitals will be discussed once the discussion of the Articles is finalised.

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<sup>1</sup>**

*Article 1*  
*Subject matter*

This Regulation establishes a mechanism for the purposes of providing rapid<sup>2</sup> technical and operational assistance to a requesting Member State facing a situation of particular<sup>3</sup> pressure, especially the arrivals at points of the external borders of large numbers of third country nationals trying to enter illegally into **the territory of the Member States**, in form of Rapid Border Intervention Teams<sup>4</sup>. The Regulation also defines the tasks<sup>5</sup> to be performed by guest officers and members of the Rapid Border Intervention Teams during operations<sup>6</sup> in a Member State other than their own.

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<sup>1</sup> **EE, EL, SE, SI** entered a general reservation. **SI** pointed out that the Hague Programme only referred to the creation of RABIT whereas the current proposal also includes provisions on guest officers in joint operations and pilot projects. **MT** and **HU** entered a linguistic and a parliamentary reservation. **AT, CY, FR, PT** and **NO** entered a scrutiny reservation. **DE**, and **LV** entered a scrutiny and a linguistic reservation. **PL** entered a linguistic reservation. **UK** and **IE** referred to the position of the UK and Ireland in this matter.

<sup>2</sup> **NO** stated that the title only referred to the RABIT and suggested therefore complementing the title by referring to the guest officers in joint operations and pilot projects. **EL** underlined the importance of a rapid deployment which would allow for the anticipation of certain events. The 10-day procedure could hinder a rapid deployment. **Cion** pointed out that the RABIT are to be considered as a supplement to the national border control capacity of a Member State.

<sup>3</sup> **ES, IT, FR** and **HU** stated that the term "particular pressure" should be specified. **IT** suggested referring to "urgent and exceptional pressure". **Cion** could agree to amend the wording if supported by delegations.

<sup>4</sup> **EL** asked to clarify the link with the technical assistance which Frontex would provide as laid down in Article 8 of Regulation 2007/2004/EC. **Cion** pointed out that the present proposal aims to build upon and further develop Article 8 of the Agency's Regulation.

<sup>5</sup> **NL** stated that the proposal also includes the rights and obligations of the RABITs. It does, however, lack an Article on the rights and obligations of the guest officers.

<sup>6</sup> Following a query from **PL**, **Cion** clarified that this involves both the RABIT and the joint operations involving guest officers.

*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 for deployment of the Rapid Border Intervention Teams<sup>7</sup>;
- (2) "joint operations" means joint operations as referred to in Article 3 of Regulation (EC) No 2007/2004;
- (3) "pilot projects" means pilot projects as referred to in Article 3 of Regulation (EC) No 2007/2004;
- (4) "guest officers" means officers of border guard services of other Member States participating in joint operations and pilot projects in the territory of a Member State<sup>8</sup>;
- (5) "members of the team(s)" means officers of border guard services<sup>9</sup> of Member States serving with the Rapid Border Intervention Teams<sup>10</sup>;
- (6) "requesting Member State" means a Member State which requests the Agency to deploy the Rapid Border Intervention Teams in its territory;
- (7) "host Member State" means a Member State on the territory of which a joint operation, a pilot project or the deployment of the Rapid Border Intervention Teams takes place;
- (8) “home Member State” means the Member State in which the guest officer or member of the team is a national border guard.

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<sup>7</sup> **FR** referred to the role of the Frontex liaison officer and wondered whether a reference to this officer should be added under Art. 2. **Cion** pointed out that the tasks of the Frontex liaison officer are listed in Art. 12 which added a new Article 8h in the Frontex Regulation. He preferred therefore not to add a definition. The liaison officer is neither a member of the team nor a guest officer. The liaison officer has no executive powers but has a coordination role.

<sup>8</sup> **LV**, **PT** and **NL** asked for clarification of this definition. **Cion** stated that the JST are composed of "guest officers". Guest officers are, however, not deployed in the framework of the RABITs. Officers deployed in RABITs are to be considered as "members of the team". Delegations agreed to the **LV** and **ES** suggestion to add a definition of the rapid border intervention teams.

<sup>9</sup> **EL** suggested changing the term "border guard services" in order to align it to the terminology used in the Schengen Borders Code.

<sup>10</sup> **LV** asked for further clarification of this definition, pointing out that both the guest officers and the members of the team seem to carry out the same tasks in accordance with Art. 7. **Cion** clarified that while their tasks can indeed be the same, they are deployed for different purposes.

*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<sup>11</sup>.  
  
The teams shall be deployed by the Agency in accordance with Article 8f of that Regulation.
2. Member States shall provide the names of any officers of their national border guards whom they intend to make available for the Rapid Border Intervention Teams to the Agency.
3. Upon request, Member States shall make the officers referred to in paragraph 2 available to the Agency for the purpose of participating in the following activities:
  - (a) training courses<sup>12</sup> and exercises in accordance with the schedule included in the Agency's annual programme of work;
  - (b) deployment, at short notice<sup>13</sup>, in another Member State.
4. The costs relating to the activities referred to in paragraph 3 shall be met by the Agency in accordance with Article 8d of Regulation (EC) No 2007/2004.

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<sup>11</sup> **EL** suggested establishing a reserve list of officers and stated that different types of RABITS should be possible according to the different types of borders. **Cion** agreed to the **EL** suggestion but underlined that this is a Frontex competence. **DE**, **EL** and **PL** underlined that Member States decide on the deployment of their border guards. **DE** will submit a text proposal amending paragraph 3. **PL** is of the opinion that Member States should decide on the composition of the teams and the necessary skills to take action. **ES** and **PL** stated that the composition of the teams should not be addressed in this Article.

**NL** suggested adding a new recital referring to cases where the officer cannot be seconded to Frontex, because of national priorities.

**Cion** stated that, if a border guard is on the list, his/her deployment under Frontex will have priority. However, Frontex will not have sovereign powers over the officers. Frontex will decide on the composition of the teams and which officers are the most adequate for the operation. He recalled that Member States are not obliged to participate, in particular when they are confronted with a lack of human resources.

<sup>12</sup> **NO**, supported by **EL** and **PT**, suggested referring to the "necessary" training courses. **Cion** pointed out that these training courses are "advanced training courses" which will be part of the Frontex work programme. This programme will be decided on by Member States' representatives in the Management Board.

<sup>13</sup> **EL** asked to clarify the term "short notice".

Article 4  
Rights and obligations of members of the teams

1. Members of the teams shall remain officers of the national border guards of their Member States and shall continue to be paid by them. While deployed as members of the teams they shall, however, only take instructions from the host Member State<sup>14</sup> in accordance with the operational plan agreed between the Agency and that Member State, as laid down in Article 8f(3) of Regulation (EC) No 2007/2004.
2. Officers whose names have been provided to the Agency pursuant to Article 3(2) of this Regulation shall participate in [...] training relevant for their tasks as well as the regular exercises provided by the Agency in accordance with Article 8e of Regulation (EC) No 2007/2004.
3. Officers shall receive a daily subsistence allowance for the duration of their participation in training courses and exercises organised by the Agency, and periods of deployment as members of the teams in accordance with Article 8d of Regulation (EC) No 2007/2004<sup>15</sup>.

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<sup>14</sup> **NL**, supported by **PL** and **HU**, voiced its concerns about cases where the instructions received from Frontex would be contrary to the national legislation of the sending State. **Cion** called for a pragmatic approach and stated that the officers will have to respect Community Law and will not be tasked to go beyond Community Law.

**NL**, supported by **PT**, recalled its suggestion to add an equivalent provision on the rights and obligations of the "guest officers".

**DE** pointed out that a distinction should be made between operational activities and disciplinary measures. It suggested, supported by **EL**, adding a recital stating that the members of these teams are subject to national disciplinary regulations. **Cion** agreed to add a provision on disciplinary measures, possibly in Articles 10 and 11.

**FR** referred to the task of the liaison officer who could solve possible conflicts. It preferred a less exclusive wording of this paragraph.

<sup>15</sup> **SI** queried whether this would also cover the costs of accommodation. **EL** queried who will pay these costs. **AT** queried whether the salary will also be covered.

**Cion** pointed out that the daily subsistence will be paid by the Agency. However, it is still to be examined whether this also involves the costs of accommodation. The basic salary will be paid by the sending Member State.

**SE** referred to some practical issues which are regulated by Labour law i.a. working time, self defence, etc.