



EUROPEAN PARLIAMENT

2009 - 2014

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*Committee on Civil Liberties, Justice and Home Affairs*

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**2010/0039(COD)**

23.3.2011

**\*\*\*I**

## **ORIENTATION VOTE RESULT**

on the proposal for a regulation of the European Parliament and of 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) (COM(2010)0061 – C7-0045/2010 – 2010/0039(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Simon Busuttil

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

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

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

### ***Amendments to a draft act***

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of 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)  
(COM(2010)0061 – C7-0045/2010 – 2010/0039(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2010)0061),
  - having regard to Article 294(2) and Articles 74 and 77(1)(b) and (c) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0045/2010),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the reasoned opinion sent to its President by a national parliament on the compliance of the draft act with the principle of subsidiarity,
  - having regard to the opinion of the European Economic and Social Committee of 15 July 2010<sup>1</sup>,
  - having regard to Rule 55 of its Rules of Procedure,
  - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Foreign Affairs (A7-0000/2011),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

### **Amendment 1**

#### **Draft legislative resolution Paragraph 3**

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<sup>1</sup> Not yet published in the Official Journal.

*Draft legislative resolution*

*Amendment*

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

3. Instructs its President to forward its position to the Council, the Commission, ***the European Data Protection Supervisor*** and the national parliaments.

**Amendment 2**

**Proposal for a regulation – amending act  
Recital 1**

*Text proposed by the Commission*

*Amendment*

(1) The development of a forward-looking and comprehensive European migration policy, based on solidarity and responsibility, remains a key policy objective for the European Union.

(1) The development of a forward-looking and comprehensive European migration policy, based on ***human rights***, solidarity and responsibility, ***especially for those Member States facing specific or disproportionate pressures***, remains a key policy objective for the European Union.

*Justification*

*The Agency should be mandated to pay special attention to Member States which are facing specific and disproportionate burdens on their national asylum systems.*

**Amendment 3**

**Proposal for a regulation – amending act  
Recital 7**

*Text proposed by the Commission*

*Amendment*

(7) Efficient management of the external borders through checks and surveillance contributes to ***combat illegal*** immigration and trafficking in human beings and to ***reduce the threats*** to the internal security, public policy, public health and international relations of the Member States.

(7) Efficient management of the external borders through checks and surveillance contributes to ***combating irregular*** immigration and trafficking in human beings and to ***reducing the challenges*** to the internal security, public policy, public health and international relations of the Member States.

*(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout.)*

#### **Amendment 4**

##### **Proposal for a regulation – amending act Recital 14**

*Text proposed by the Commission*

(14) To ensure effective operations, Member States should make an appropriate number of skilled border guards available to participate in joint operations and pilot projects. **Teams of border guards** for deployment by the Agency should therefore be set up

*Amendment*

(14) To ensure effective operations, Member States should make an appropriate number of skilled border guards available to participate in joint operations, **rapid border intervention missions** and pilot projects. **An EU Border Guard System** for deployment by the Agency should therefore be set up.

#### **Amendment 5**

##### **Proposal for a regulation – amending act Recital 15**

*Text proposed by the Commission*

(15) The Agency should be able to contribute to those teams with border guards seconded by Member States to the Agency on a semi-permanent basis, which shall be subject, in the exercise of their tasks and powers, to the same legal framework as the guest officers contributed directly to the Teams by Member States. The Agency should adapt its internal rules on seconded national experts to allow for direct instructions by the host state to the border guards during joint operations and pilot projects.

*Amendment*

(15) The Agency should be able to contribute to those teams with border guards seconded by Member States to the Agency on a semi-permanent basis, which shall be subject, in the exercise of their tasks and powers, to the same legal framework as the guest officers contributed directly to the Teams by Member States. The Agency should adapt its internal rules on seconded national experts to allow for direct instructions by the host state to the border guards during joint operations, **rapid border intervention missions** and pilot projects.

## Amendment 6

### Proposal for a regulation – amending act Recital 19

#### *Text proposed by the Commission*

(19) The Agency should provide training, including on fundamental rights, at European level for national instructors of border guards and additional training and seminars related to control and surveillance at the external borders and removal of third-country nationals illegally present in the Member States for officers of the competent national services. The Agency may organise training activities in cooperation with Member States on their territory. Member States should integrate the results of the Agency's work in this perspective in the national training programs of their border guards.

#### *Amendment*

(19) The Agency should provide training, including on fundamental rights, ***international protection and asylum procedures***, at European level for national instructors of border guards and additional training and seminars related to control and surveillance at the external borders and removal of third-country nationals illegally present in the Member States for officers of the competent national services. The Agency may organise training activities in cooperation with Member States on their territory. Member States should integrate the results of the Agency's work in this perspective in the national training programs of their border guards.

## Amendment 7

### Proposal for a regulation – amending act Recital 21

#### *Text proposed by the Commission*

(21) In most Member States, the operational aspects of return of third-country nationals illegally present in the Member States fall within the competencies of the authorities responsible for controlling the external borders. As there is a clear added value in performing these tasks at Union level, the Agency should, in full compliance with the Union's return policy, accordingly provide the necessary assistance and coordination for organising joint return operations of Member States and identify best practices on the acquisition of travel documents and define a Code of Conduct to be followed

#### *Amendment*

(21) In most Member States, the operational aspects of return of third-country nationals illegally present in the Member States fall within the competencies of the authorities responsible for controlling the external borders. As there is a clear added value in performing these tasks at Union level, the Agency should, in full compliance with the Union's return policy, accordingly provide the necessary assistance and coordination for organising joint return operations of Member States and identify best practices on the acquisition of travel documents and define a Code of Conduct to be followed



during the removal of third-country nationals illegally present in the territories of the Member States. No Union financial means should be made available for activities and operations that are not carried out in conformity with the Charter of Fundamental Rights.

during the removal of third-country nationals illegally present in the territories of the Member States. ***The joint return operations should always be monitored by an independent body.*** No Union financial means should be made available for activities and operations that are not carried out in conformity with the Charter of Fundamental Rights.

## Amendment 8

### Proposal for a regulation – amending act Recital 22

#### *Text proposed by the Commission*

(22) For the purpose of fulfilling its mission and to the extent required for the accomplishment of its tasks, the Agency may cooperate with Europol, the European Asylum Support Office, the Fundamental Rights Agency and other European Union *Agencies* and bodies, the competent authorities of third countries and the international organisations competent in matters covered by Regulation (EC) No 2007/2004 in the framework of working arrangements concluded in accordance with the relevant provisions of the Treaty. The Agency should facilitate the operational cooperation between Member States and third countries in the framework of the external relations policy of the European Union.

#### *Amendment*

(22) For the purpose of fulfilling its mission and to the extent required for the accomplishment of its tasks, the Agency may cooperate with Europol, the European Asylum Support Office, the Fundamental Rights Agency and other European Union *agencies* and bodies, the competent authorities of third countries and the international ***and other*** organisations competent in matters covered by Regulation (EC) No 2007/2004 in the framework of working arrangements concluded in accordance with the relevant provisions of the Treaty. The Agency should facilitate the operational cooperation between Member States and third countries in the framework of the external relations policy of the European Union.

#### *Justification*

*The Agency should be allowed to work with a wider variety of cooperation partners so as to enable it to benefit from the expertise and know-how of a greater number of organisations.*

## Amendment 9

### Proposal for a regulation – amending act Recital 23

#### *Text proposed by the Commission*

(23) Cooperation with third countries regarding matters covered by Regulation (EC) No 2007/2004 is increasingly important. To establish a solid cooperation model with relevant third countries the Agency should have the possibility to launch and finance projects of technical assistance and to deploy liaison officers in third countries. The Agency should have the possibility to invite representatives of third countries to participate in its activities, after having provided the necessary training. Establishing cooperation with third countries is relevant also with regards to promoting the European standards of border management, including the respect of fundamental rights and human dignity.

#### *Amendment*

(23) Cooperation with third countries regarding matters covered by Regulation (EC) No 2007/2004 is increasingly important. To establish a solid cooperation model with relevant third countries the Agency should have the possibility to launch and finance projects of technical assistance and to deploy liaison officers in third countries. The Agency should **also** have the possibility to invite representatives of third countries to participate in its activities, after having provided the necessary training. Establishing cooperation with third countries is relevant also with regards to promoting the European standards of border management, including the respect of fundamental rights and human dignity.

## Amendment 10

### Proposal for a regulation – amending act Recital 27

#### *Text proposed by the Commission*

(27) When ensuring the operational management of IT systems, the Agency should follow European and international standards taking into account the highest professional requirements.

#### *Amendment*

(27) When ensuring the operational management of IT systems, the Agency should follow European and international standards, **including on data protection**, taking into account the highest professional requirements.

## Amendment 11

### Proposal for a regulation – amending act

#### Article 1 - point 1

Regulation (EC) No 2007/2004

Article 1 – paragraph 2

#### *Text proposed by the Commission*

2. While considering that the responsibility for the control and surveillance of external borders lies with the Member States, the Agency shall facilitate and render more effective the application of existing and future European Union measures relating to the management of external borders, in particular the Schengen Borders Code, ***and in accordance with relevant Union law, International law, obligations related to access to international protection, and fundamental rights.*** It shall do so by ensuring the coordination of Member States' actions in the implementation of those measures, thereby contributing to an efficient, high and uniform level of control on persons and surveillance of the external borders of the Member States.

#### *Amendment*

2. While considering that the responsibility for the control and surveillance of external borders lies with the Member States, the Agency, ***as a body of the Union as defined in Article 15 and in accordance with Article 19 of this Regulation,*** shall facilitate and render more effective the application of existing and future European Union measures relating to the management of external borders, in particular the Schengen Borders Code. It shall do so by ensuring the coordination of Member States' actions in the implementation of those measures, thereby contributing to an efficient, high and uniform level of control on persons and surveillance of the external borders of the Member States.

***The Agency shall fulfil its tasks in full compliance with the relevant Union law, including the Charter of Fundamental Rights of the European Union, international law, including the Convention Relating to the Status of Refugees of 28 July 1951 ("the Geneva Convention"), obligations related to access to international protection, in particular the principle of non-refoulement, and fundamental rights and taking into account the reports and opinions of the Advisory Board on Fundamental Rights referred to in Article 26a.***

## Amendment 12

**Proposal for a regulation – amending act**

**Article 1 – point 1 a (new)**

Regulation (EC) No 2007/2004

Article 1 – paragraph 3

*Text proposed by the Commission*

*Amendment*

*(1a.) In Article 1 paragraph 3 is replaced by the following:*

**"3. The Agency shall also provide the Commission and the Member States with the necessary technical support and expertise in the management of the external borders and promote solidarity between Member States, especially those facing specific and disproportionate pressures. The monitoring of the work of the Agency shall take account, inter alia, of this specific assessment element."**

*Justification*

*It is essential that the process of monitoring the work of the Agency should take account of the effective capacity in readiness in the event of an emergency and/or in circumstances which require responses without delay to preserve the dignity of the person.*

**Amendment 13**

**Proposal for a regulation – amending act**

**Article 1 – point 2 – point a**

Regulation (EC) No 2007/2004

Article 1a – point 2

*Text proposed by the Commission*

*Amendment*

2. "host Member State" means a Member State on the territory of which, ***or adjacent to***, a deployment of a ***Rapid Border Intervention Team*** or a joint operation or a pilot project takes place;

2. "host Member State" means a Member State on the territory ***or from the territory*** of which a deployment of a ***rapid border intervention mission*** or a joint operation or a pilot project takes place;

## Amendment 14

### Proposal for a regulation – amending act

#### Article 1 – point 2 – point b

Regulation (EC) No 2007/2004

Article 1 a – point 4

*Text proposed by the Commission*

4. "members of the teams" means border guards of Member States serving with ***the Rapid Border Intervention Team or the Frontex Joint Support Team*** other than those of the host Member State;

*Amendment*

4. "members of the teams" means border guards of Member States serving with ***the EU Border Guard System*** other than those of the host Member State;

*Justification*

*Frontex Joint Support Teams and Rapid Border Intervention teams should be merged into a EU Border Guard System which will consist of a pool of national border guards that can be tapped by the Agency for the purposes of its joint operations, rapid border intervention missions and pilot projects. This will streamline the provisions of the regulation, avoid duplication and confusion of roles and give a clearer European identity to the Agency's missions.*

## Amendment 15

### Proposal for a regulation – amending act

#### Article 1 – point 2 – point b a (new)

Regulation (EC) No 2007/2004

Article 1 a – point 5

*Text proposed by the Commission*

*Amendment*

***(ba) point 5 is replaced by the following:***

***"5. "requesting Member State" means a Member State whose competent authorities request the Agency to deploy the EU Border Guard System on its territory;"***

*Justification*

*see justification for AM 14*

## Amendment 16

### Proposal for a regulation – amending act

#### Article 1 – point 2 – point c

Regulation (EC) No 2007/2004

Article 1 a – point 7

#### *Text proposed by the Commission*

7. "technical equipment" means any kind of technical equipment deployed during joint operations, pilot projects, **Rapid Border Intervention Teams**, return operations or technical assistance projects.

#### *Amendment*

7. "technical equipment" means any kind of technical equipment deployed during joint operations, pilot projects, **rapid border intervention missions**, return operations or technical assistance projects.

#### *Justification*

*see justification for AM 14*

## Amendment 17

### Proposal for a regulation – amending act

#### Article 1 – point 3 – point a – point i

Regulation (EC) No 2007/2004

Article 2 – paragraph 1 – point c

#### *Text proposed by the Commission*

(c) carry out risk analyses, including the evaluation of the capacity of Member States to **face threats** and **pressure** at the external borders;

#### *Amendment*

(c) carry out risk analyses **as defined in Article 4**, including the evaluation of the capacity of Member States to **manage control** and **surveillance** at the external borders;

## Amendment 18

### Proposal for a regulation – amending act

#### Article 1 – point 3 – point a – point i a (new)

Regulation (EC) No 2007/2004

Article 2 – paragraph 1 – point d a (new)

#### *Text proposed by the Commission*

#### *Amendment*

**(ia) the following point is added:**

*"(da) assist Member States in circumstances requiring increased technical and operational assistance at the external borders, namely for humanitarian emergencies and rescue at sea;"*

## **Amendment 19**

### **Proposal for a regulation – amending act**

#### **Article 1 – point 3 – point a – point i b (new)**

Regulation (EC) No 2007/2004

Article 2 – paragraph 1 – point e

*Text proposed by the Commission*

*Amendment*

*(ib) point (e) is replaced by the following:*

**"(e) assist Member States in circumstances requiring increased technical and operational assistance at external borders, especially those Member States facing specific and disproportionate pressures;"**

*Justification*

*The Agency should be mandated to pay special attention to Member States which are facing specific and disproportionate burdens.*

## **Amendment 20**

### **Proposal for a regulation – amending act**

#### **Article 1 – point 3 – point a – point ii a (new)**

Regulation (EC) No 2007/2004

Article 2 – paragraph 1 – point g

*Text proposed by the Commission*

*Amendment*

*(iia) point (g) is replaced by the following:*

**"(g) deploy border guards from the EU Border Guard System to Member States in joint operations or in rapid border intervention missions in accordance with Regulation (EC) No 863/2007 of the**

**European Parliament and of the Council of 11 July 2007 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<sup>1</sup>.**

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<sup>1</sup> OJ L 199, 31.7.2007, p. 30.”

*Justification*

*see justification for AM 14*

**Amendment 21**

**Proposal for a regulation – amending act**

**Article 1 – point 3 – point a – point iii**

Regulation (EC) No 2007/2004

Article 2 – paragraph 1 – point h

*Text proposed by the Commission*

(h) develop and operate information systems that enable swift and reliable exchanges of information regarding emerging risks at the external borders, including the Information and Coordination Network established by Council Decision 2005/267/EC;

*Amendment*

(h) develop and operate ***in accordance with Regulation (EC) No 45/2001*** information systems that enable swift and reliable exchanges of information regarding emerging risks at the external borders, including the Information and Coordination Network established by Council Decision 2005/267/EC;

**Amendment 22**

**Proposal for a regulation – amending act**

**Article 1 – point 3 – point b**

Regulation (EC) No 2007/2004

Article 2 – paragraph 1 a (new)

*Text proposed by the Commission*

***(b) the following paragraph 1a is inserted:***

*Amendment*

***deleted***



***"All border guards and other personnel of the Member States, as well as the staff of the Agency shall, prior to their participation in operational activities organised by the Agency, have received training in relevant EU and international law, including fundamental rights and access to international protection."***

*Justification*

*This paragraph is being moved to Article 5 for the purposes of legal consistency (AM 66).*

**Amendment 23**

**Proposal for a regulation – amending act**

**Article 1 – point 3 – point b a (new)**

Regulation (EC) No 2007/2004

Article 2 – paragraph 1 b (new)

*Text proposed by the Commission*

*Amendment*

***(ba) The following paragraph is inserted:***

***"1b. In accordance with Union and international law, no person shall be disembarked in, or otherwise handed over to the authorities of, a country in contravention of the principle of non-refoulement, or from which there is a risk of expulsion or return to another country in contravention of that principle. The special needs of children, victims of trafficking, persons in need of medical assistance, persons in need of international protection and other vulnerable persons shall be addressed in accordance with Union and international law."***

**Amendment 24**

**Proposal for a regulation – amending act**

**Article 1 – point 3 a (new)**

Regulation (EC) No 2007/2004

Article 2 a (new)

*Text proposed by the Commission*

*Amendment*

**(3a) The following article is inserted:**

**"Article 2a**

**Code of Conduct**

***The Agency shall draw up a Code of Conduct applicable to all operations managed jointly and/or coordinated by the Agency, Rapid Border Intervention Team deployments and to pilot projects carried out in cooperation with Member States. The Code shall lay down procedures intended to guarantee respect for fundamental rights, with particular focus on unaccompanied minors and vulnerable persons, as well as practical measures to be taken for the purpose of identifying persons seeking protection and directing them to appropriate facilities.***

***The Code of Conduct shall be developed in cooperation with other competent EU or international bodies and organisations, namely the Fundamental Rights Agency, the European Asylum Support Office, the United Nations High Commissioner for Refugees and the International Organisation for Migration."***

## **Amendment 25**

**Proposal for a regulation – amending act**

**Article 1 – point 4**

Regulation (EC) No 2007/2004

Article 3 – title

*Text proposed by the Commission*

*Amendment*

Joint operations and pilot projects at the external borders

Joint operations, ***rapid border intervention missions*** and pilot projects at external borders

*Justification*

*see justification for AM 14*

## Amendment 26

### Proposal for a regulation – amending act

#### Article 1 – point 4

Regulation (EC) No 2007/2004

Article 3 – paragraph -1 (new)

*Text proposed by the Commission*

*Amendment*

***(-1) The Agency shall constitute a pool of border guards called the EU Border Guard System in accordance with Article 3b for possible deployment during joint operations, rapid border intervention missions and pilot projects referred to in paragraph 1. It shall also decide on the deployment of human resources and technical equipment in accordance with Articles 3a and 7.***

*(Former Article 1 – point 4 – point 2 (Article 3 – paragraph 2) with additions "and rapid border intervention missions" and "also")*

#### *Justification*

*Article 3 paragraph 2 (see AM 33) is being moved to the beginning of Article 3 for the purposes of legal consistency and was amended to reflect the amendment on the EU Border Guard System (see AM 14).*

## Amendment 27

### Proposal for a regulation – amending act

#### Article 1 – point 4

Regulation (EC) No 2007/2004

Article 3 – paragraph 1 – subparagraph 1

*Text proposed by the Commission*

*Amendment*

1. The Agency shall evaluate, approve and coordinate proposals for joint operations and pilot projects made by Member States, including the requests of Member States related to circumstances requiring increased technical and operational assistance.

1. The Agency shall evaluate, approve and coordinate proposals for joint operations, ***rapid border intervention missions*** and pilot projects made by Member States, including the requests of Member States related to circumstances requiring increased technical and operational assistance, ***especially in cases of specific***

*and disproportionate pressures.*

*Justification*

*see justifications for AM 14 and AM 19*

**Amendment 28**

**Proposal for a regulation – amending act**

**Article 1 – point 4**

Regulation (EC) No 2007/2004

Article 3 – paragraph 1 – subparagraph 2

*Text proposed by the Commission*

*Amendment*

The Agency may itself initiate joint operations and pilot projects in cooperation with Member States.

The Agency may itself initiate *and conduct* joint operations, *rapid border intervention missions* and pilot projects in cooperation with Member States.

*Justification*

*see justification for AM 14*

**Amendment 29**

**Proposal for a regulation – amending act**

**Article 1 – point 4**

Regulation (EC) No 2007/2004

Article 3 – paragraph 1 – subparagraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

***The Agency may itself, and in agreement with the host Member State(s) concerned, launch initiatives for joint operations, pilot projects and rapid border intervention missions in cooperation with Member States.***

### **Amendment 30**

**Proposal for a regulation – amending act**

**Article 1 – point 4**

Regulation (EC) No 2007/2004

Article 3 – paragraph 1 – subparagraph 3

*Text proposed by the Commission*

*Amendment*

It may also decide to put its technical equipment at the disposal of Member States participating in the joint operations or pilot projects.

It may also decide to put its technical equipment at the disposal of Member States participating in the joint operations, ***rapid border intervention missions*** or pilot projects.

*Justification*

*see justification for AM 14*

### **Amendment 31**

**Proposal for a regulation – amending act**

**Article 1 – point 4**

Regulation (EC) No 2007/2004

Article 3 – paragraph 1 – subparagraph 5

*Text proposed by the Commission*

The Agency may also terminate joint operations and pilot projects if the conditions to conduct these initiatives are no longer fulfilled.

*Amendment*

The Agency may also terminate joint operations, ***rapid border intervention missions*** and pilot projects if the conditions to conduct these initiatives are no longer fulfilled.

**Amendment 32**

**Proposal for a regulation – amending act**

**Article 1 – point 4**

Regulation (EC) No 2007/2004

Article 3 – paragraph 1 – subparagraph 5 a (new)

*Text proposed by the Commission*

*Amendment*

***The Agency shall suspend joint operations, rapid border intervention missions and pilot projects where fundamental rights or international protection obligations have been violated.***

**Amendment 33**

**Proposal for a regulation – amending act**

**Article 1 – point 4**

Regulation (EC) No 2007/2004

Article 3 – paragraph 2

*Text proposed by the Commission*

*Amendment*

***2. The Agency shall constitute a pool of border guards called Frontex Joint Support Teams in accordance with the provisions of Article 3b, for possible deployment during joint operations and pilot projects referred to in paragraph 1. It shall decide on the deployment of***

***deleted***

**human resources and technical equipment in accordance with Articles 3a and 7.**

*(Moved to point Article 1 – point 4 – point -1 a (new))*

*Justification*

*This paragraph is being moved to the beginning of Article 3 for the purposes of legal consistency (see AM 26).*

**Amendment 34**

**Proposal for a regulation – amending act**

**Article 1 – point 4**

Regulation (EC) No 2007/2004

Article 3 – paragraph 3

*Text proposed by the Commission*

3. The Agency may operate through its specialised branches provided for in Article 16, for the practical organisation of joint operations and pilot projects.

*Amendment*

3. The Agency may operate through its specialised branches **or regional operational offices as** provided for in Article 16, for the practical organisation of joint operations and pilot projects.

**Amendment 35**

**Proposal for a regulation – amending act**

**Article 1 – point 4**

Regulation (EC) No 2007/2004

Article 3 – paragraph 4

*Text proposed by the Commission*

4. The Agency shall evaluate the results of the joint operations and pilot projects and transmit the detailed evaluation reports within 60 days following the end of the activity to the Management Board. The Agency shall make a comprehensive comparative analysis of those results with a view to enhancing the quality, coherence and efficiency of future operations and projects to be included in its general report provided for in Article 20(2)(b).

*Amendment*

4. The Agency shall evaluate the results of the joint operations, **rapid border intervention missions** and pilot projects and transmit the detailed evaluation reports within 60 days following the end of the activity to the Management Board, **together with the observations of the Advisory Board referred to in Article 26a.** The Agency shall make a comprehensive comparative analysis of those results with a view to enhancing the quality, coherence

and efficiency of future operations and projects to be included in its general report provided for in Article 20(2)(b). **To ensure that the above-mentioned activities are conducted transparently and evaluated coherently, the observations of the Advisory Board referred to in Article 26a shall also be incorporated in an annual reporting mechanism of the type specified in Article 20(2)(b).**

## Amendment 36

### Proposal for a regulation – amending act

#### Article 1 – point 4

Regulation (EC) No 2007/2004

Article 3 – paragraph 5

#### *Text proposed by the Commission*

5. The Agency **may decide to finance or co-finance** the joint operations and pilot projects referred to in paragraph 1, with grants from its budget in accordance with the financial rules applicable to the Agency.

#### *Amendment*

5. The Agency **shall** finance the joint operations, **rapid border intervention missions** and pilot projects referred to in paragraph 1, with grants from its budget in accordance with the financial rules applicable to the Agency.

## Amendment 37

### Proposal for a regulation – amending act

#### Article 1 – point 5

Regulation (EC) No 2007/2004

Article 3 a – title

#### *Text proposed by the Commission*

Organisational aspects of joint operations and pilot projects

#### *Amendment*

Organisational aspects of joint operations, **rapid border intervention missions** and pilot projects

#### *Justification*

*see justification for AM 14*



## Amendment 38

### Proposal for a regulation – amending act

#### Article 1 – point 5

Regulation (EC) No 2007/2004

Article 3 a – paragraph 1 – subparagraph 1

#### *Text proposed by the Commission*

1. The Executive Director shall draw up an operational plan for activities referred to in Article 3(1). The Executive Director and the host Member State shall agree on the operational plan detailing the organisational aspects in due time before the envisaged beginning of the activity.

#### *Amendment*

1. The Executive Director shall, **at the request of a Member State**, draw up an operational plan for activities referred to in Article 3(1) **in close cooperation with the host Member State**. The Executive Director and the host Member State shall agree on the operational plan detailing the organisational aspects in due time before the envisaged beginning of the activity.

## Amendment 39

### Proposal for a regulation – amending act

#### Article 1 – point 5

Regulation (EC) No 2007/2004

Article 3 a – paragraph 1 – subparagraph 2 – introductory part

#### *Text proposed by the Commission*

The operational plan shall **include** the following:

#### *Amendment*

The operational plan shall **cover all aspects considered necessary for conducting joint operations, rapid border intervention missions and pilot projects, including** the following:

#### *Justification*

*The operational plan must refer specifically to all essential elements for conducting joint operations and pilot projects.*

## Amendment 40

### Proposal for a regulation – amending act

#### Article 1 – point 5

Regulation (EC) No 2007/2004

Article 3 a – paragraph 1 – subparagraph 2 – point c

*Text proposed by the Commission*

*Amendment*

c) the geographical area where the joint operation or pilot project will take place;

(c) the geographical area where the joint operation, ***rapid border intervention mission*** or pilot project will take place;

*Justification*

*see justification for AM 14*

**Amendment 41**

**Proposal for a regulation – amending act**

**Article 1 – point 5**

Regulation (EC) No 2007/2004

Article 3 a – paragraph 1 – subparagraph 2 – point e

*Text proposed by the Commission*

*Amendment*

(e) the composition of the teams of guest officers;

(e) the composition of the teams of guest officers ***and of independent observers as referred to in the Code of Conduct***;

**Amendment 42**

**Proposal for a regulation – amending act**

**Article 1 – point 5**

Regulation (EC) No 2007/2004

Article 3 a – paragraph 1 – subparagraph 2 – point g

*Text proposed by the Commission*

*Amendment*

(g) the technical equipment to be deployed during the joint operation or pilot project, including specific requirements such as conditions for use, requested crew, transport and other logistics, and financial provisions;

(g) the technical equipment to be deployed during the joint operation, ***rapid border intervention mission*** or pilot project, including specific requirements such as conditions for use, requested crew, transport and other logistics, and financial provisions;

*Justification*

*see justification for AM 14*

## Amendment 43

### Proposal for a regulation – amending act

#### Article 1 – point 5

Regulation (EC) No 2007/2004

Article 3 a – paragraph 1 – subparagraph 2 – point i

*Text proposed by the Commission*

(i) regarding sea operations, specific **requirements regarding the applicable jurisdiction and maritime law provisions concerning** the geographical area where the joint operation takes place.

*Amendment*

(i) regarding sea operations, specific **information on the application of the relevant jurisdiction and legislation in** the geographical area where the joint operation takes place, **including reference to international and Union law regarding interception, rescue at sea and disembarkation.**

## Amendment 44

### Proposal for a regulation – amending act

#### Article 1 – point 5

Regulation (EC) No 2007/2004

Article 3 a – paragraph 1 – subparagraph 2 – point i a (new)

*Text proposed by the Commission*

*Amendment*

**(ia) specific measures to ensure respect for fundamental rights, including guidelines for the purpose of identifying persons seeking protection and directing them towards the appropriate facilities.**

*Justification*

*The operational plan also needs to lay down clear-cut practical arrangements making for effective implementation and enabling respect for human rights to be translated into reality on the ground, not least as regards access to international protection.*

## Amendment 45

### Proposal for a regulation – amending act

#### Article 1 – point 5

Regulation (EC) No 2007/2004

Article 3 a – paragraph 2

#### *Text proposed by the Commission*

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.

#### *Amendment*

2. **The adoption as well as** 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.

## Amendment 46

### Proposal for a regulation – amending act

#### Article 1 – point 5

Regulation (EC) No 2007/2004

Article 3 a – paragraph 3

#### *Text proposed by the Commission*

3. The Agency shall, as part of its coordinating tasks, ensure the operational implementation of all the organisational aspects, including the presence of a staff member of the Agency, **of** joint operations and pilot projects referred to in this Article.

#### *Amendment*

3. The Agency shall, as part of its coordinating tasks, ensure the operational implementation of all the organisational aspects, including the presence of a staff member of the Agency **during** joint operations and pilot projects referred to in this Article.

#### *Justification*

*This amendment is a linguistic clarification.*

## Amendment 47

### Proposal for a regulation – amending act

#### Article 1 – point 5

Regulation (EC) No 2007/2004

Article 3 b – title

*Text proposed by the Commission*

*Amendment*

Composition and deployment *of Frontex Joint Support Teams*

Composition and deployment

*Justification*

*see justification for AM 14*

#### **Amendment 48**

**Proposal for a regulation – amending act**

**Article 1 – point 5**

Regulation No 2007/2004

Article 3 b – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. On a proposal by the Executive Director, the Management Board shall decide by an absolute majority of its members with a right to vote on the profiles and the overall number of border guards to be made available for *the Frontex Joint Support Teams*. The same procedure shall apply with regard to any subsequent changes in the profiles and the overall numbers. Member States shall contribute to *the Frontex Joint Support Teams* via a national pool on the basis of the various defined profiles by nominating border guards corresponding to the required profiles.

1. On a proposal by the Executive Director, the Management Board shall decide by an absolute majority of its members with a right to vote on the profiles and the overall number of border guards to be made available for *the EU Border Guard System*. The same procedure shall apply with regard to any subsequent changes in the profiles and the overall numbers. Member States shall contribute to *the EU Border Guard System* via a national pool on the basis of the various defined profiles by nominating border guards corresponding to the required profiles.

*Justification*

*see justification for AM 14*

#### **Amendment 49**

**Proposal for a regulation – amending act**

**Article 1 – point 5**

Regulation (EC) No 2007/2004

Article 3 b – paragraph 2

*Text proposed by the Commission*

2. The Agency shall also contribute to **the Frontex Joint Support Teams** with competent border guards seconded by the Member States as national experts pursuant to Article 17(5). To that effect Member States shall contribute by seconding border guards to the Agency as national experts. The maximum duration of such secondments shall not exceed six months in a twelve month period. They shall, for the purpose of this Regulation, be considered as guest officers and have the tasks and powers referred to in Article 10. The Member State having seconded the border guards in question shall be considered as "home Member State" as defined in Article 1a(3) for the purpose of applying Articles 3c, 10, and 10b. Other staff employed by the Agency on a temporary basis who are not qualified to perform border control functions shall only be deployed **during joint operations and pilot projects** for coordination tasks.

*Amendment*

2. The Agency shall also contribute to **the EU Border Guard System** with competent border guards seconded by the Member States as national experts pursuant to Article 17(5). To that effect Member States shall contribute by seconding border guards to the Agency as national experts. The maximum duration of such secondments shall not exceed six months in a twelve month period. They shall, for the purpose of this Regulation, be considered as guest officers and have the tasks and powers referred to in Article 10. The Member State having seconded the border guards in question shall be considered as "home Member State" as defined in Article 1a(3) for the purpose of applying Articles 3c, 10, and 10b. Other staff employed by the Agency on a temporary basis who are not qualified to perform border control functions shall only be deployed for coordination tasks.

*Justification*

*see justification for AM 14*

**Amendment 50**

**Proposal for a regulation – amending act**

**Article 1 – point 5**

Regulation (EC) No 2007/2004

Article 3 b – paragraph 4

*Text proposed by the Commission*

4. Members of **the Frontex Joint Support Teams** shall, in the performance of their tasks and in the exercise of their powers, fully respect fundamental rights and human dignity. Any measures taken in the performance of their tasks and in the exercise of their powers shall be

*Amendment*

4. Members of the **EU Border Guard System** shall, in the performance of their tasks and in the exercise of their powers, fully respect fundamental rights, **including the right of asylum**, and human dignity. Any measures taken in the performance of their tasks and in the exercise of their

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.

powers shall be proportionate to the objectives pursued by such measures. While performing their tasks and exercising their powers, **they** shall not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

*Justification*

*see justification for AM 14*

**Amendment 51**

**Proposal for a regulation – amending act**

**Article 1 – point 5**

Regulation (EC) No 2007/2004

Article 3 b – paragraph 5

*Text proposed by the Commission*

5. In accordance with **Article 8g** the Agency **will** nominate a coordinating officer for each joint operation or pilot project where **Frontex Joint Support Team** members will be deployed.

*Amendment*

5. In accordance with **Article 3g** the Agency **shall** nominate a coordinating officer for each joint operation, **rapid intervention mission** or pilot project where **EU Border Guard System** members will be deployed. **The role of the coordinating officer shall be, inter alia, to monitor the operation of and to foster cooperation and coordination amongst host and participating Member States.**

**Amendment 52**

**Proposal for a regulation – amending act**

**Article 1 – point 5**

Regulation (EC) No 2007/2004

Article 3 b – paragraph 6

*Text proposed by the Commission*

6. The Agency shall meet the costs incurred by the Member States in making their border guards available pursuant to paragraph 1 for **the Frontex Joint Support**

*Amendment*

6. The Agency shall meet the costs incurred by the Member States in making their border guards available pursuant to paragraph 1 for **the EU Border Guard**

**Teams** in accordance with Article 8h.

**System** in accordance with Article 8h.

*Justification*

*see justification for AM 14*

**Amendment 53**

**Proposal for a regulation – amending act**

**Article 1 – point 5**

Regulation (EC) No 2007/2004

Article 3 b – paragraph 6 a (new)

*Text proposed by the Commission*

*Amendment*

***(6a) The Agency shall publish, on an annual basis, a record of the number of border guards that each Member State has committed to the EU Border Guard System in accordance with this Article.***

*Justification*

*This amendment aims to have more transparency in the allocation of border guards to Frontex by Member States.*

**Amendment 54**

**Proposal for a regulation – amending act**

**Article 1 – point 5**

Regulation (EC) No 2007/2004

Article 3 c – title

*Text proposed by the Commission*

*Amendment*

Instructions to ***the Frontex Joint Support Teams***

Instructions to ***the border guards in the EU Border Guard System***

*Justification*

*see justification for AM 14*



## Amendment 55

### Proposal for a regulation – amending act

#### Article 1 – point 5

Regulation (EC) No 2007/2004

Article 3 c – paragraph 1

*Text proposed by the Commission*

1. During deployment of **Frontex Joint Support Teams**, instructions **to the teams** shall be issued by the host Member State in accordance with the operational plan referred to in Article 3a (1).

*Amendment*

1. During deployment of **border guards in the EU Border Guard System**, instructions shall be issued by the host Member State in accordance with the operational plan referred to in Article 3a (1).

*Justification*

*see justification for AM 14*

## Amendment 56

### Proposal for a regulation – amending act

#### Article 1 – point 5

Regulation (EC) No 2007/2004

Article 3 c – paragraph 2

*Text proposed by the Commission*

2. The Agency, via its coordinating officer as referred to in Article 3b(5), may communicate its views on those instructions to the host Member State. If it does so, the host Member State shall take those views into consideration.

*Amendment*

2. The Agency, via its coordinating officer as referred to in Article 3b(5), may communicate its views on those instructions to the host Member State. If it does so, the host Member State shall, **subject to Article 10**, take those views into consideration.

*Justification*

*To avoid any confusion, it is essential to spell out the respective responsibilities of the coordinating officer on the one hand and the host Member State on the other, as well as specifying the authority ultimately responsible for command and control.*

## Amendment 57

**Proposal for a regulation – amending act**

**Article 1 – point 5**

Regulation (EC) No 2007/2004

Article 3 c – paragraph 2

*Text proposed by the Commission*

*Amendment*

2. The Agency, via its coordinating officer as referred to in Article 3b (5), may communicate its views on those instructions to the host Member State. If it does so, the host Member State shall take those views into consideration.

*(Does not affect English version.)*

**Amendment 58**

**Proposal for a regulation – amending act**

**Article 1 – point 5**

Regulation (EC) No 2007/2004

Article 3 c – paragraph 3

*Text proposed by the Commission*

*Amendment*

3. In accordance with **Article 8g** the host Member State shall give the coordinating officer all necessary assistance, including full access to **the Frontex Joint Support Teams** at all times throughout the deployment.

3. In accordance with **Article 3g** the host Member State shall give the coordinating officer all necessary assistance, including full access to **the EU Border Guard System** at all times throughout the deployment.

*Justification*

*see justification for AM 14*

**Amendment 59**

**Proposal for a regulation – amending act**

**Article 1 – point 5**

Regulation (EC) No 2007/2004

Article 3 c – paragraph 4

*Text proposed by the Commission*

*Amendment*

4. Members of **the Frontex Joint Support Teams** shall, while performing their tasks

4. Members of **the EU Border Guard System** shall, while performing their tasks

and exercising their powers, remain subject to the disciplinary measures of their home Member State.

and exercising their powers, remain subject to the disciplinary measures of their home Member State.

*Justification*

*see justification for AM 14*

**Amendment 60**

**Proposal for a regulation – amending act**

**Article 1 – point 5 a (new)**

Regulation (EC) No 2007/2004

Article 3 d (new)

*Text proposed by the Commission*

*Amendment*

***(5a) The following article is inserted:***

***"Article 3d***

***Rapid Border Intervention***

***1. At the request of a Member State faced with 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 that Member State illegally, the Agency may deploy, for a limited period, members of the EU Border Guard System on the territory of the requesting Member State for the appropriate duration, in accordance with Article 4 of Regulation (EC) No 863/2007.***

***2. In the event of a situation as described in paragraph 1, Member States shall, at the request of the Agency, immediately communicate the number, names and profiles of border guards from their national component of the EU Border Guard System which they are able to make available within three days to be members of a team. Member States shall make the border guards available for deployment at the request of the Agency unless they are faced with an exceptional situation substantially affecting the***

*discharge of national tasks.*

***3. When determining the composition of a 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 3a."***

*(Former Articles 8a and 8b of Regulation No 2007/2004, with "Rapid Border Intervention Teams" replaced by the EU Border Guard System and title, paragraph numbering and references to articles changed )*

*Justification*

*see justification for AM 14*

*Since the Frontex Joint Support Teams and the Rapid Border Intervention Teams are being merged into the EU Border Guard System, articles relating to the Rapid Border Intervention Teams are being merged into the articles concerning the Frontex Joint Support Teams for the purposes of simplification and legal clarity.*

## **Amendment 61**

### **Proposal for a regulation – amending act**

#### **Article 1 – point 5 b (new)**

Regulation (EC) No 2007/2004

Article 3 e (new)

*Text proposed by the Commission*

*Amendment*

***(5b)The following article is inserted:***

***"Article 3e***

#### ***Procedure for deciding on deployment***

***1. A request for deployment of the teams in accordance with Article 3d 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.***

***2. The Executive Director shall***

*immediately inform the Management Board of a Member State's request for deployment of the teams.*

*3. 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.*

*4. The Executive Director shall take a decision on the request for deployment of the teams as soon as possible and in any event no later than two 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.*

*5. If the Executive Director decides to deploy one or more teams, an operational plan shall immediately and in any event no later than two working days of the date of the decision be drawn up by the Agency and the requesting Member State in accordance with Article 3a.*

*6. 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 teams. This information shall be provided, in writing, to the national contact points designated under Article 3f and shall indicate the date on which the deployment is to take place. A copy of the operational plan shall also be provided to them.*

*7. If the Executive Director is absent or indisposed, the decisions related to the deployment of the teams shall be taken by the Deputy Executive Director.*

*8. Member States shall make the border guards available for deployment at the request of the Agency, unless they are*

*faced with an exceptional situation substantially affecting the discharge of national tasks.*

*9. Deployment of the teams shall take place no later than three working days after the date on which the operational plan is agreed between the Executive Director and the requesting Member State."*

*(Former Article 8 d of Regulation No 2007/2004, with references to articles changed)*

*Justification*

*see justification for AM 60*

## **Amendment 62**

**Proposal for a regulation – amending act**

**Article 1 – point 5 c (new)**

Regulation (EC) No 2007/2004

Article 3 f (new)

*Text proposed by the Commission*

*Amendment*

*(5c) The following article is inserted:*

*"Article 3f*

*National contact point*

*Member States shall designate a national contact point for communication with the Agency on all matters pertaining to the EU Border Guard System. The national contact point shall be reachable at all times."*

*(Former Article 8 f of Regulation No 2007/2004, with "teams" replaced by the EU Border Guard System)*

*Justification*

*see justification for AM 60*

## Amendment 63

### Proposal for a regulation – amending act

#### Article 1 – point 5 d (new)

Regulation (EC) No 2007/2004

Article 3 g (new)

*Text proposed by the Commission*

*Amendment*

***(5d) The following article is inserted:***

***"Article 3g***

#### ***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.***

***2. The coordinating officer shall act on behalf of the Agency in all aspects of the deployment of the teams. 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 relating 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.***

***3. 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 teams.***

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

(Former Article 8 g of Regulation No 2007/2004)

*Justification*

*see justification for AM 60*

**Amendment 64**

**Proposal for a regulation – amending act**

**Article 1 – point 6**

Regulation (EC) No 2007/2004

Article 4 – paragraph 2

*Text proposed by the Commission*

It shall prepare both general and tailored risk analyses to be submitted to the Council and the Commission. For these purposes Member States shall provide the Agency with all necessary information regarding the situation and possible threats at **the** external borders.

*Amendment*

It shall prepare both general and tailored risk analyses to be submitted to **the European Parliament**, the Council and the Commission. For these purposes Member States shall provide the Agency with all necessary information regarding the situation and possible threats at **their** external borders.

**Amendment 65**

**Proposal for a regulation – amending act**

**Article 1 – point 6**

Regulation (EC) No 2007/2004

Article 4 – paragraph 3

*Text proposed by the Commission*

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. The results of these evaluations shall be presented at least once

*Amendment*

The Agency **may** evaluate, **after prior consultation with the Member State(s) concerned**, **their** capacity to face upcoming challenges, including present and future threats and pressures at the external borders of the European Union, **especially for those Member States facing specific and disproportionate pressures**. **To this end**, the Agency **may** evaluate the national structures, the equipment and the



per year to the Management Board of the Agency.

resources of the Member States regarding border control. The results of these evaluations shall be presented at least once per year to the Management Board of the Agency.

## Amendment 66

### Proposal for a regulation – amending act

#### Article 1 – point 7

Regulation No 2007/2004

Article 5

*Text proposed by the Commission*

(7) **In** Article 5 the first paragraph is replaced by the following:

"The Agency shall establish and further develop common core curricula for border guards' training and provide training at European level for instructors of the national border guards of Member States,

*Amendment*

(7) Article 5 **is amended as follows**:

***(a) the following paragraphs are inserted before the first paragraph:***

***"The Agency shall provide border guards who are part of the EU Border Guard System with advanced training relevant to their tasks and powers and shall conduct regular exercises with those border guards in accordance with the advanced training and exercise schedule referred to in the Agency's annual work programme.***

***The Agency shall also take the necessary initiatives to ensure that all border guards and other personnel of the Member States who participate in the EU Border Guard System, as well as the staff of the Agency shall, prior to their participation in operational activities organised by the Agency, have received training in relevant Union and international law, including fundamental rights and access to international protection."***

***(b) the first paragraph is replaced by the following:***

The Agency shall establish and further develop common core curricula for border guards' training and provide ***initial and in-service*** training at European level for instructors of the national border guards of

including with the regard to fundamental rights *and* access to international protection.

Member States shall integrate the common core curricula in the training of their national border guards."

Member States, including with regard to fundamental rights and access to international protection *and maritime law*. *Training curricula shall be drawn up after consultation of the Office of the United Nations High Commissioner for Refugees (UNHCR), the European Asylum Support Office (EASO) and the European Union Agency for Fundamental Rights (FRA).*

Member States shall integrate the common core curricula in the training of their national border guards."

*(c) the following paragraph is inserted after the last paragraph:*

*"The Agency shall establish an exchange programme enabling national border guards participating in the EU Border Guard System to acquire knowledge or specific know-how from experiences and good practices abroad by working with border guards in a Member State other than their own."*

#### *Justification*

*These paragraphs are moved from Article 8c (see AM 79 and Article 2 (see AM 22)). For the purposes of legal clarity, provisions on training are gathered together in Article 5. Training curricula for border guards should include both initial and in-service training so as to enable the guards to update their information and know-how. More extensive consultation of expert organisations such as the UNHCR, EASO, and the FRA will make for better understanding of the practicalities of identifying persons seeking protection and directing them towards the appropriate facilities.*

#### **Amendment 67**

##### **Proposal for a regulation – amending act**

##### **Article 1 – point 8**

Regulation (EC) No 2007/2004

Article 7 – paragraph 1 – subparagraph 1 – introductory part

*Text proposed by the Commission*

1. The Agency may acquire or lease technical equipment for external border control to be deployed during joint operations, pilot projects, ***Rapid Border Intervention Teams***, return operations or technical assistance projects in accordance with the financial rules applicable to the Agency. Any acquisition of equipment entailing significant costs to the Agency shall be preceded by a thorough needs and cost/benefit analysis. In case the Agency acquires or leases important technical equipment such as open sea and coastal patrol vessels or vehicles, to be used in joint operations, the following provisions shall apply:

*Amendment*

1. The Agency may acquire or lease technical equipment for external border control to be deployed during joint operations, ***rapid border intervention missions***, pilot projects return operations or technical assistance projects in accordance with the financial rules applicable to the Agency. Any acquisition of equipment entailing significant costs to the Agency shall be preceded by a thorough needs and cost/benefit analysis. In case the Agency acquires or leases important technical equipment such as open sea and coastal patrol vessels or vehicles, to be used in joint operations, the following provisions shall apply:

*Justification*

*see justification for AM 14*

**Amendment 68**

**Proposal for a regulation – amending act**

**Article 1 – point 8**

Regulation (EC) No 2007/2004

Article 7 – paragraph 1 – subparagraph 1 – indent 1

*Text proposed by the Commission*

– in case of acquisition, the Agency agrees formally with one Member State that the latter will provide for the registration of the equipment;

*Amendment*

– in case of acquisition, the Agency agrees formally with one Member State that the latter will provide for the registration of the equipment ***in accordance with the applicable legislation of that Member State***;

**Amendment 69**

**Proposal for a regulation – amending act**

**Article 1 – point 8**

Regulation (EC) No 2007/2004

Article 7 – paragraph 1 – subparagraph 2

*Text proposed by the Commission*

The Member State of registration or the supplier of technical equipment shall provide the necessary experts and technical crew to operate the technical equipment in a legally sound and safe manner.

*Amendment*

***On the basis of a model agreement drawn up by the Agency, the Member State of registration and the Agency shall agree on the terms of use of the equipment.*** The Member State of registration or the supplier of technical equipment shall provide the necessary experts and technical crew to operate the technical equipment in a legally sound and safe manner.

**Amendment 70**

**Proposal for a regulation – amending act**

**Article 1 – point 8**

Regulation (EC) No 2007/2004

Article 7 – paragraph 2

*Text proposed by the Commission*

2. The Agency shall set up and keep centralised records of equipment in a technical equipment pool composed of equipment owned by Member States ***or*** by the Agency for external border control purposes. The technical equipment pool shall contain a minimum number per type of technical equipment defined in accordance with paragraph 5 of this article. The equipment listed in the technical equipment pool shall be deployed during the activities referred to in Articles 3, ***8a*** and 9.

*Amendment*

2. The Agency shall set up and keep centralised records of equipment in a technical equipment pool composed of equipment owned by Member States ***and*** by the Agency for external border control purposes. The technical equipment pool shall contain a minimum number per type of technical equipment defined in accordance with paragraph 5 of this article. The equipment listed in the technical equipment pool shall be deployed during the activities referred to in Articles 3, ***3d*** and 9.

## Amendment 71

### Proposal for a regulation – amending act

#### Article 1 – point 8

Regulation (EC) No 2007/2004

Article 7 – paragraph 5 – subparagraph 1

*Text proposed by the Commission*

5. The Agency shall finance the deployment of the equipment ***which forms part of the minimum number of equipment*** provided by a given Member State ***for a given year. The deployment of equipment which does not form part of the minimum number of equipment shall be co-financed by the Agency up to a maximum of 60% of the eligible expenses.***

*Amendment*

5. The Agency shall finance the deployment of the equipment provided by a given Member State.

*Justification*

*The Agency should finance the deployment of all the equipment provided by a given Member State and not just part it.*

## Amendment 72

### Proposal for a regulation – amending act

#### Article 1 – point 8

Regulation (EC) No 2007/2004

Article 7 – paragraph 5 – subparagraph 3

*Text proposed by the Commission*

The minimum number of equipment shall be proposed by the Agency in accordance with its needs, notably be able to carry out joint operations, pilot projects and return operations, in accordance with the work programme of the Agency for the year in question.

*Amendment*

The minimum number of equipment shall be proposed by the Agency in accordance with its needs, notably ***to*** be able to carry out joint operations, pilot projects, ***rapid border intervention missions*** and return operations, in accordance with the work programme of the Agency for the year in question.

*Justification*

*see justification for AM 14*

## Amendment 73

### Proposal for a regulation – amending act

#### Article 1 – point 8

Regulation (EC) No 2007/2004

Article 7 – paragraph 5 – subparagraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

***If the minimum number of equipment proves to be insufficient to carry out the operational plan agreed for joint operations, pilot projects, Rapid Border Intervention Teams or return operations, it shall be revised by the Agency on the basis of justified needs and of an agreement between the Agency and the Member States.***

## Amendment 74

### Proposal for a regulation – amending act

#### Article 1 – point 8

Regulation (EC) No 2007/2004

Article 7 – paragraph 6

*Text proposed by the Commission*

*Amendment*

6. The Agency shall report on the composition and the deployment of equipment, which is part of the technical equipment pool, to the Management Board on a monthly basis. In case the minimum number of equipment referred to in paragraph 5 is not reached, the Executive Director shall inform the Management Board without delay. The Management Board shall take a decision on the prioritisation of the deployment of the technical equipment urgently and take the appropriate steps to remedy the identified shortcomings. It shall inform the Commission of the identified shortcomings and the steps taken. The Commission **may** subsequently inform the European Parliament and the Council, together with

6. The Agency shall report on the composition and the deployment of equipment, which is part of the technical equipment pool, to the Management Board on a monthly basis. In case the minimum number of equipment referred to in paragraph 5 is not reached, the Executive Director shall inform the Management Board without delay. The Management Board shall take a decision on the prioritisation of the deployment of the technical equipment urgently and take the appropriate steps to remedy the identified shortcomings. It shall inform the Commission of the identified shortcomings and the steps taken. The Commission **shall** subsequently inform the European Parliament and the Council, together with

its own assessment.

its own assessment.

## **Amendment 75**

### **Proposal for a regulation – amending act**

#### **Article 1 – point 8**

Regulation (EC) No 2007/2004

Article 7 – paragraph 6 a (new)

*Text proposed by the Commission*

*Amendment*

***6a. The Agency shall publish, on an annual basis, a record of the technical equipment that each Member State has committed to the pool in accordance with this Article.***

*Justification*

*This amendment aims at having more transparency in the allocation of equipment to Frontex by Member States.*

## **Amendment 76**

### **Proposal for a regulation – amending act**

#### **Article 1 – point 9**

Regulation (EC) No 2007/2004

Article 8

*Text proposed by the Commission*

*Amendment*

(9) Article 8 is ***deleted***.

(9) Article 8 is ***amended as follows***:

***(a) paragraph 1 is replaced by the following:***

***"1. Without prejudice to Article 64(2) of the Treaty, one or more Member States facing specific and disproportionate pressures and confronted with circumstances requiring increased technical and operational assistance when implementing their obligations with regard to control and surveillance***

**of external borders may request the Agency for assistance. The Agency shall organise the appropriate technical and operational assistance for the requesting Member State(s)."**

*(b) in paragraph 2 the following point is added:*

*"(ba) deploy border guards from the EU Border Guard System."*

#### **Amendment 77**

**Proposal for a regulation – amending act**

**Article 1 – point 9 a (new)**

Regulation (EC) No 2007/2004

Article 8 -a (new)

*Text proposed by the Commission*

*Amendment*

*(9) The following article is inserted:*

*"Article 8-a*

*Obligations under maritime law*

*Implementation of this Regulation does not affect and fully complies with obligations of Member States under the UN Convention on the Law of the Sea, the International Convention for the Safety of Life at Sea, the International Convention on Maritime Search and Rescue and the Geneva Convention Relating to the Status of Refugees."*

#### **Amendment 78**

**Proposal for a regulation – amending act**

**Article 1 – point 9 b (new)**

Regulation (EC) No 2007/2004

Articles 8a to 8g



*Text proposed by the Commission*

*Amendment*

***(9a) Articles 8a, 8b, 8c, 8d, 8e, 8f and 8g are deleted.***

*Justification*

*Provisions of Articles 8a and 8b are moved to Article 3d (new) (AM 60).*

*Article 8c is moved to Article 5 (AM 66).*

*Article 8d is moved to Article 3e (new) (AM 64).*

*The provisions of Article 8e are moved into Article 3a. Since the Frontex Joint Support Teams and the Rapid Border Intervention Teams are being merged into the EU Border Guard System, articles relating to the Rapid Border Intervention Teams are being merged into the articles concerning the Frontex Joint Support Teams for the purposes of simplification and legal clarity.*

*Article 8f is moved to Article 3f (new) (AM 62).*

*Article 8g is moved to Article 3g (new) (AM 63).*

## **Amendment 79**

### **Proposal for a regulation – amending act**

#### **Article 1 – point 11**

Regulation (EC) No 2007/2004

Article 8 h – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. The Agency shall fully meet the following costs incurred by Member States in making available their border guards for the purposes mentioned in **Article 3(2)**, **Article 8a** and **Article 8c**:

1. The Agency shall fully meet the following costs incurred by Member States in making available their border guards for the purposes mentioned in **Article 3(-1)**, **Article 3(d)** and **Article 5**:

*Justification*

*The Articles in question were moved by other amendments. The reference should therefore be aligned.*

## Amendment 80

### Proposal for a regulation – amending act

#### Article 1 – point 12

Regulation (EC) No 2007/2004

Article 9 – paragraph 1

#### *Text proposed by the Commission*

1. Subject to the return policy of the Union, **and** in particular Directive 2008/115/EC , the Agency shall provide the necessary assistance, and upon request of the participating Member States ensure the coordination for organising joint return operations of Member States. The Agency **may decide to** finance or co-finance the operations and projects referred to in this paragraph, with grants from its budget in accordance with the financial rules applicable to the Agency. The Agency may also use **Union** financial means available in the field of return. The Agency shall ensure that in its grant agreements with Member States any financial support is conditional upon the full respect of the Charter of Fundamental Rights.

#### *Amendment*

1. Subject to the return policy of the Union, in particular Directive 2008/115/EC **and without entering into the merits of return decisions**, the Agency shall provide the necessary assistance, and upon request of **all** the participating Member States **also** ensure the coordination for organising joint return operations of Member States, **including through the chartering of aircraft for the purpose of such operations**. The Agency **shall** finance or co-finance the operations and projects referred to in this paragraph, with grants from its budget in accordance with the financial rules applicable to the Agency. The Agency may also use the financial means **of the European Union** available in the field of return, **notably in the European Return Fund**. The Agency shall ensure that in its grant agreements with Member States any financial support is conditional upon the full respect of the Charter of Fundamental Rights.

#### *Justification*

*EU resources in the field of return should be accessible to Frontex. In the field of return, the role of Frontex is only logistical. The merits of the return decisions should be taken into consideration during the asylum proceedings.*

## Amendment 81

### Proposal for a regulation – amending act

#### Article 1 – point 12

Regulation (EC) No 2007/2004

Article 9 – paragraph 3

*Text proposed by the Commission*

3. The Code of Conduct **will** in particular **pay attention to** the obligation set out in Article 8(6) of Directive 2008/115/EC to provide for an effective forced-return monitoring system. The monitoring of joint return operations should be carried out independently and should cover the whole joint return operation from the pre-departure phase until the hand-over of the returnees in the country of return. Furthermore, observations of the monitor, which shall cover the compliance with the Code of Conduct and in particular fundamental rights, shall be made available to the Commission and form part of the internal Final Return Operation Report. In order to ensure transparency and a coherent evaluation of the forced-return operations, reports of the monitor shall be included in an annual reporting mechanism.

*Amendment*

3. The Code of Conduct **shall**, in particular, **take into account** the obligation set out in Article 8(6) of Directive 2008/115/EC to provide for an effective forced-return monitoring system **to ensure that the return is carried out in full respect for fundamental human rights**. The monitoring of joint return operations should be carried out independently and should cover the whole joint return operation from the pre-departure phase until the hand-over of the returnees in the country of return. **Member States shall ensure that relevant international organisations are involved during removal procedures in order to guarantee compliance with proper legal procedure. Monitors should have access to all relevant facilities, including detention centres and aircraft, and receive the necessary training to perform their duties**. Furthermore, observations of the monitor, which shall cover the compliance with the Code of Conduct and in particular fundamental rights, shall be made available to the Commission and form part of the internal Final Return Operation Report. In order to ensure transparency and a coherent evaluation of the forced-return operations, reports of the monitor shall be included in an annual reporting mechanism.

*Justification*

*This amendment aims at reinforcing the monitoring system of return procedures.*

**Amendment 82**

**Proposal for a regulation – amending act**

**Article 1 – point 13**

Regulation (EC) No 2007/2004

Article 10 – paragraph 2

*Text proposed by the Commission*

2. While performing their tasks and exercising their powers guest officers shall comply with Union law, in accordance with fundamental rights, and the national law of the host Member State.

*Amendment*

2. While performing their tasks and exercising their powers guest officers shall comply with Union **and international** law, in accordance with fundamental rights, and the national law of the host Member State.

**Amendment 83**

**Proposal for a regulation – amending act**

**Article 1 – point 13 a (new)**

Regulation (EC) No 2007/2004

Article 10 – paragraph 4

*Text proposed by the Commission*

*Amendment*

**(13a) In Article 10 paragraph 4 is replaced by the following:**

**"4. Guest officers 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 [...] on their uniforms, identifying them as participating in a joint operation or pilot project. For the purposes of identification vis-à-vis the national authorities of the host Member State and its citizens, guest officers shall at all times carry an accreditation document, as provided for in Article 10a, which they shall present on request."**

**Amendment 84**

**Proposal for a regulation – amending act**

**Article 1 – point 13 b (new)**

Regulation (EC) No 2007/2004

Article 10 – paragraph 6

*Text proposed by the Commission*

*Amendment*

***(13b) In Article 10 paragraph 6 is replaced by the following:***

**"6. By way of derogation from paragraph 2, while performing their tasks and exercising their powers, guest officers 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, and with the principles of necessity and proportionality."**

*Justification*

*In the current situation Member States can use force in accordance with the national law of the host Member State, and by adding the principle of necessity and proportionality the intention is to put conditions on the use of arms in any FRONTEX operation. In many MS such principle is included into the rules on the use of force by the authorities, but not in all.*

## **Amendment 85**

**Proposal for a regulation – amending act**

**Article 1 – point 13 c (new)**

Regulation (EC) No 2007/2004

Article 10 – paragraph 7

*Text proposed by the Commission*

*Amendment*

***(13c) In Article 10 paragraph 7 is replaced by the following:***

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

***proportionality."***

*Justification*

*In the current situation Member States can use force in accordance with the national law of the host Member State, and by adding the principle of necessity and proportionality the intention is to put conditions on the use of arms in any FRONTEX operation. In many MS such principle is included into the rules on the use of force by the authorities, but not in all.*

**Amendment 86**

**Proposal for a regulation – amending act**

**Article 1 – point 14**

Regulation (EC) No 2007/2004

Article 11

*Text proposed by the Commission*

The Agency may take all necessary measures to facilitate the exchange of information relevant for its tasks, with the Commission and the Member States. It shall develop and operate an information system capable of exchanging classified information with the Commission and the Member States. ***The exchange of information to be covered by this system shall not include the exchange of personal data.***

*Amendment*

The Agency may take all necessary measures to facilitate the exchange of information relevant for its tasks, with the Commission and the Member States. It shall develop and operate an information system capable of exchanging classified information with the Commission and the Member States.

*Justification*

*The Agency should have the power to process personal data for limited purposes with strict criteria as to how this data should be handled, in order to enable it to play a greater role in combating cross-border crime and irregular migration. Therefore, the wording of this Article must be amended.*

**Amendment 87**

**Proposal for a regulation – amending act**

**Article 1 – point 15**

Regulation (EC) No 2007/2004

Article 11 a (new)

*Text proposed by the Commission*

The Management Board shall establish measures for *the* application of **Regulation (EC) No 45/2001** by the Agency, including those concerning the Data Protection Officer of the Agency.

*Amendment*

**Regulation (EC) No 45/2001 applies to the processing of personal data by the Agency.** The Management Board shall establish measures for *its* application by the Agency, including those concerning the Data Protection Officer of the Agency.

## **Amendment 88**

### **Proposal for a regulation – amending act**

#### **Article 1 – point 15**

Regulation (EC) No 2007/2004

Article 11 a (new)

*Text proposed by the Commission*

*Amendment*

#### **"Article 11aa**

##### **Processing of personal data**

- 1. The Agency may process personal data where strictly necessary in order to perform its tasks, as defined in Article 2.**
- 2. The processing of personal data shall respect the principles of necessity and proportionality.**
- 3. The processing of personal data by the Agency shall be limited to personal data that are necessary to fulfil its tasks, which are received from other Union agencies or obtained during joint operations or pilot projects or rapid border intervention missions regarding persons who are suspected on reasonable grounds of involvement in cross-border criminal activities, in irregular migration activities or in human trafficking activities as defined in Article 1(1)(a) and (b) of Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence<sup>1</sup>, persons who are victims of such activities and whose data may lead to the perpetrators of such illegal activities**

*as well as persons who are subject to return operations in which the Agency is involved.*

*4. The personal data shall be deleted as soon as the purpose for which they have been collected has been achieved. The term of storage shall in any event not exceed three months after the date of the collection of those data or when the data are received from other Union agencies, from the date of when the data have been received by the Agency.*

*5. Personal data processed by the Agency for the purpose specified in this Article shall, subject to Article 13, be transmitted to Europol, on a case by case basis as specified in the working arrangement concluded between the Agency and Europol.*

*6. Onward transmission or other communication of personal data processed by the Agency to other Union agencies or bodies shall be subject to specific working agreements regarding the exchange of personal data and subject to the prior approval of the supervisory authorities within the respective agencies.*

*7. Onward transmission or other communication of personal data processed by the Agency to third countries or other third parties shall be prohibited.*

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<sup>1</sup> OJ L 328, 5.12.2007, p. 17."

## **Amendment 89**

### **Proposal for a regulation – amending act**

#### **Article 1 – point 15**

Regulation (EC) No 2007/2004

Article 11 b – paragraph 2

*Text proposed by the Commission*

*Amendment*

2. The Agency shall apply the security

2. The Agency shall apply the security



principles relating to the processing of non-classified sensitive information as adopted and implemented by the *European* Commission.

principles relating to the processing of non-classified sensitive information as adopted and implemented by the Commission *and develop accordingly its own detailed security policy.*

## Amendment 90

### Proposal for a regulation – amending act

#### Article 1 – point 16

Regulation (EC) No 2007/2004

Article 13 – title

#### *Text proposed by the Commission*

Cooperation with European Union agencies and bodies and international organisations

#### *Amendment*

Cooperation with European Union agencies and bodies and international *and other relevant* organisations

#### *Justification*

*The Agency should be allowed to work with a wider variety of cooperation partners so as to enable it to benefit from the expertise and know-how of a greater number of organisations.*

## Amendment 91

### Proposal for a regulation – amending act

#### Article 1 – point 16

Regulation (EC) No 2007/2004

Article 13

#### *Text proposed by the Commission*

The Agency *may* cooperate with Europol, the European Asylum Support Office, the Fundamental Rights Agency, other European Union agencies and bodies, and the international organisations competent in matters covered by this Regulation in the framework of working arrangements concluded with those bodies, in accordance with the relevant provisions of the Treaty and the provisions on the competence of those bodies.

#### *Amendment*

The Agency *shall* cooperate with Europol, the European Asylum Support Office, the Fundamental Rights Agency, other European Union agencies and bodies, and the international *and other* organisations competent in matters covered by this Regulation in the framework of working arrangements concluded with those bodies, in accordance with the relevant provisions of the Treaty and the provisions on the competence of those bodies. *In every case the Agency shall inform the European*

*Parliament of any such arrangements without delay. The Agency may invite representatives of other Union agencies and bodies or international organisations to participate in its activities as referred to in Articles 3, 4 and 5. The participation of representatives of international organisations in the activities referred to in Articles 4 and 5 may take place only with the agreement of the Member States concerned and in those referred to in Article 3 only with the agreement of the host Member State. Such representatives shall receive appropriate training from the Agency prior to their participation.*

## Amendment 92

### Proposal for a regulation – amending act

#### Article 1 – point 16

Regulation (EC) No 2007/2004

Article 14 – paragraph 1

#### *Text proposed by the Commission*

1. In matters covered by its activities and to the extent required for the fulfilment of its tasks, the Agency shall facilitate the operational cooperation between Member States and third countries, in the framework of the European Union external relations policy, including with regard to human rights.

#### *Amendment*

1. In matters covered by its activities and to the extent required for the fulfilment of its tasks, the Agency shall ***seek to cooperate with the competent authorities of third countries and*** shall facilitate the operational cooperation between Member States and third countries, in the framework of the European Union external relations policy, ***in particular through the European Neighbourhood Policy and within the framework of the Union for the Mediterranean,*** including with regard to human rights. ***For that reason, no operation may take place under the jurisdiction of any third country. The establishment of cooperation with third countries shall serve to promote European border management standards, also covering respect for fundamental rights and human dignity.***

## *Justification*

*Frontex should take initiatives to exercise its capacity to cooperate with third country authorities.*

### **Amendment 93**

#### **Proposal for a regulation – amending act**

##### **Article 1 – point 16**

Regulation (EC) No 2007/2004

Article 14 – paragraph 4

#### *Text proposed by the Commission*

4. The Agency may benefit from Union funding in accordance with the provisions of the relevant instruments supporting the Union's external relations policy. It may launch and finance technical assistance projects in third countries regarding matters covered by this Regulation. The Agency may also invite representatives of third countries, ***other European Union agencies and bodies or international organisations*** to participate in its activities referred to in Articles 3, 4 and 5. These representatives shall receive the appropriate training from the Agency prior to their participation.

#### *Amendment*

4. The Agency may benefit from Union funding in accordance with the provisions of the relevant instruments supporting the Union's external relations policy. It may launch and finance technical assistance projects in third countries regarding matters covered by this Regulation. The Agency may also invite representatives of third countries to participate in its activities referred to in Articles 4 and 5 ***with the agreement of the Member States concerned, as well as in those referred to in Article 3, with the agreement of the host Member State***. These representatives shall receive the appropriate training from the Agency prior to their participation.

### **Amendment 94**

#### **Proposal for a regulation – amending act**

##### **Article 1 – point 16**

Regulation (EC) No 2007/2004

Article 14 – paragraph 5

#### *Text proposed by the Commission*

5. When concluding bilateral agreements with third countries as referred to in Article 2(2) Member States shall, where appropriate, include provisions concerning the role and competencies of the Agency,

#### *Amendment*

5. When concluding bilateral agreements with third countries as referred to in Article 2(2) Member States shall, where appropriate, include provisions concerning the role and competencies of the Agency,

in particular regarding the exercise of executive powers by members of the teams deployed by the Agency during the activities referred to in Article 3.

in particular regarding the exercise of executive powers by members of the teams deployed by the Agency during the activities referred to in Article 3. ***The provisions of those bilateral agreements shall be compatible with the legal framework governing the Agency. In every case the Agency shall inform the European Parliament of any such provisions without delay.***

#### *Justification*

*Cette disposition de la proposition de la Commission ne fait qu'entériner une pratique déjà existante. Il est toutefois indispensable de rendre explicite que cette implication de l'Agence dans le cadre d'accords bilatéraux avec des Etats membres ne peut se concevoir que dans le strict respect du cadre juridique dans lequel l'Agence fonctionne, à savoir notamment le code frontière Schengen, les dispositions pertinentes du droit de l'Union et du droit international, les obligations relatives à l'accès à la protection internationale et des droits fondamentaux. Il convient en outre de renforcer la transparence et le contrôle démocratique entourant la participation de Frontex à de telles activités.*

#### **Amendment 95**

##### **Proposal for a regulation – amending act**

##### **Article 1 – point 16**

Regulation (EC) No 2007/2004

Article 14 – paragraph 6

##### *Text proposed by the Commission*

6. The Agency may cooperate with the authorities of third countries competent in matters covered by this Regulation in the framework of working arrangements concluded with these authorities, in accordance with the relevant provisions of the Treaty.

##### *Amendment*

6. The Agency may cooperate with the authorities of third countries competent in matters covered by this Regulation in the framework of working arrangements concluded with these authorities, in accordance with the relevant provisions of the Treaty. ***Those working arrangements shall be purely operational texts.***

## Amendment 96

### Proposal for a regulation – amending act

#### Article 1 – point 16

Regulation (EC) No 2007/2004

Article 14 – paragraph 7

*Text proposed by the Commission*

7. The activities referred to in paragraphs 2 and 6 shall be subject to receiving a prior favourable opinion of the Commission.

*Amendment*

7. The activities referred to in paragraphs 2 and 6 shall be subject to receiving a prior favourable opinion of the Commission, **and the European Parliament shall be immediately and fully informed.**

*Justification*

*The role of the European Parliament should be reinforced.*

## Amendment 97

### Proposal for a regulation – amending act

#### Article 1 – point 16 a (new)

Regulation (EC) No 2007/2004

Article 15 – paragraph 1

*Text proposed by the Commission*

*Amendment*

**(16a) In Article 15, paragraph 1 is replaced by the following:**

**"The Agency shall be a body of the Union. It shall have legal personality."**

## Amendment 98

### Proposal for a regulation – amending act

#### Article 1 – point 17 a (new)

Regulation (EC) No 2007/2004

Article 16

*Text proposed by the Commission*

*Amendment*

**(17a) Article 16 is replaced by the following:**

**"Article 16**

**Specialised branches *and regional operational offices***

**The Management Board of the Agency shall evaluate the need for, and decide upon the setting up of, specialised branches *and/or regional operational offices* in the Member States, subject to their consent, taking into account that due priority should be given to the operational and training centres already established and specialised in the different aspects of control and surveillance of the land, air and maritime borders respectively.**

**The specialised branches *and regional operational offices* of the Agency shall develop best practices with regard to the particular types of external borders *or the particular geographic region* for which they are responsible. The Agency shall ensure the coherence and uniformity of such best practices.**

**Each specialised branch *and regional operational office* shall submit a detailed annual report to the Executive Director of the Agency on its activities and shall provide any other type of information relevant for the coordination of operational cooperation."**

**Amendment 99**

**Proposal for a regulation – amending act**

**Article 1 – point 18**

Regulation (EC) No 2007/2004

Article 17 – paragraph 3

*Text proposed by the Commission*

3. For the purpose of implementing Article 3b(5) only an Agency's staff member subject to the Staff Regulations of Officials and to Title II of the Conditions of employment of other servants of the

*Amendment*

3. For the purpose of implementing Article 3b(5) only an Agency's staff member subject to the Staff Regulations of Officials and to Title II of the Conditions of employment of other servants of the

European Communities employed by the Agency can be designated as coordinating officer in accordance with **Article 8g**. For the purpose of implementing Article 3b(2) only national experts seconded by a Member State to the Agency can be designated to be attached to **the Frontex Joint Support Teams**. The Agency shall designate those national experts *that* shall be attached to **the Frontex Joint Support Teams** in accordance with that Article.

European Communities employed by the Agency can be designated as coordinating officer in accordance with **Article 3g**. For the purpose of implementing Article 3b(2) only national experts seconded by a Member State to the Agency can be designated to be attached to **the EU Border Guard System**. The Agency shall designate those national experts *who* shall be attached to **the EU Border Guard System** in accordance with that Article.

*Justification*

*see justification for AM 14*

**Amendment 100**

**Proposal for a regulation – amending act**  
**Article 1 – point 21 – point a**  
Regulation (EC) No 2007/2004  
Article 21 – paragraph 1 – last sentence

*Text proposed by the Commission*

This term of office shall be **extendable**.

*Amendment*

This term of office shall be **renewable**.

*Justification*

*linguistic clarification*

**Amendment 101**

**Proposal for a regulation – amending act**  
**Article 1 – point 21 a (new)**  
Regulation (EC) No 2007/2004  
Article 25 – paragraph 2

*Text proposed by the Commission*

*Amendment*

**(21a) In Article 25, paragraph 2 is replaced by the following:**

**"2. The European Parliament or the Council may invite the Executive Director of the Agency to report on the carrying out of his/her tasks, in**

*particular on the general report of the Agency for the previous year, the work programme for the coming year and the Agency's multi-annual plan referred to in Article 20(i)."*

*Justification*

*The role of the European Parliament should be reinforced.*

**Amendment 102**

**Proposal for a regulation – amending act**

**Article 1 – point 22 a (new)**

Regulation (EC) No 2007/200404

Article 26 a (new)

*Text proposed by the Commission*

*Amendment*

*(22a) The following Article is inserted:*

*"Article 26a*

*Advisory Board on Fundamental Rights*

*1. The Director and the Management Board shall be assisted, in matters concerning the Agency's activities having implications for fundamental rights, by an Advisory Board on Fundamental Rights.*

*2. In pursuance of its duties, the Advisory Board shall have the right to make any request for information or investigation in relation to any joint operation, rapid border intervention mission or pilot projects as it may deem necessary. In such cases, it shall be granted full access to information, in particular with regard to joint operations, rapid border intervention missions and pilot projects that shall be suspended where there are cases of violation of fundamental rights and international protection obligations.*

*3. This Advisory Board shall consist of representatives of the European Asylum Support Office, the Fundamental Rights Agency, the United Nations High Commissioner for Refugees and other*



*relevant organisations. The Advisory Board shall meet on a regular basis.*

*4. The Advisory Board shall have access to the evaluation reports of the joint operations and pilot projects referred to in Article 3(4) and the Return Operation Reports referred to in Article 9(3).*

*It shall also be consulted when the Agency develops the Code of Conduct referred to in Article 9(2) and the common core curricula referred to in Article 5.*

*5. Every year, the Advisory Board shall prepare a report on compliance by the Agency with fundamental rights, notably the relevant Union law, international law and obligations related to international protection.*

*The report shall be transmitted to the Director, the Management Board, the European Parliament, the Council and the Commission and shall be made public."*

## Amendment 103

### Proposal for a regulation – amending act

#### Article 1 – point 23

Regulation No 2007/2004

Article 33 – paragraph 2 a

#### *Text proposed by the Commission*

2a. The evaluation shall analyse the needs for the Agency to employ independent border guards acting under *the* instructions ***of the Agency, including*** a detailed description of the legal framework that would need to be set in place for ***that purpose***.

#### *Amendment*

2a. The evaluation shall analyse the need ***for the further development of the EU Border Guard System and*** for the Agency to employ independent border guards acting under *its* instructions ***and include*** a detailed description of the legal framework that would need to be set in place for ***those purposes***.

## EXPLANATORY STATEMENT

One of the attributes of a common EU area of freedom, security and justice is that of the removal of internal borders, especially within the Schengen area. In turn, this has rendered the external borders of EU Member States a matter of common concern and has made the need for an integrated management of external borders ever more compelling.

With 42 672 km of external sea borders and 8 826 km of land borders, the Schengen free-movement area comprises 25 countries (including three non-EU states) enabling free internal travel for nearly half a billion people across the continent. The abolition of internal borders has facilitated freedom of movement for citizens in an unprecedented manner.

But this calls for a coordinated approach in securing external borders. And whereas external borders remain open and efficient for *bona fide* travellers and for people who need protection, they must be closed for cross-border crime and for other illicit activities.

An integrated management ensuring a uniform and high level of control and surveillance is therefore necessary. This calls for an adoption and implementation of common rules and also calls for increased cooperation between Member States in securing their external borders. More combined effort is needed and more pooling of resources.

Crucially, cooperation must be based on solidarity among Member States, especially with frontier Member States that, owing to their geographic or demographic situation, face severe migratory pressures at their borders. The deployment in October 2010 of the first Frontex Rapid Border Intervention Teams (RABITS), at the request of Greece in the light of its emergency situation at its border with Turkey, is a case in point.

It is in the light of this need for more coordination and solidarity that the Frontex agency plays an important role.

The Agency was set up in 2004 and became operational in 2005. Over the past five years, the Agency has faced a rapidly changing scenario in migratory flows at the Union's external borders. It has grown into a complement of more than 200 staff and has been active in several land, air and sea joint operations. But its effectiveness has not reached expected levels.

We must learn from these first years of experience and give the Agency a renewed mandate with more resources and more tools to become more effective.

As requested by the Hague programme, the Commission presented a Communication on the evaluation and future development of the FRONTEX Agency adopted on 13 February 2008. The situation of the Frontex agency was addressed in European Parliament resolutions concerning immigration, the Pact on Immigration and Asylum and in the Stockholm Programme. The general message in each of these documents was that a number of aspects of the Agency needed to be improved.

A recurring problem was that Frontex was too dependent on Member States for the deployment of personnel and equipment in missions coordinated by the Agency. The

participation of the Member States had been patchy and pledges for equipment have been low. These shortcomings have seriously hampered the efficiency of the Agency. Another problem was the lack of cooperation from third countries.

On its part, the European Parliament has consistently supported the Agency, notably through significant budget increases over the years to support Frontex operations. Parliament has also repeatedly called for improvements in the Agency's enabling legislation in order to address its shortcomings and improve its efficiency.

The proposal presented by the Commission is a step towards improving the agency in the light of the experience of its first years of operation. It provides amendments that are necessary to ensure a better defined mandate and an improved functioning of the Agency in the coming years.

The rapporteur welcomes the Commission proposals and hopes to improve them through a series of amendments that are contained in this report.

### **The future of the Frontex agency**

The rapporteur believes that we have to clearly determine what we want from Frontex and what shape we want it to take in the coming years. The Treaty of Lisbon, the Stockholm Programme and the proposed Single Market Act all confirm that Europe is aiming to achieve a single area of freedom, security and justice for the benefit of its citizens. In this regard we have to make sure that the mechanisms concerned with this area live up to these ambitions. Frontex is no exception and its enabling law must be changed to ensure that it is better equipped to play its role.

Frontex should therefore be the European external border agency that coordinates common EU action in relation to the external borders of EU Member States. In particular, Frontex should be ready to assist Member States in circumstances requiring increased technical and operational assistance at external borders, especially those Member States facing specific and disproportionate pressures. In so doing, the Agency should embody European solidarity whereby pooled resources from different Member States should be brought together to support Member States in difficulties or particular points at the Union's external border which are vulnerable or which require concerted action.

Frontex should work hand-in-hand with other European agencies, notably Europol and Eurojust in the fight against cross-border crime. And it should also work hand-in-hand with the European Asylum Support Office in order to ensure that third-country nationals who seek protection in the EU manage to access Europe's asylum system through proper, legitimate means.

Frontex also has to be available at all times when needed, including in situations of emergency. Europe can no longer look on powerless at emergency situations because it is unable to muster resources or pool assets. Frontex must therefore have the necessary means and equipment to deliver in a timely and efficient manner and that its legislation is up to date for it to deliver this purpose.

Your rapporteur believes that Frontex should therefore be able to bring together national

border guards from different EU Member States in a pool of EU border guards or indeed, a EU Border Guard System. This pool should be drawn up for the purposes of joint operations, rapid border intervention missions and pilot projects involving the Agency and all Member States should be required to participate. The Agency must also support this pool through specialised training and other initiatives. The system could be an embryonic structure which could, in future, be developed into a fully-fledged EU Border Guard Agency.

### **Fundamental Rights**

Like all other EU agencies and bodies, Frontex has the duty to observe and uphold fundamental rights in all realms of its affairs. Your rapporteur welcomes the numerous elements in the Commission proposal which underline the importance of fundamental rights and which strengthen the ability and obligation of Frontex to ensure that respect for such rights is an integral part of border management.

### **Proposed Amendments**

In the light of the above, your rapporteur is proposing amendments to the Frontex regulation in order to achieve the following:

1. Strengthen the provisions on **fundamental human rights**.
2. Merge the articles providing for the setting up of Frontex Joint Support Teams and Rapid Border Intervention teams into one article providing for a **EU Border Guard System** which will consist of a pool of national border guards that can be tapped by the Agency for the purposes of its joint operations, rapid border intervention missions and pilot projects. This will streamline the provisions of the regulation, increase transparency, avoid duplication and confusion of roles and most importantly, give a clearer European identity to the Agency's missions.
3. Support the Commission's proposal to require Member State to participate in the EU Border Guard System through national border guards of their own, the compulsory-solidarity clause - and to equip the Agency with the means to purchase or lease its own equipment.
4. Mandate the Agency to pay special attention to **Member States which are facing specific and disproportionate burdens** on their national asylum systems.
5. **Tighten the timeframes** within which rapid border intervention missions should be deployed. All deadlines for action are reduced so that rapid border interventions can truly cater for emergency situations.
6. Introduce a role for Frontex in assisting with **voluntary returns** over and above the role of the agency for other returns.
7. Introduce a reference to **regional operational offices** based on the recent experience of the opening of the first regional operational office in Greece.

8. Grant the Agency the power to **process personal data** in order to enable it to play a greater role in combating cross-border crime and irregular migration. At the same time, provide for due safeguards on the protection of personal data. Thus, data should be processed for limited purposes, namely for situations regarding persons whom there are reasonable grounds to suspect involvement in cross-border criminal activities, in irregular migration activities or in human trafficking activities, persons who are victims of such activities and whose data may lead to the perpetrators of such illegal activities as well as persons who are subject to return operations in which the Agency is involved. There should be strict criteria as to how this data should be handled.
9. Increase the **democratic scrutiny** of the Agency by giving the European Parliament a greater role to monitor the work of the Agency, including on its working arrangements with third countries.
10. Require the review of the Agency's mandate, in five years, to analyse the further development of the **EU Border Guard System**.