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NOTE

from: Finnish delegation

to: Working Party on Frontiers/Mixed Committee
(EU-Iceland/Liechtenstein/Norway/Switzerland)

No. Cion prop.: 6898/10 FRONT 22 CODEC 222 COMIX 151 (COM(2010) 61 final)

Subject: **Proposal for a Regulation of the European Parliament and the Council amending Council 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 (FRONTEX)**

Delegations will find attached a suggestion from the Finnish delegation on Articles 1 to 7 of the above proposal for a Regulation made at the Working Party on Frontiers on 30 April 2010.

REGULATION OF THE EUROPEAN PARLIAMENT AND THE COUNCIL

amending Council 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 (FRONTEX)

Article 1a

We suggest adding point 8. as follows.

8. "Integrated border management" is a concept consisting of:

(a) border control (checks and surveillance) as defined in the Schengen Borders Code, including relevant risk analysis and crime intelligence;

(b) detection and investigation of cross border crime in coordination with all competent law enforcement authorities;

(c) the four-tier access control model (measures in third countries, cooperation with neighbouring countries, border control, control measures within the area of free movement, including return);

(d) inter-agency cooperation for border management (border guards, customs, police, national security and other relevant authorities) and international cooperation;

(e) coordination and coherence of the activities of Member States and Institutions and other bodies of the Community and the Union.

Article 2

We suggest changing article 2 paragraph 1 point (c) as follows:

"(c) carry out risk analyses, including the evaluation of the capacity of Member States to face threats and pressure at the external borders **as complementing and supporting element to the Schengen evaluation mechanism;**

Article 3a

We suggest changing article 3a paragraph 1 point (d) as follows:

- (d) description of the tasks, ~~and~~ special instructions **and powers** for the guest officers, ~~including~~ ~~on~~ **particularly** permissible consultation of databases, **authorisation to use force**, permissible service weapons, ammunition and equipment in the host Member State;

We suggest adding a sentence in article 3a paragraph 2 as follows:

2. Any amendments to or adaptations of the operational plan shall require the agreement of the Executive Director and the host Member State. A copy of the amended or adapted operational plan shall immediately be sent by the Agency to the participating Member States. **Regarding their border guards Member States may amend restrictions or caveats to operational plan due to the limitations of their national legislation.**

Article 3b

We suggest changing article 3b paragraph 3 as follows:

3. **Deployment of border guards is based on annual bi-lateral negotiations and agreements between FRONTEX and the Member States.** Member States shall make the border guards available for deployment **according to the annual combining agreements** at the request of the Agency, unless they are faced with an exceptional situation substantially affecting the discharge of national tasks. Such a request shall be made at least thirty days before the intended deployment. The autonomy of the home Member State in relation to the selection of staff and the duration of their deployment shall remain unaffected.

Article 4

We suggest changing article 4 paragraph 3 as follows:

The Agency shall regularly evaluate the capacity of the Member States to face upcoming challenges, including present and future threats and pressures at the external borders of the European Union. Therefore the Agency shall evaluate the national structures, the equipment and the resources of the Member States regarding border control. **These evaluations are complementing and supporting element to the Schengen evaluation mechanism.** The results of these evaluations shall be presented at least once per year to the Management Board of the Agency.

Article 7

We suggest changing article 7 paragraph 3 as follows:

3. Member States shall contribute to the technical equipment pool referred to in paragraph 2. **Contribution to the pool and deployment of the technical equipment is based on annual bilateral negotiations and agreement between FRONTEX and the Member States.** To the extent that it forms part of the minimum number of equipment for a given year, Member States shall make their technical equipment available **according to the annual combining agreements** within 30 days for deployment at the request of the Agency, unless they are faced with an exceptional situation substantially affecting the discharge of national tasks. Their contributions to the technical equipment pool shall be reviewed annually.