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## **FRONTEX and RABITS: the European Union is stepping up its operational efforts combating illegal immigration**

### **Operational activities aiming at combating illegal immigration along the external borders of the European Union**

The Council on 26 October 2004 adopted Regulation (EC) No 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX).

The Agency, which is situated in Warsaw, Poland, has taken up its responsibilities during the second half of 2005.

FRONTEX's main tasks are:

- Coordination of operational cooperation between Member States in the field of management of external borders;
- Assistance to Member States on training of their border guards, including the establishment of common training standards;
- Carrying out of risk analyses;
- Following up on the development of research relevant for the control and surveillance of external borders;
- Assisting Member States in circumstances requiring increased technical and operational assistance at external borders;
- Providing Member States with the necessary support in organising joint return operations.

In order to achieve its mission, the Agency may also cooperate, at technical level, with third countries and international organisations relevant for its field of activities.

In accordance with one of its main tasks, FRONTEX has started in 2006 organising and co-ordinating joint operations along the external borders of the European Union with special focus on the areas exposed to high risk of illegal immigration, such as the Canary Islands, the Mediterranean, the Eastern land borders and the major European airports. All together more than 11 M€ has been allocated of the Agency's annual budget in 2006 to joint operations, pilot projects and support Member States in organising joint return of illegally staying third-country nationals.

The operations included joint border patrols at the Mediterranean Sea and the Canaries, deployment of groups of experts seconded from different Member States, assisting in identification of illegal immigrants as well as enhanced exchange of relevant information between Member States' migration management services.

In 2007, the Agency's operational, reaction, analytical and management capabilities will have to be further reinforced.

The total budget of FRONTEX has been increased from 19.2 M€ to 34.98 M€ out of which 12.78 M€ is currently put into reserve by the Budgetary Authority and would be released once the Agency submitted its Annual Programme of Work for 2007 indicating the added new activities comparing to 2006 and its Multi-annual Staff Policy Plan to the Budgetary Authority. This increase in the budget implies that the necessary financial resources could be allocated to operational activities (including joint operations, risk analysis, training, border-related research and development, management of technical equipments) up to 20.326 M€.

The planned Operational activities are reflecting the current and potential challenges in the field of combating illegal migration and managing migration flows and covering the so called geographical "hot spots" along the main migration routes towards the EU.

The planned operations include:

- 11 joint operations and 4 study projects and 5 other projects, focusing on land borders;
- 6 joint operations and 4 study projects at the sea borders (including the establishment of a permanent European Patrols Network in accordance with the European Council Conclusions adopted in December 2006);
- and 11 joint operations and 1 study project concerning the air borders (international airports).

In spite of the factually lower number of sea border operations, given the special assets and means needed for them, more than 8 M€ will be allocated for those operations.

These operations will be complemented and based in some cases on the cooperation that could be established between FRONTEX and the relevant third countries with the aim of improving the cost-effectiveness of FRONTEX operational activities. During this year, FRONTEX will extend the operational cooperation with Russia and Ukraine and will try to conclude working arrangements, among others, with Mauritania, Senegal, Morocco, Algeria, Tunisia, Libya, Egypt, Turkey or the Western Balkan countries.

The above mentioned joint operations must always be carried out with full respect of fundamental rights and due account of Member States' obligations concerning international protection and non-refoulement. Previous operations have demonstrated that they also contribute to prevention of loss of life at sea whilst people are trying desperately to cross the maritime borders on un-seaworthy boats.

To help clarify the legal framework in which these joint operations are carried out, the Commission services have prepared a study on the international law of the sea examining the powers that can be exercised for the control and surveillance of the sea border, and the main obstacles to the effective exercise of those powers, including issues regarding Member States' protection responsibilities in this context flowing from Community law and international or regional refugee or human rights instruments, and the international responsibilities of third countries (countries of origin or transit and flag States). The publication of the study will be followed by an expert meeting with Member States to identify the concrete follow-up, having regard to the limits of Community competence in this area.

In accordance with Article 7 of the FRONTEX Regulation and the call of the December 2006 European Council, the Agency is setting up now a Centralised Record of Available Technical Equipment (CRATE) for checks and surveillance of external borders belonging to Member States, which they, on a voluntary basis and upon request from another Member State, are willing to put at the disposal of that Member State for a temporary period following a needs and risks analysis carried out by the Agency. This "Tool box" may also facilitate obtaining the necessary assets needed for joint operations. CRATE presently consists of 116 vessels, 27 helicopters, 21 fixed wing aircrafts as well as 392 other tools for border surveillance and border control.

Once the Council and the European Parliament adopted the Commission's proposal for a Regulation establishing Rapid Border Intervention Teams – that is expected to happen before the end of the German Presidency – the Agency shall take all the necessary measures aiming at proper implementation of the Regulation (e.g. creation of a pool of border guards, advanced training). The Regulation establishes a mechanism for the purposes of providing rapid operational assistance for a limited period to a requesting Member State facing a situation of urgent and exceptional migratory pressure. The deployment of the Rapid Border Intervention Teams will contribute to increasing solidarity and mutual assistance between Member States.

### **Rapid Border Intervention Teams – operational summary**

Member States shall contribute to a pool of border guards. The total target number for the pool and the required profiles will be defined by FRONTEX some three weeks after formal adoption of the draft Regulation. The total number should be somewhere between 250 and 500.

RABIT teams will be deployed for a limited period in situations of urgent and exceptional pressure, especially the arrivals of large numbers of third-country nationals trying to enter illegally.

FRONTEX decides to deploy the teams at the request of a Member State within five days upon receiving the request, based on an assessment of the situation and the findings of its risk analyses.

If FRONTEX approves a request for deployment an operational plan is drawn up immediately. The plan will specify the duration, tasks and composition of the teams.

Member States are obliged to send border guards for a specific deployment, unless they themselves face an exceptional situation substantially affecting the discharge of national tasks.

The teams act under the command of the host (requesting) Member State. The members of the teams can perform border checks and surveillance in accordance with the Schengen borders code. The members of the teams have broadly the same powers as the border guards of the host Member State.

This includes the use of force and service weapons, provided the host and the home Member States give their consent. The members can always exercise self-defence in accordance with national law of the host Member State. In principle, rules on civil and criminal liability are those of the national law of the host Member State.

Members of the teams will have a special accreditation document. They will wear their own uniform and a blue armband with the insignia of the EU and FRONTEX. A coordinating officer is deployed by FRONTEX together with the teams.

All costs except regular salaries are covered by FRONTEX. This includes travel, accommodation and subsistence.

The draft Regulation does not contain rules on deployment of equipment, but FRONTEX / MS can make use of existing possibilities such as the toolbox in combination with the deployment of a Rabit team.

The draft Regulation also introduces the same rules for the tasks and powers of guest officers taking part in joint operations as for members of the Rabit teams.