

Translation from Finnish

Legally binding only in Finnish and Swedish

Ministry of the Interior, Finland

Border Guard Act

(578/2005; amendments up to 1350/2019 included)

By decision of Parliament, the following is enacted:

Chapter 1

General provisions

Section 1 (478/2014)

Scope of application

This Act lays down provisions on the crossing and surveillance of the national border and on the duties and powers of the Border Guard and border guards.

Provisions on the arrangement of administration, training and research at the Border Guard, on public posts of the Border Guard and on the special rights and obligations of Border Guard officials are laid down in the Act on the Administration of the Border Guard (577/2005), hereinafter the *Border Guard Administration Act*. Provisions on the processing of personal data and on the right to obtain and disclose personal data when performing the duties of the Border Guard are laid down in this Act, the Act on the Processing of Personal Data by the Border Guard (639/2019), the Maritime Search and Rescue Act (1145/2001) and elsewhere in the law. Provisions on the duties of the Border Guard in crime prevention are laid down in the Act on Crime Prevention by the Border Guard (108/2018). Provisions on the cooperation between the police, Customs and Border Guard are laid down in the Act on Cooperation between the Police, Customs and the Border Guard (687/2009). (642/2019)

Provisions on the internal border, external border, border crossing points, border control, border surveillance and border checks are laid down in Regulation (EC) No 2016/399 of the European Parliament and of the Council establishing a Community Code on the rules governing the movement of persons across borders, hereinafter the *Schengen Borders Code*. This Act lays down

provisions on the national duties and powers required by the Regulation and on the order of decision-making at the Border Guard. (425/2017)

Section 2 (478/2010)

Definitions

In this Act,

- 1) *automatic identification* means the identification of searched persons by technical means by comparing an image recording of a person to the image material available to the public authority;
- 2) *administrative unit* means a unit of the Border Guard referred to in section 3, subsection 1 of the Border Guard Administration Act;
- 3) *border troops* means the troops referred to in section 2 of the Border Guard Administration Act;
- 4) *border strip* means the area stretching to the borderline specified in the agreements on the boundaries of national territories concluded between Finland and its neighbouring states, or a strip stretching to the borderline with a width of border clearings or felling clearings established for each border stretch in border protocols;
- 5) *maintaining order along the border* means implementing and supervising compliance with provisions on the national border and border crossing points and provisions on international cooperation between border authorities;
- 6) *border security* means measures taken in Finland and abroad to prevent breaches of provisions on crossing the national or external border and threats to public order and security posed by cross-border passenger traffic, to combat cross-border crime and to ensure the safety of border crossings;
- 7) *border guard* means a Border Guard official specified in the Border Guard Administration Act who has the special powers of border guards provided in this Act or elsewhere in the law;
- 8) *border guard authorities* means the authorities referred to in section 4 of the Border Guard Administration Act;

9) *border zone* means the area to be established at the external border of Finland to maintain order along the border and to maintain border security.

Section 3 (749/2014)

Duties of the Border Guard

It is the duty of the Border Guard to maintain border security. To perform this duty, the Border Guard cooperates with other authorities and with communities and residents. The Border Guard is responsible for the cooperation with the European Border and Coast Guard Agency and engages in international cooperation pertaining to its duties. (619/2017)

The Border Guard performs, in cooperation with other authorities, surveillance duties separately provided by law, and actions to prevent, detect and investigate offences and to refer them for consideration of charges.

The Border Guard performs police and customs duties, search and rescue operations, provides prehospital emergency medical services and participates in military defence. Provisions on the duties of the Border Guard in the field of search and rescue at sea are laid down in the Maritime Search and Rescue Act.

Section 4 (425/2017)

Regional targeting of the operation of the Border Guard

The Border Guard operates wherever this is justifiable to maintain order along the border or to maintain border security, to carry out border control or to perform military defence duties laid down for the Border Guard, and in the sea area and in the economic zone referred to in the Act on the Economic Zone of Finland (1058/2004). The Border Guard operates elsewhere only where this is necessary to complete its statutory duties, to give executive assistance or to assist another Finnish authority.

The Border Guard participates in the cooperation in accordance with Chapter 5 of Council Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (*Prüm cooperation*) and in the cooperation in accordance with Council

Decision 2008/617/JHA on the improvement of cooperation between the special intervention units of the Member States of the European Union in crisis situations (*Atlas cooperation*).

Chapter 2

General principles of the operation of the Border Guard

Section 5 (749/2014)

Performance of duties and their order of importance

The Border Guard shall perform its duties with all due efficiency and expediency. Where circumstances so require, the duties shall be placed in order of importance.

Section 6 (749/2014)

Requirement of appropriateness, impartiality and conciliation

Duties shall be performed appropriately and impartially, while promoting equal treatment and conciliation. Border security shall primarily be maintained by means of advice, requests and commands.

Section 7 (749/2014)

Principle of proportionality

Actions taken shall be justifiable in proportion to the importance, danger and urgency of the task, the objective sought, the behaviour, age, health and other specifics of the person at whom the action is directed, and in view of other factors affecting the overall assessment of the situation.

Section 7a (749/2014)

Principle of minimum intervention

No individual's rights may be infringed upon and no one may be caused more harm or inconvenience than is necessary for the duty to be carried out.

Section 7b (749/2014)

Principle of intended purpose

The powers may be used only for the purposes provided by law.

Section 8 (749/2014)

Stating the grounds for actions

Border guards shall inform those at whom an action is directed, or their representative, of the grounds for any action affecting their personal liberty as soon as possible, taking into consideration their condition and other prevailing circumstances.

Unless otherwise provided, those at whom an action is directed other than one affecting their personal liberty, or their representative, have the right to know the grounds for the action as soon as this is possible without jeopardising the performance of the action.

Section 8a (749/2014)

Declaring border guard status and individual identification of border guards

Border guards shall carry the badge referred to in section 24 of the Border Guard Administration Act while performing their official duties. When necessary, border guards shall declare to those at whom an action is directed that he or she is a border guard and present his or her badge upon request, if such declaration or presentation is possible without jeopardising the performance of the action.

The Border Guard shall ensure that border guards who carried out official duties can be identified when necessary.

Section 9 (109/2018)

Deferring actions and abandoning actions

Border guards have the right to abandon actions if their completion could result in unreasonable consequences with a view to the outcome sought.

Those who have requested Border Guard action and whose immediate rights are affected by the matter have the right to know the grounds for abandoning the action.

Section 10 (109/2018)

General principles followed in customs, police and criminal investigation duties

In police duties, the principles laid down in the Police Act (872/2011) and in other acts on police duties shall be complied with. In customs duties, the principles laid down in the Customs Act (304/2016), the Act on Crime Prevention by Customs (623/2015) and in other acts on customs control shall be complied with. In criminal investigation duties, the principles laid down in the Criminal Investigation Act (805/2011), the Coercive Measures Act (806/2011), the Act on Crime Prevention by the Border Guard and in other acts on the duties of criminal investigation authorities shall be complied with.

Section 11 (749/2014)

Respecting fundamental and human rights

Border guards shall respect fundamental and human rights and, in exercising their powers, choose from all reasonable options the course of action that best serves to uphold these rights.

Chapter 3

Provisions on border control (478/2010)

Section 12 (749/2014)

Border crossing points

Provisions on ports, railway stations or other locations or areas acting as border crossing points, the opening hours of border crossing points and the division of border check duties between the Border Guard, police and Customs at the border crossing points are laid down by government decree.

Notification to the Commission of the list of border crossing points referred to in Article 5(1)(2) and Article 39(1)(b) of the Schengen Borders Code is made by the Ministry of the Interior. (425/2017)

Section 13

Border crossing permits

The Border Guard gives persons permission to cross the external border at places other than border crossing points and at times other than the official opening hours of border crossing points (*border crossing permit*). Border crossing permits are issued if there are serious reasons and if the procedure does not endanger the maintenance of border security. The permits may include terms and conditions necessary to maintain border security.

Border crossing permits may be withdrawn or their terms and conditions amended if, after issuing a permit, the circumstances change in such a manner that the procedure may endanger the maintenance of border security.

No judicial review may be requested by way of appeal in respect of decisions to refuse an application for a border crossing permit, to withdraw a permit or to change the terms and conditions of a permit.

Section 14 (478/2010)

Section 14 was repealed by Act 478/2010.

Section 15 (749/2014)

Temporary reintroduction of border control at internal borders

Decisions on the temporary reintroduction of border control at internal borders referred to in Chapter II of Title III of the Schengen Borders Code are made by the Government. However, where immediate action is required because of a threat to public order, internal security or public health, the Ministry of the Interior decides on necessary actions until the matter is decided by the Government.

Further provisions on the prompt handling among the police, Customs and Border Guard of matters concerning the reintroduction of border control at internal borders, and on the submission of notifications and information and on consultation are issued by government decree.

Section 15a (619/2017)

Support from the European Border and Coast Guard Agency

The government plenary session decides on the submission of the request referred to in Article 15(2) of Regulation (EU) 2016/1624 of the European Parliament and of the Council on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC (*European Border and Coast Guard Regulation*) to the European Border and Coast Guard Agency for the deployment of a rapid border intervention. However, where an urgent request is required because of a threat to public order, internal security or public health, the request may be submitted by the Minister of the Interior until the matter is decided by the government plenary session.

The government plenary session decides on the measures when Finland receives assistance in accordance with Article 19 of the European Border and Coast Guard Regulation in a situation at the external borders requiring urgent action.

The provisions of subsection 1 on decision-making apply unless otherwise provided in the Act on the Making of Decisions Concerning the Provision of and Request for International Assistance (418/2017).

Section 15b (619/2017)

Participation in the work of the European Border and Coast Guard Agency and the provision of and request for technical or operational assistance

The Chief of the Border Guard decides on the making available to the European Border and Coast Guard Agency of border guards for a rapid border intervention as referred to in Article 17(9) of the European Border and Coast Guard Regulation within the contribution fixed for Finland in the European Border and Coast Guard Regulation.

The Border Guard decides on its participation in other operations and work of the European Border and Coast Guard Agency as well as on the provision of and request for technical or operative assistance referred to in the European Border and Coast Guard Regulation within its mandate.

The Border Guard Headquarters is the national contact point referred to in Article 23 of the European Border and Coast Guard Regulation.

The provisions of subsection 2 on decision-making apply unless otherwise provided in the Act on the Making of Decisions Concerning the Provision of and Request for International Assistance.

Section 15c (425/2017)

Participation in an international mission (619/2017)

The Border Guard decides on its participation in an international mission other than one referred to in section 15b. (619/2017)

The Chief of the Border Guard decides on the participation of the Border Guard in Prüm and Atlas cooperation.

The provisions of subsections 1 and 2 on decision-making apply unless otherwise provided in the Act on the Making of Decisions Concerning the Provision of and Request for International Assistance (418/2017).

For technical or operational assistance provided by the Border Guard during international missions, a fee lower than the cost price referred to in the Act on Criteria for Charges Payable to the State (150/1992), may be charged that equates to the additional costs incurred by the Border Guard in providing the assistance.

Section 15d (619/2017)

Request for and provision of border security assistance

The Border Guard is the responsible authority when Finland receives assistance in order to maintain border security (*border security assistance*) as part of the implementation of Article 42(7) of the Treaty on European Union or Article 222 of the Treaty on the Functioning of the European Union in a situation where actions in accordance with the European Border and Coast Guard Regulation could not be applied.

The Border Guard may provide border security assistance to a European Union Member State as part of the implementation of Article 42(7) of the Treaty on European Union or Article 222 of the Treaty on the Functioning of the European Union in a situation where actions in accordance with the European Border and Coast Guard Regulation could not be applied.

Provisions on decision-making concerning the request for or provision of border security assistance are laid down in the Act on the Making of Decisions Concerning the Provision of and Request for International Assistance.

Section 16 (749/2014)

Temporary closing of border crossing points

Where it is deemed necessary to prevent a serious threat to public order, national security or public health, the Government may decide to close border crossing points for a fixed period or until further notice. Any immediate actions necessary are decided by the Ministry of the Interior until the matter is decided by the Government.

The closing of border crossing points may not prevent the right of Finnish citizens to arrive in the country or the right of anyone to leave the country, or violate the rights of those covered by European Union law on free movement or anyone's right to international protection.

Further provisions on the prompt handling among the police, Customs and Border Guard of matters concerning the closing of border crossing points, and on the submission of relevant notifications to competent European Union institutions and to other states are issued by government decree.

Chapter 4

Provisions on duties and actions

Section 17 (478/2010)

Border control duty

The Border Guard is the leading border control authority that coordinates the operation of other authorities participating in the border control of passenger traffic.

Sections 18-19

Sections 18–19 were repealed by Act 478/2010.

Section 20 (9/2019)

Maintaining public order and security at border crossing points, in premises of the Border Guard and in areas occupied by the Border Guard

The Border Guard monitors the fitness to drive of drivers and the roadworthiness of vehicles and compliance with the provisions of the Road Traffic Act (267/1981) at border crossing points. The Border Guard also attends to other aspects of maintaining public order and security at border crossing points, in its premises and in areas occupied by it when the police are prevented from doing so.

The Border Guard shall, without delay, notify the police of any actions relating to the maintenance of public order and security referred to in subsection 1 which are more than of a minor nature.

Provisions on supervising compliance with provisions on the possession of dangerous objects and of objects and substances that can be used to harm others, and on the use of intoxicating substances, are laid down in the Public Order Act (612/2003).

Section 21 (9/2019)

Police actions to maintain public order and security

In individual cases, at the request of a commanding police officer, the Border Guard may perform the urgent police actions necessary to maintain public order and security referred to in section 33 which the police are unable to perform without delay.

In matters at hand, where action cannot be delayed without a danger to health or property, border guards may also perform the actions referred to in subsection 1 even without the request of a police officer. The police shall be notified of the actions without delay. At the request of a police officer, the actions shall be abandoned, or actions already started shall be stopped.

On joint patrols by border guards and police officers that are pre-planned and considered appropriate, border guards may perform the necessary police actions within the patrolling area when carrying out police-led duties related to the maintenance of public order and security.

Section 22

Counter-terrorism and other special situations

At the request of a commanding police officer, the Border Guard may make available to the police equipment, personnel and special expert services if, due to a specific threat, this is necessary to prevent an offence committed with terrorist intent, to apprehend a dangerous person, to disperse a crowd endangering public order and security through their gathering or unjustifiably obstructing traffic, or to protect against crimes and disturbances.

Provisions on the duties of the Border Guard in preventing maritime safety threats are laid down in the Act on the Security of Certain Ships and Associated Port Facilities and on Monitoring Maritime Security (485/2004), hereinafter the *Maritime Security Act*. (478/2010)

Provisions on giving executive assistance to other authorities are laid down in sections 77 and 77a–77d of this Act. (749/2014)

Section 23

Security duties

The Border Guard may, on behalf of the State, handle transport requiring preparedness for special protective measures to ensure the security of the transport.

Where necessary, the Border Guard may designate border guards who have received special training provided by decree of the Ministry of the Interior (*security guard*) to protect the safety and security of heads of state and official guests, Border Guard officials, and guests of the Border Guard or persons transported by it who need special protection, or to protect the integrity of specific property. (749/2014)

Section 24 (316/2016)

Customs duties

Along with Customs, the Border Guard carries out customs control and related preliminary customs measures at the national border, and at border crossing points where Customs has not arranged customs control.

At the request of Customs, the Border Guard may also carry out customs control directed at the entry or exit of persons at border crossing points where customs control is otherwise carried out

by Customs. At the request of a customs officer, border guards may participate in the performance of individual customs measures.

Section 24a (510/2015)

Monitoring of sanctions and other restrictions in the Finnish sea area

With regard to vessels arriving in or departing from Finland, the Border Guard monitors the enforcement of international obligations binding on Finland, decisions adopted under Article 29 of the Treaty on European Union, regulations adopted under Article 215 of the Treaty on the Functioning of the European Union, the decree issued under the Act on the Enforcement of Certain Obligations of Finland as a Member of the United Nations and of the European Union (659/1967), or the decision to freeze funds made under the Act on the Freezing of Funds with a View to Combating Terrorism (325/2013).

Section 25

Military defence duties

The Border Guard participates in national defence and, to this end, provides military training for its personnel, for conscripts ordered to serve at the Border Guard and for women performing voluntary military service, and maintains and promotes defence capabilities in cooperation with the Defence Forces.

Where necessary in the interests of defence capabilities, the border troops or part of them may be attached to the Defence Forces by presidential decree.

Provisions on participation by the Border Guard in voluntary national defence training and other voluntary activities are laid down in the Act on Voluntary National Defence (556/2007). (557/2007)

Section 26

Participating in search and rescue operations, transport of patients and prehospital emergency medical services (749/2014)

Besides the provisions of the Maritime Search and Rescue Act, the Border Guard participates in other rescue operations and in the search for persons lost in wooded or open terrain or otherwise in need of immediate assistance there by making available equipment, personnel and

expert services if this is deemed necessary in view of the scale or special nature of the accident or emergency.

The Border Guard may perform urgent patient transport services if the authority or patient transport service provider responsible for the services is unable to perform them without endangering the rescue.

The Border Guard may participate in the prehospital emergency medical services referred to in the Health Care Act (1326/2010) as separately agreed. (749/2014)

Section 27 (749/2014)

Investigating border incidents and requirements for entry and exit

The provisions of chapter 2, section 4, subsections 1 and 2 of the Police Act on conducting a search to apprehend a person to be brought to a police investigation, the provisions of chapter 2, section 8, subsections 1 and 4 of the Police Act on cordoning off a place or an area and the provisions of chapter 6 of the Police Act on police investigation apply to investigations by the Border Guard to establish whether foreign nationals meet the requirements for entry into, stay in and exit and removal from the country. The same applies to the investigation of the border incidents referred to in the agreement concerning the régime of the Finnish-Soviet State Frontier and procedure for the settlement of frontier incidents (Finnish Treaty Series 32/1960). (503/2016)

Those being investigated are obliged to be at the investigation for a maximum of twelve hours at a time.

The provisions of chapter 2, section 4, subsection 2; chapter 6, section 3, subsection 2; and chapter 6, section 4, subsection 2 of the Police Act on commanding police officers apply to border guards of at least the rank of lieutenant at the Border Guard.

Chapter 5

Provisions on powers

Section 28 (478/2010)

Powers applying to border control

Besides the provisions in this Act and elsewhere in the law, border guards have the right, for the purpose of carrying out border control as referred to in the Schengen Borders Code, to take the following actions without any criminal suspicion: (749/2014)

- 1) prevent exit of persons or vehicles that cross or have crossed the external border or are suspected of having unlawfully crossed the external border or avoided a border check;
- 2) prevent exit from a border check until the completion of the check;
- 3) carry out the actions belonging to a minimum check specified in Article 8(2) of the Schengen Borders Code; (425/2017)
- 4) carry out on third-country nationals the actions belonging to a thorough check on entry and exit specified in Article 8(3) of the Schengen Borders Code, and the actions belonging to a thorough second line check; (425/2017)
- 5) carry out checks on persons enjoying the Community right of free movement in accordance with Directive 2004/38/EC of the European Parliament and of the Council on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC;
- 6) temporarily take possession of documents, goods and vehicles, check them and make searches on them to the extent required by the Schengen Borders Code, and indicate in travel documents information as provided by the Schengen Borders Code and the law;
- 7) ensure that third-country nationals who have been refused entry do not enter Finnish territory;
- 8) make the register inquiries and entries required by the Schengen Borders Code;
- 9) conduct non-intimate body searches to find an object, property, document, data or circumstance in compliance with the provisions of chapter 8, section 30, subsection 1 and section 33 of the Coercive Measures Act; (749/2014)
- 10) take photographs of persons; (749/2014)

11) record information obtained in connection with carrying out border control in compliance with the provisions of the Act on the Processing of Personal Data by the Border Guard. (642/2019)

For the purpose of carrying out border checks, those being checked shall, at the request of border guards, stay with any luggage and vehicles in the location directed to them.

Decisions to prevent exit as referred to in subsection 1, paragraphs 1 and 2 and to temporarily take possession of goods and vehicles for the duration of border checks are made by the border guard acting as the superior of the border crossing point or by a border guard of at least the rank of lieutenant. In urgent cases, exit is prevented and goods and vehicles taken into possession by the border guard carrying out the border check, who shall refer the matter, without delay, to be decided by the border guard acting as the superior of the border crossing point or by a border guard of at least the rank of lieutenant. (749/2014)

Refraining from the intention to cross the border does not prevent the performance of border checks where this is necessary to establish identity and to ensure that persons are not in possession of any objects or substances that they are not entitled to possess or carry across the border. (749/2014)

Border guards have the right to take actions that are deemed justifiable on the basis of a check and that are part of the statutory duties of the Border Guard.

Section 28a (642/2019)

Non-intimate body searches in border control

Decisions on the non-intimate body searches referred to in section 28, subsection 1, paragraph 9 are made by the border guard acting as the superior of the border crossing point or by a border guard of at least the rank of lieutenant. However, border guards carrying out border checks may decide on non-intimate body searches of persons' outer clothing or carry-on luggage, or non-intimate body searches performed by patting a person down or by using a technical device.

An entry shall be made in the filing system of the Border Guard of a non-intimate body search. In addition, a record describing the process in sufficient detail shall be prepared of non-intimate body searches authorised by the border guard acting as the superior of the border crossing point or by a

border guard of at least the rank of lieutenant. The persons searched shall be given a copy of the record on request.

Section 29 (9/2019)

Technical monitoring related to border control

For the purpose of performing border control, the Border Guard has the right, in the vicinity of the border, in the Finnish maritime areas and at and in the immediate vicinity of border crossing points, to conduct technical monitoring of places other than the domestic premises referred to in chapter 24, section 11 of the Criminal Code (39/1889). However, technical monitoring may not be targeted at lavatories, dressing rooms or other similar places, social facilities, or offices assigned to the personal use of employees. *Technical monitoring* means continuous or repeated visual or audio monitoring of vehicles, vehicle drivers, pedestrians or the general public with the help of a technical device as well as automatic recording of sound or image.

With the exception of maritime areas, technical monitoring at border crossing points or outside the border zone shall be indicated with appropriate signs.

In the border zone, and at border crossing points and in their immediate vicinity, the Border Guard may install technical equipment for the purpose of technical monitoring without permission from the owner or holder of the land or water area. Outside the border zone, technical equipment may be installed without permission from the owner or holder of the land or water area only temporarily, for a maximum period of three months. The owner or holder of the land or water area is compensated at the going rate for any damage and inconvenience caused by the installation of technical equipment.

Provisions on recording technical monitoring data in the filing system and the processing of data are laid down in the Act on the Processing of Personal Data by the Border Guard. Provisions on the technical surveillance carried out for the surveillance and protection of Finland's territorial integrity are laid down in the Territorial Surveillance Act (755/2000) and the provisions on the technical surveillance carried out to prevent an offence investigated by the Border Guard or to avert a threat thereof are laid down in the Act on Crime Prevention by the Border Guard.

Section 30

Arrangements and traffic at border crossing points (749/2014)

The Border Guard has the right to be provided by the owners or holders of traffic operating points serving as border crossing points, against compensation at the going rate, with the border control facilities required to carry out border checks.

Transport operators shall notify the Border Guard of the beginning of cross-border traffic no later than four months before beginning the operation. New routes or lines shall be reported no later than two months before beginning the operation. (749/2014)

Section 30a (749/2014)

Powers of border guards to direct and restrict movement at border crossing points

Border guards acting as superiors at border crossing points and border guards of at least the rank of lieutenant have the right to direct the movement of passengers and the staff of means of transport in order to facilitate the smooth flow of border traffic and border checks by showing the necessary routes from means of transport or the external border to the place where border checks are performed, and by imposing temporal restrictions on movement.

Section 31 (749/2014)

Use of images and sound collected during technical monitoring at border crossing points

The Border Guard has the right to use images and sound collected during technical monitoring at border crossing points for the automatic identification of persons to identify those to be summoned, apprehended, arrested, taken into custody, remanded, or to be placed under the surveillance of public authorities, based on warrants of apprehension issued by competent authorities.

Section 32 (9/2019)

Powers of a border guard to maintain public order and security at border crossing points, in premises of the Border Guard and in areas occupied by the Border Guard

In addition to the provisions elsewhere in the law, a border guard has the right, in a situation referred to in section 20, in order to maintain public order and security at border crossing points, in premises of the Border Guard and in areas occupied by the Border Guard:

1) to cordon off, close or clear a place or area in public use, or to direct, prohibit or restrict movement;

2) to cordon off or clear public premises or an area referred to in chapter 24, section 3 or domestic premises or an area referred to in section 11 of the Criminal Code if this is necessary to avert an imminent danger that threatens life or health and the persons in the area cannot be protected in any other way; the holder of the public premises or area shall be provided with an opportunity to be heard prior to taking the action if possible, taking into consideration the urgency of the situation;

3) to gain entry to public or domestic premises or another place, or to premises or another place to which there is no public access, or to a vehicle, and, where necessary, to conduct a search therein if an act or event endangering life, health or personal liberty or causing substantial damage to property or the environment is imminent or taking place provided that the action is essential to prevent a danger or damage or to search for and take possession of explosives, weapons or other dangerous substances or objects;

4) to order a crowd to disperse or move if the gathering threatens public order and security or obstructs traffic or if members of the crowd are likely, on the basis of their threats or other behaviour, to commit an offence against life, health, liberty, domestic premises or property; the actions shall, where possible, be restricted to persons whose conduct is causing the need to disperse or move the crowd;

5) to disperse the crowd referred to in paragraph 4 with force and to apprehend noncompliant persons if the order to disperse or move is not obeyed;

6) to apprehend a person to protect him or her from an imminent serious danger to life, physical integrity, safety or health if the person is unable to take care of himself or herself and the threat cannot be otherwise eliminated or the person otherwise looked after;

7) to remove, at the request of an occupier of public or domestic premises or another place or his or her representative, anyone who unlawfully enters it by force, stealth or deception, or hides in such premises or neglects an order to leave;

8) to remove anyone from public or domestic premises or another place who has permission to be there if he or she disturbs the privacy of others at the domestic or public premises or causes considerable disturbance in other ways and if there are reasonable grounds to suspect that the disturbance will recur;

9) to apprehend the person causing disturbance referred to in paragraphs 7 and 8 if it is likely that removal would not prevent the disturbance from recurring;

10) in cases referred to in paragraphs 3 and 7–9, to enter a room, place or storage or another similar place targeted by an action using force where necessary; after the action has been taken, the targeted place shall be closed in a suitable manner;

11) to remove a person from a place if there are reasonable grounds to believe on the basis of his or her threats or other behaviour, or if it is likely on the basis of his or her previous behaviour, that he or she would commit an offence against life, health, liberty, domestic premises or property, or would cause a considerable disturbance or pose an imminent danger to public order or security;

12) to apprehend a person referred to in paragraph 11 if his or her removal is likely to be an inadequate measure and the offence cannot otherwise be prevented or the disturbance or threat otherwise removed;

13) to protect a person or guard a place in order to prevent or interrupt an offence referred to in paragraph 11;

14) to capture and, as the last resort, to put down an animal causing a danger to human life or health or significant damage to property or posing a serious danger to traffic; an animal may also be put down if keeping it alive would clearly be cruel to it.

The cordoning off or clearing a place referred to in subsection 1, paragraph 2 and the entry to premises used for permanent residence referred to in paragraph 3 is decided by a border guard of at least the rank of captain or lieutenant, senior grade if possible, taking into consideration the urgency of the situation.

A record shall be drawn up or a similar entry made in some other document of the actions taken under subsection 1, paragraphs 3 and 7–9.

Section 32a (9/2019)

Use of on-site interception and technical observation to maintain public order and security at border crossing points, in premises of the Border Guard and in areas occupied by the Border Guard

In addition to what is provided in section 32 and elsewhere in the law, the Border Guard, in order to maintain public order and security at border crossing points, in its premises and in areas occupied by it, shall have the right in a situation referred to in section 20 to use, for a short period, on-site interception referred to in section 25, subsection 1 and technical observation referred to in section 27, subsection 1 of the Act on Crime Prevention by the Border Guard, notwithstanding subsections 2 of the stated sections, if this is essential in order to carry out a Border Guard duty safely and to avert an imminent danger that threatens the life or health of the person carrying out the duty, the person to be apprehended or the person to be protected.

The decision on the use of on-site interception and technical observation is made by an official of the Border Guard with the power of arrest.

Section 33 (9/2019)

Powers of a border guard in police duties

In the police duties necessary to maintain public order and security referred to in section 21, a border guard, in order to prevent offences with terrorist intent and handle special situations referred to in section 22, shall, in Prüm and Atlas cooperation as well as in the duties belonging to the Border Guard referred to in the Maritime Security Act, have the powers referred to in chapters 2 and 3 of the Police Act and the right to on-site interception referred to in chapter 5, section 17, subsection 5 and technical observation referred to in section 19, subsection 5, unless these are restricted by a commanding police officer or the police tactical leader.

The provisions of chapter 2, section 4, subsection 2; section 6, subsection 3; and section 8, subsection 2 of the Police Act on a commanding police officer apply to a border guard of at least the rank of captain or lieutenant, senior grade at the Border Guard. The decision on the use of the powers to engage in on-site interception referred to in chapter 5, section 17, subsection 5 and in technical observation referred to in section 19, subsection 5 of the Police Act in a situation referred to in subsection 1 is made by an official of the Border Guard with the power of arrest.

Section 33a (9/2019)

Procedure relating to on-site interception and technical observation

When the Border Guard engages in on-site interception referred to in section 25, subsection 1 or in technical observation referred to in section 27, subsection 1 of the Act on Crime Prevention by the Border Guard for a short period to carry out a duty safely and to avert an imminent danger that threatens the life or health of the person carrying out the duty in a situation referred to in section 32a, the provisions of chapter 3 of the said Act on the preconditions and procedures for the use of the said powers and on the processing of data obtained with the powers also apply.

When the Border Guard engages in on-site interception referred to in section 17, subsection 1 or in technical observation referred to in section 19, subsection 1 of the Police Act to carry out a duty safely or to avert an imminent danger that threatens the life or health of the person carrying out the duty in a situation referred to in section 33, the provisions of chapter 5 of the said Act on the preconditions and procedures for the use of the said powers and on the processing of data obtained with the powers shall also be applied. The provisions of the Police Act on an official with the power of arrest apply to an official of the Border Guard with the power of arrest.

Provisions on oversight of on-site interception and technical observation at the Border Guard are laid down in section 62 of the Act on Crime Prevention by the Border Guard.

Section 34 (316/2016)

Powers of border guards in customs duties

In the customs duties referred to in section 24, a border guard has the powers provided in chapter 3 and in section 29 of the Customs Act.

If the performance of a customs duty requires carrying out an intimate body search or a search other than of a person's luggage or outer clothing without conducting a criminal investigation, the provisions of section 18 of the Customs Act shall be complied with. Decisions on such actions are made by an official with the power of arrest or a border guard of at least the rank of major.

Section 34a (749/2014)

Powers of border guards in security duties

Border guards who have received the special training referred to in section 23, subsection 2 may perform security duties provided in section 23 within the powers laid down in subsections 2 and 3 of this section, unless these powers are restricted by commanding police officers or police tactical leaders. The Border Guard shall notify the police of the performance of security duties in advance.

Where it is deemed necessary for the performance of security duties, border guards have the right to cordon off, close or clear places or areas in public use, or to prohibit or restrict movement there.

Border guards have the right to remove persons from places if there are reasonable grounds to believe on the basis of their threats or other behaviour, or it is likely based on their previous behaviour, that they would commit an offence against life, health, liberty or property. Persons may be apprehended if their removal is likely to be an inadequate measure and the offence cannot otherwise be prevented or the disturbance or threat otherwise removed. Apprehended persons shall be handed over to the police without delay.

Section 34b (510/2015)

Powers in monitoring sanctions and other restrictions

When performing the duty referred to in section 24a, the Border Guard has the right to prevent foreign vessels from entering Finland's internal waters. Similarly, the Border Guard may prevent foreign vessels which have departed from a Finnish port from leaving Finnish territorial waters, and vessels sailing under the Finnish flag from leaving the territorial waters or economic zone of Finland.

Section 34c (9/2019)

Powers in military defence duties

In a military defence duty referred to in section 25 that is entrusted to the Border Guard by the Defence Forces, the Border Guard has the right, where necessary, for the purpose of securing Finland's territory, the livelihoods of the people and the freedom of action of the country's leadership, and defending the lawful social order, to use, in addition to what is provided elsewhere in the law, armed force with weaponry acquired for military purposes that is more powerful than an official's personal sidearms in the event of an armed attack or similar external threat facing Finland. The use of armed force with weaponry acquired for military purposes shall be compatible with the international obligations binding on Finland.

Section 34d (9/2019)

Powers of conscripts and those in voluntary military service to support the operation of the Border Guard

As provided in section 30 of the Border Guard Administration Act, serving conscripts and persons admitted to perform military service referred to in the Act on Voluntary Military Service for Women (194/1995) shall, when acting in support of the operation of the Border Guard, where this is necessary for a well-founded reason relating to the maintenance of border security or due to a need in the security environment of Finland, under the direct direction and supervision of a border guard, temporarily have the right:

- 1) to establish identity and record personal identifying characteristics in compliance with the provisions of section 36, subsections 1 and 2 and section 131, subsections 1 and 2 of the Aliens Act (301/2004);
- 2) to stop a vehicle and control traffic in accordance with the provisions of section 38;
- 3) to conduct a security search relating to a measure taken by a border guard and referred to in section 65 in compliance with the provisions of section 65a;
- 4) to prevent the exit of a person apprehended or taken into custody by a border guard, or whose personal liberty has been affected by another measure taken by a border guard, by means of requests and commands and to carry out transport relating to these duties;
- 5) to carry out a registration duty relating to an offence investigated at the Border Guard or to a statutory administrative duty of the Border Guard.

When exercising the powers referred to in subsection 1, serving conscripts and persons in voluntary military service do not have the right to obtain data contained in the filing system of the Border Guard referred to in the Act on the Processing of Personal Data by the Border Guard or in other registers and information systems established for official purposes.

Provisions on the right of serving conscripts and persons in voluntary military service to necessary use of force under the direction of a border guard are laid down in section 35, subsection 2 and on

the right to excessive use of force in chapter 4, section 4 of the Criminal Code. Provisions on the right to use force in territorial surveillance are laid down in the Territorial Surveillance Act. Provisions on the right of soldiers and superior officers to use force are laid down in sections 23, 23b and 23c of the Act on Defence Forces (551/2007).

Section 34e (9/2019)

Decision-making on the powers of conscripts and those in voluntary military service

The decision to assign serving conscripts or persons in voluntary military service to a duty requiring the powers referred to in section 34d, subsection 1 is made by the commander of the regional border guard authority whose operating area the matter concerns. The decision shall identify the measures to be taken and their regional and temporal extent. The measures may not be in excess of what is necessary to maintain border security or due to a need in the security environment of Finland.

Serving conscripts and persons in voluntary military service may only be assigned to a duty requiring the powers referred to in section 34d for which they have adequate training.

Section 34f (9/2019)

Obligations and liabilities of conscripts and those in voluntary military service

The provisions on criminal liability for acts in office apply to serving conscripts and persons in voluntary military service who exercise the powers referred to in section 34d, subsection 1. The provisions of sections 17 and 17a–17d of the Border Guard Administration Act apply to the non-disclosure obligation and the right to remain silent. Provisions on the liability for damages are laid down in sections 80 and 80a–80d and in the Tort Liability Act (412/1974).

Section 34g (9/2019)

Border guard basic course students

The provisions of sections 34d–34f also apply to a border guard basic course student when he or she is assigned to a task outside the training referred to in section 26b, subsection 1 of the Border Guard Administration Act.

Section 35

Use of force by border guards

Unless otherwise provided, when performing official duties, border guards have the right to use necessary force that can be considered justifiable to overcome resistance, remove persons from places, apprehend persons, prevent the escape of those who have been deprived of their liberty, remove obstacles or prevent an imminent threat of an offence or another dangerous act or event. When assessing the justifiability of the use of force by border guards, the importance and urgency of the official duty, the danger of resistance, the resources available and other circumstances affecting the overall assessment of the situation shall be taken into account. Where it is necessary to use force, it shall be used only to the extent and for the time necessary to perform a statutory official duty (*principle of minimum intervention*).

In situations where it is necessary to resort to the help of bystanders when using force in performing extremely important and urgent Border Guard duties, those who temporarily assist border guards at their request or with their consent have the right, under the direction of the border guards, to use such force as is authorised by the border guards acting within their powers.

Provisions on the excessive use of force are laid down in chapter 4, section 6, subsection 3 and section 7 of the Criminal Code (39/1889). Provisions on the right to use force in territorial surveillance duties are laid down in the Territorial Surveillance Act (755/2000). Provisions on the application by the Border Guard of the right of soldiers and superior officers to use force as referred to in section 23 of the Act on the Defence Forces (551/2007) are laid down in section 31 of the Border Guard Administration Act. (554/2007)

Border guards on duty also have the right of self-defence as provided in chapter 4, section 4 of the Criminal Code. In such self-defence, border guards are subject to liability for acts in office. When assessing the justifiability of self-defence, the requirements set for border guards on the basis of their training and experience shall be taken into account. (749/2014)

Section 35a (619/2017)

The powers and the right to use force of an official participating in operations and pilot projects in Finland coordinated by the European Border and Coast Guard

A member of a rapid border intervention team deployed to Finland at the request of Finland or on the basis of Article 19 of the European Border and Coast Guard Regulation and a guest officer

participating in a joint operation or a pilot project implemented in Finland have the powers provided for a border guard to perform tasks laid down in this Act, under instructions of a competent Finnish official, in accordance with the Schengen Borders Code with the exception of a decision in accordance with Article 14 to refuse entry. In addition, the said official has the right to use force provided in section 35, subsection 1 in the presence of a competent Finnish official with the consent of his or her home Member State and if the right has not been restricted in the operational plan referred to in Article 16 of the European Border and Coast Guard Regulation or in the instructions referred to in Article 21 issued by Finland.

Section 35b (749/2014)

Preparing to use force and warning of its use

Where, in performing official duties, there is reason to suspect that resistance referred to in section 35, subsection 1 or an unlawful attack referred to in chapter 4, section 4, subsection 1 of the Criminal Code will occur, preparation for the use of force shall be made in a suitable and appropriate manner, taking account of the provisions of chapter 2 and section 35, subsection 1 of this Act.

Those at whom official duties are directed shall be warned of the possibility that force may be used against them if such a warning is possible and appropriate. The warning shall be given in a way that is understandable and suitable for the purpose.

Section 35c (749/2014)

Use of firearms

Firearms may be used only when it is necessary to stop the actions of those posing an imminent and serious danger to the life or health of another person and no more moderate means to do this are available. When performing urgent and important duties, firearms may also be used to remove objects, animals or other similar obstacles. Firearms may not be used to disperse a crowd, unless gas cartridges or other similar projectiles are used in them in accordance with separately issued provisions.

Use of firearms means warning of the use firearms referred to in section 2 of the Firearms Act (1/1998), threatening with a firearm and firing a shot. Revealing a firearm and getting it ready to use do not constitute use of firearms.

Decisions to threaten with a firearm and fire a shot are made by the Chief of the Border Guard, Deputy Chief of the Border Guard, Chief of the Border and Coast Guard Division of the Border Guard Headquarters, Commanders or Deputy Commanders of Border Guard Districts or Coast Guard Districts, Heads of Operational Border Offices or Operational Maritime Offices, or border guards of at least the rank of captain or lieutenant, senior grade, if this is possible in view of the urgency of the situation.

Section 35d (749/2014)

Physical restraint

The freedom to move and freedom to act of those at whom official duties are directed may be restricted by applying handcuffs, using plastic ties or in some other similar way if, in connection with performing official duties, restriction is necessary to prevent them from fleeing, to control violent behaviour or to avert imminent violence.

Restriction on freedom to move or act shall not continue for longer than is necessary. Restriction shall not place those subject to restriction in any danger or cause unnecessary pain.

Provisions on physical restraint of apprehended persons held by the Border Guard are laid down in chapter 11, section 2 of the Act on the Treatment of Persons in Police Custody (841/2006).

Section 35e (425/2017)

The powers and the right to use force of an official of a European Union Member State providing border security assistance

An official of a European Union Member State whose competence is based on the Schengen Borders Code has, when providing border security assistance referred to in section 15d, subsection 1 to the Border Guard in a task under its responsibility, the competence provided in this Act for a border guard to perform tasks in accordance with the Schengen Borders Code under orders and instructions of a competent Finnish official with the exception of a decision in accordance with Article 14 to refuse entry. The said official has the right to use force provided in section 35, subsections 1 and 4 in the presence of a competent Finnish official with the consent of his or her home Member State and if the right has not been restricted in the request for assistance issued by Finland. Provisions on excessive self-defence are laid down in chapter 4, section 4, subsection 2

and section 7 of the Criminal Code. Provisions on excessive use of force are laid down in chapter 4, section 6, subsection 3 and section 7 of the Criminal Code.

With the consent of his or her home Member State, the official has the right to carry service weapons, ammunition, instruments of force and other equipment. Permissible service weapons, ammunition, instruments of force and other equipment shall be stated in the request for assistance issued by Finland.

Section 35f (425/2017)

Other rights and obligations of an official of a European Union Member State providing border security assistance

The Ministry of the Interior issues a fixed-term accreditation document to an official of a European Union Member State participating in the provision of the border security assistance referred to in section 15d, subsection 1 indicating the powers of the official. The accreditation document shall also include the name, nationality, official capacity and photograph of the official. The official shall carry the accreditation document with him and present it upon request. The accreditation document shall be returned to the Ministry of the Interior at the end of the provision of the assistance.

While performing the tasks, the official shall wear his or her own uniform unless otherwise ordered by a competent Finnish official.

The official is treated as a Finnish official in respect of offences committed by or targeted at him or her and damage caused by him or her. If the damage caused by the official is due to gross negligence or intent, the home Member State may be requested to compensate the damages paid for the damage in full or in part. The official is subject to the disciplinary legislation and legislation on public-service employment relationships of his or her home Member State.

Provisions on the right of the official to consult the filing system of the Border Guard are laid down in the Act on the Processing of Personal Data by the Border Guard. (642/2019)

Section 35g (425/2017)

The powers and the right to use force of a border guard when providing border security assistance

When providing border security assistance, a border guard has the powers provided in this Act to perform tasks in accordance with the Schengen Borders Code on request of the host European Union Member State. The powers may, however, not exceed the powers conferred on him or her by the host Member State.

In addition, the border guard has the right laid down in section 35, subsections 1 and 4 and in the provisions issued under this Act to use such force that is necessary and justifiable for the task and which are in line with the national legislation of the host European Union Member State unless that host Member State restricts them.

When providing assistance, the border guard has the right to wear his or her own uniform and carry service weapons, ammunition, instruments of force and other equipment unless otherwise ordered by the host Member State.

Section 35h (425/2017)

Legal status of a border guard outside the territory of Finland

The same provisions that apply to official duties carried out in Finland apply to official duties and rights of a border guard when performing tasks referred to in sections 15b–15d outside the territory of Finland unless the host Member State restricts the rights under European Union law or an international agreement.

The Act on Compensation for Accidents and Service-Related Illnesses in Crisis Management Duties (1522/2016) applies to a border guard participating in the tasks referred to above in section 15d.

Section 36 (875/2011)

Establishing identity

To perform individual statutory Border Guard duties, border guards have the right to obtain from anyone their name, personal identity code or, if this does not exist, date of birth and nationality, and information concerning the place where they can be reached.

Where persons refuse to give the information referred to in subsection 1 or their identity cannot otherwise be ascertained, border guards have the right to establish identity on the basis of

personal identifying characteristics. In this case, the provisions of chapter 8, section 33, subsections 2–4 of the Coercive Measures Act on conducting personal searches shall be observed, as appropriate.

Border guards have the right to apprehend anyone who refuses to give the information referred to in subsection 1 or gives what is likely to be false information, provided that the apprehension is necessary in order to establish the information. Those apprehended shall be released as soon as the necessary information has been obtained, but no later than 24 hours after being apprehended.

Section 37 (749/2014)

Apprehending wanted persons

Border guards have the right to apprehend anyone who, in accordance with a warrant issued by a competent authority, is to be apprehended, arrested, or remanded or taken into custody. Those apprehended shall be transferred to police custody without delay, unless they have to be released immediately.

Where requested by border guards, wanted persons other than those referred to in subsection 1 are obliged to present themselves at a police station or other place where the measures specified in the warrant of apprehension can be taken. If they do not follow the request, or if it is likely that they are attempting to avoid the measures specified in the apprehension warrant, border guards have the right to apprehend them in order to take the measures specified in the warrant.

Unless otherwise provided on the duration of measures required in a warrant of apprehension, wanted persons are obliged to be present for the measures to be taken for a period of up to six hours after being apprehended.

Section 38 (9/2019)

Stopping a vehicle and traffic control

In addition to what is provided elsewhere by law, border guards have the right to order vehicles to be stopped and moved, or to move vehicles, and to control traffic, where this is deemed necessary for carrying out border control, police duties, monitoring of aliens or security duties, for maintaining public order and security at border crossing points or in an area occupied by the Border Guard or because of traffic accidents, or for carrying out monitoring related to the use of

vehicles or monitoring of hunting within the Border Guard's mandate, or for preventing or investigating offences,.

Section 38a (9/2019)

Interfering with the path of unmanned aircraft and model aircraft

In addition to what is provided elsewhere by law, a border guard has the right to interfere with the path of an unmanned aircraft referred to in section 2, subsection 1, paragraph 22 of the Aviation Act (864/2014) and a model aircraft referred to in paragraph 21 if this is necessary to maintain border security, to perform security duties or maritime search and rescue duties or to safeguard extremely important operations of the Border Guard.

In a situation referred to in subsection 1, a border guard has the right to target, for a short period, such necessary force and technical measures that can be deemed justifiable at an unmanned aircraft or a model aircraft, its remote control devices and piloting and monitoring connections, and at other parts of the system needed to operate it (*overall system*). When assessing the justifiability of the use of force and technical measures, the importance and urgency of the official duty, the dangers involved in the operation of an unmanned aircraft or a model aircraft, the resources available as well as other circumstances affecting the overall assessment of the situation shall be taken into account. If the use of force or technical measures is necessary, they shall be used only to the extent and for the period that is necessary to perform the task referred to in subsection 1. The measures shall not cause more than minor interference to other radio communications or to devices or services of the public communications network.

A border guard has the right to handle radio communications, traffic data or location data relating to the remote piloting of an unmanned aircraft and a model aircraft in order to interfere with the path of an unmanned aircraft or a model aircraft and to identify and locate a part of the overall system of an unmanned aircraft or a model aircraft. Any data obtained through radio communications, traffic data or location data that can be connected to a natural person shall be destroyed without delay unless otherwise provided by law.

Section 38b (9/2019)

Temporary suspension and restriction of water traffic

The Ministry of the Interior may, for a maximum period of seven days at a time, prohibit water traffic or restrict it within a limited area of Finnish territorial waters and the Saimaa Canal if this is necessary to maintain border security. In an urgent situation that immediately endangers border security, the decision may be made by the commander of the regional border guard authority whose operating area the matter concerns after hearing the other regional border guard authorities whose operating areas the matter concerns. The decision of the commander of the regional border guard authority shall, without delay, be notified to the Ministry of the Interior, which can decide to continue or terminate the suspension or restriction.

Before making the decision referred to in subsection 1, the Finnish Transport Agency and Customs shall be provided with an opportunity to be heard unless the urgency of the situation necessarily requires immediate enforcement of the decision. The Finnish Transport Agency is responsible for informing the parties concerned of the decision and it participates in the enforcement of the decision.

The decision referred to in subsection 1 shall be immediately revoked or its extent limited when the suspension or restriction of water traffic is no longer necessary to maintain border security.

Section 39 (554/2007)

Right to enter another's property

Where it is deemed necessary for the performance of Border Guard duties, Border Guard officials, and conscripts and those performing voluntary military service deployed to support the operation of the Border Guard, have the right to enter the land and water areas of another by foot or skis, or by vehicles used by the Border Guard. However, they shall avoid entering yards and similar areas reserved for a special purpose, unless there is a compelling reason for entering such areas due to Border Guard duties.

The owners or holders of land and water areas are compensated at the going rate for any damage and inconvenience caused by entering their land or water area.

The provisions of section 14 of the Act on the Defence Forces on the right of the Defence Forces to temporarily use property other than that which they occupy permanently apply to the Border Guard's right to temporarily use property other than that which it occupies permanently, where this is necessary for military exercises, maintaining border security or increasing defence

capabilities. The provisions of subsections 3 and 4 of the said section on defence branch commands, garrison commanders and leaders of military exercises apply at the Border Guard to its Headquarters, administrative unit commanders and border guards of at least the rank of captain or lieutenant, senior grade. (9/2019)

Section 40 (749/2014)

Authority of border guards

When exercising the powers laid down in this or any other act, border guards have the right, within their area of responsibility, to issue necessary orders and prohibitions to all persons in individual cases.

Chapter 6 (109/2018)

Chapter 6 was repealed by Act 109/2018.

Chapter 7

Provisions concerning the border zone

Section 49

Border zone

Where it is deemed necessary to maintain order along the border and to maintain border security, a border zone may be established at the external border. The border zone may extend to a maximum distance of three kilometres on land and four kilometres at sea from the Finnish national border referred to in international treaties binding on Finland (*borderline*).

Further provisions on the establishment, width and location of the border zone are issued by government decree. The border zone may not be set to be wider than what is required for the performance of border control.

The owners or holders of land or water areas in the border zone are obliged to permit the marking of the rear boundary of the border zone and the maintenance of these markings in both land and water areas at the cost of the State. The owners or holders of the land or water areas are compensated at the going rate for any damage or inconvenience caused by the markings.

(749/2014)

Section 50

Border fence

Landowners or holders of land areas in the border zone are obliged to permit a fence to be built at the cost of the State along the edge of the open area cleared along the Finnish border under international treaties binding on Finland (*border fence*).

Section 50a (749/2014)

Open area along the border and the trail in the border zone

The owners or holders of land or water areas are obliged to permit the following at the cost of the State:

- 1) removal of trees and other vegetation hindering visibility from the open area cleared along the Finnish border;
- 2) removal of trees and other vegetation blocking the trail in the border zone and at the rear boundary of the border zone that is required for the performance of essential Border Guard duties;
- 3) construction of minor structures necessary for the trail in the border zone and at the rear boundary of the border zone that is required for the performance of essential Border Guard duties.

The right to remove trees and other vegetation does not apply to yard or garden areas. The owners or holders of the land or water areas shall be notified well in advance of the removal of trees and other vegetation and the construction of the trail.

The owners or holders of land or water areas are compensated at the going rate for any damage and inconvenience caused by the removal of trees and other vegetation and the construction of the trail.

Section 51

Prohibitions related to the border zone

Unless otherwise provided in this Act, the following activities are prohibited in the border zone:

- 1) building fences and similar structures closer than 50 metres to the borderline and thereby hindering patrol and other operations of the Border Guard that are necessary for the maintenance of border security;
- 2) moving between sunset and sunrise in parts of rivers and in narrow straits of lakes along which the borderline runs, and closer than 100 metres to the borderline on all rivers crossed by the borderline and on lakes and sea bays along which the borderline runs (*border waters*);
- 3) herding reindeer and domestic animals without supervision where there is no fence to prevent them from crossing the borderline.

Section 52

Border zone permit

Unless otherwise provided in this Act or elsewhere in the law, the following activities are subject to a permit in the border zone:

- 1) staying;
- 2) moving in border waters in daytime and moving in the border strip;
- 3) building structures closer than 50 metres to the borderline;
- 4) possessing firearms, ammunition, explosives and spring-operated weapons;
- 5) using the articles and substances referred to in paragraph 4;
- 6) excavating earth and mineral aggregates and searching for minerals closer than 20 metres to the borderline.

A permit (*border zone permit*) is granted if it is acceptable for reasons of residence, work, profession, livelihood, business or hobby, or for another reason, and if the exercise of the right granted in the permit is not likely to cause danger to the maintenance of order along the border or border security.

Section 53

Period of validity and terms and conditions of border zone permits

Border zone permits are granted to:

- 1) those residing in the border zone or holding residential buildings or property there, and to family and other close persons, with a validity until further notice;
- 2) those working in the border zone or carrying out a profession, livelihood or business there, with a validity until further notice unless, for a special reason, the permit has to be granted for a fixed period;
- 3) for a fixed period, to persons other than those referred to in paragraphs 1 and 2.

Terms and conditions concerning activity and movement in the border zone under section 52, subsection 1 that are necessary for maintaining order along the border and border security may be included in border zone permits. Permit terms and conditions may be changed if the preconditions for granting the permit change. (749/2014)

Section 54

Expiry and cancellation of border zone permits

Border zone permits expire upon the death of permit holders. Border zone permits are cancelled if the permit holder so requests.

Border zone permits may be cancelled if:

- 1) the permit holder commits an offence which endangers order along the border or the maintenance of border security;
- 2) the permit holder violates the permit terms and conditions or provisions on the border zone in a manner other than that referred to in paragraph 1;
- 3) the grounds for granting the permit no longer exist.

Where there is probable cause to believe that the permit holder has committed the offence referred to in subsection 2, paragraph 1, or if the permit holder has committed the violation referred to in paragraph 2, border zone permits may be cancelled for a fixed period for the duration of a criminal investigation and possible judicial proceedings.

Where required by a need in the security environment of Finland, the border zone permit of a person other than one referred to in section 53, subsection 1, paragraphs 1 and 2 may be cancelled for a period not exceeding one month at a time if this is necessary to maintain order along the border or border security. The decision on the cancellation of a permit shall be withdrawn immediately when it is no longer necessary. The decision referred to in this subsection on the cancellation of a border zone permit may be served as service by publication referred to in section 55 of the Administrative Procedure Act (434/2003). (9/2019)

Section 55

Warning

In cases referred to in section 54, subsection 2, instead of cancelling the permit, a warning may be given to the permit holder if it would be unreasonable to cancel the permit considering the circumstances.

Section 56

Competent authorities

Compliance with provisions on the border zone is supervised by the Border Guard, police and Customs. (749/2014)

Border zone permits shall be carried at all times. They shall be presented to border guards, police officers or customs officers on request. Where permit holders cannot present evidence of a valid permit, they may be obliged to present the evidence to the supervisory authority within seven days of the issuing of the order (*order to present evidence*).

Decisions on matters related to border zone permits and warnings are made by the regional border guard authority whose operating area the matter primarily concerns, after consulting other regional border guard authorities concerned by the matter. (749/2014)

Section 57 (9/2019)

Border zone notifications

Besides the provisions of section 52 on activities subject to a permit, border guard authorities shall be notified of the following in advance (*border zone notification*):

- 1) using firearms, explosive substances or spring-operated weapons, and timber felling and forest thinning, closer than 500 metres to the borderline;
- 2) logging, fishing, and moving in border waters with a vehicle.

Where required by a need in the security environment of Finland, border guard authorities may require that a border zone notification be submitted in advance of staying in the border zone if the notification is necessary to maintain order along the border or border security. It can be specified that the notification requirement applies for a period of one month at a time. The notification requirement shall be withdrawn immediately when it is no longer necessary. The decision referred to in this subsection on the notification requirement may be served as service by publication referred to in section 55 of the Administrative Procedure Act.

Border zone notifications are submitted to the regional or local border guard authority whose operating area the notification concerns. Where it is deemed necessary to maintain order along the border or border security, the border guard authority issues further orders on the activities or staying referred to in the notification concerning movement, aiming of weapons, the amount of explosive substances to be used at one time and the direction and methods for felling trees, and on other actions to prevent unintentional border incidents.

Section 58 (749/2014)

Restrictions on the scope of application of provisions on the border zone

By derogation from the statutory prohibitions concerning the border zone, moving in the border strip and border waters is permitted when carrying out the official duties of the Border Guard, police, Customs, Defence Forces and the game and fisheries warden of Metsähallitus, in rescue operations, and when crossing the national border legally.

When carrying out the official duties of the Border Guard, police, Customs, Defence Forces and game and fisheries wardens of Metsähallitus, in rescue operations, and when crossing the national border legally, border zone permits and border zone notifications are not required for staying in the border zone, moving in border waters and in the open area along the border, or possessing and using firearms, ammunition, explosives and spring-operated weapons.

Section 59

Interrupting violations of border zone provisions

Border guards, and police officers and customs officers performing control in the border zone, have the right to:

- 1) prevent activities carried out without a required border zone permit or border zone notification;
- 2) remove unauthorised persons from the border zone;
- 3) take possession of firearms, ammunition, explosives and spring-operated weapons possessed without a permit or used without an advance notification in the border zone.

Regional border guard authorities may order buildings, fences or other structures which have been built without a permit or in violation of prohibitions to be taken down or removed, and forbid the use of buildings and issue notices of a conditional fine, enforced compliance or enforced suspension as further provided in the Act on Conditional Fines (1113/1990).

Decisions referred to in this section may be enforced regardless of any request for a review unless otherwise ordered by the appellate authority.

Section 60 (1350/2019)

Oral decisions and requests for a review

In urgent cases, the permit referred to in section 52, subsection 1, paragraphs 1, 2, 4 and 5 may be issued orally. No judicial review may be requested by way of appeal in respect of an oral decision to grant an application in full. Oral decisions in respect of which no request for a review may be made are issued in writing only on specific request.

A judicial review of a border zone permit decision other than decisions referred to in subsection 1 may be requested by way of appeal. Provisions on requesting a judicial review by an administrative court are laid down in the Administrative Judicial Procedure Act (808/2019).

Chapter 8

Treatment of persons deprived of their liberty

Section 61 (843/2006)

Provisions applicable to treatment of persons deprived of their liberty

At the Border Guard, unless otherwise provided below, the provisions of the Act on the Treatment of Persons in Police Custody apply to the treatment of persons deprived of their liberty. (749/2014)

The provisions on the police laid down in the Act referred to in subsection 1 apply to the Border Guard in respect of persons held by the Border Guard. At the Border Guard, the provisions of that Act on police officers or guards apply to border guards. The provisions of the same Act on supervisors of custody facilities or officials with the power of arrest designated by them apply to supervisors of custody facilities at the Border Guard.

By derogation from:

1) chapter 8, section 3 of the Act referred to in subsection 1, decisions on the rules and regulations of custody facilities administered by the Border Guard and on monitoring and locking the facilities are made by competent administrative units;

2) chapter 17, section 3, subsection 1 of the Act referred to in subsection 1, decisions on requests for an administrative review are made by heads of administrative units or by border guards of at least the rank of captain or lieutenant, senior grade who have been assigned to this task in writing at the administrative unit; (1150/2010)

3) chapter 18, section 1 of the Act referred to in subsection 1, officials with the power of arrest of competent administrative units shall be appointed as supervisors of custody facilities.

The provisions of section 123 of the Aliens Act (301/2004) shall be observed in the treatment of aliens held in custody, and the provisions of the Act on Treating Intoxicated Persons (461/1973)

shall be observed in the treatment of intoxicated persons. Provisions on apprehension and enforcement of punishments related to military discipline are laid down in the Act on Military Discipline and Combating Crime in the Defence Forces (255/2014). (749/2014)

Section 62

Handing over apprehended or arrested persons

Those apprehended or arrested by the Border Guard shall be handed over to the police without undue delay unless they have to be released immediately or handed over to another criminal investigation authority, a detention unit for aliens or to prison service authorities. The handing over shall take place within 48 hours of the apprehension.

Section 63

Transporting persons deprived of their liberty

Border guards have the right to carry out the transport required for handing over persons deprived of their liberty to other authorities.

Section 64

Custody facilities for persons deprived of their liberty

Those deprived of their liberty may be held at the Border Guard in appropriate facilities which have been approved for that purpose by the Border Guard Headquarters.

When approving custody facilities, the rights of persons deprived of their liberty guaranteed by the Acts referred to in section 61 shall be taken into account. (843/2006)

The custody facilities of the Border Guard shall be guarded 24 hours a day.

Chapter 9

Special provisions on the security of the operation and premises of the Border Guard

Section 65 (749/2014)

Security searches

When apprehending, arresting or remanding persons, taking persons into custody or carrying out other actions affecting personal liberty, border guards have the right to search the clothing of such persons and anything else they have on them and their belongings to ensure that they are not carrying any objects or substances that they could use to endanger their custody arrangements or to cause danger to themselves or others. When performing official duties, border guards may also search persons to find such objects or substances if there are reasonable grounds that make this necessary to ensure their occupational safety and completion of official duties.

In connection with actions affecting personal liberty, persons and their belongings may also be searched to find documents necessary for their identification.

Where necessary, the dangerous objects or substances referred to in subsection 1 shall be removed from the persons being searched. Any objects or substances whose possession is otherwise prohibited by an act or provisions issued under it shall also be removed.

Section 65a (749/2014)

Conducting security searches

Security searches are conducted by patting a person down, using a trained dog, using a metal detector or other similar technical device, or by some other similar method.

Searches may not interfere with the physical integrity of those being searched any more than is necessary to carry out the duty. When searching, the level of discretion required by the circumstances shall be observed.

Section 66 (749/2014)

Taking possession of dangerous objects and substances

Besides the provisions in this or in any other act, border guards have the right, in connection with their statutory duties, to take temporary possession of firearms, explosives and other dangerous objects, and parts belonging or connected to them, and other dangerous substances from those whose age, state of intoxication, state of mind or other circumstances may reasonably be believed to pose an imminent danger to public order and security.

Instead of taking possession of the whole object, parts belonging or connected to it may be taken into possession if their removal can prevent the threat referred to in subsection 1.

Provisions on taking possession of firearms, firearm components, cartridges and specially dangerous projectiles are laid down in the Firearms Act.

Section 66a (749/2014)

Handling property taken into possession

Dangerous objects and substances taken into possession by the Border Guard under section 65, subsection 3 or section 66, subsection 1 shall be returned to their holder without delay and within no later than 14 days, unless prior to that the action referred to in subsection 3 below or in chapter 7 of the Coercive Measures Act is taken. If objects or substances cannot be returned to their holder without posing a danger, they are handed over to the police for actions provided in chapter 2, section 15 of the Police Act, in the Firearms Act or in any other act.

Any parts belonging or connected to objects taken into possession by the Border Guard under section 66, subsection 2 shall always be returned, unless the whole object in question is taken into possession by the Border Guard under section 66, subsection 1 before this.

The Border Guard officials referred to in chapter 2, section 9, subsection 1, paragraph 3 of the Coercive Measures Act may order objects or substances of little value to be destroyed.

The owner or holder shall be provided with an opportunity to be heard prior to the destruction of property, unless the property is of little value. A report shall be drawn up or a similar entry made in some other document on the taking possession and destruction of property.

Section 67 (749/2014)

Security checks in the premises or areas of the Border Guard

Security checks aimed at ensuring security and order and protecting property may be organised in headquarters and other important premises of the Border Guard, and in areas occupied by it.

Decisions to conduct security checks are made by the head of the administrative unit of the Border Guard occupying the premises or area.

Vehicles and persons entering the premises of the Border Guard and areas occupied by it, and those already there, and the belongings of the persons may be subjected to security checks. Decisions on the extent of security checks are made by heads of administrative units.

Security checks may be conducted by border guards, other members of Border Guard personnel trained for the task or police-approved persons trained for the task (*security inspector*).

Security checks shall be conducted in such a manner that they do not cause any unnecessary inconvenience to those searched or any damage to property.

Section 68 (749/2014)

Conducting security checks

Security inspectors have the right, using metal detectors or other similar technical devices or trained animals, to check vehicles and persons entering the premises of the Border Guard or areas occupied by it, or those already there, and the belongings of the persons to ensure that the vehicles or persons are not carrying any objects or substances that could endanger security or order or could be used to damage property. Security inspectors also have the right to check the vehicles and the belongings of the persons by other means.

Where, on the basis of a security check or otherwise, there are reasonable grounds to suspect that those being checked are carrying objects or substances referred to in subsection 1, they may be searched to find the objects or substances. Security inspectors conducting such searches shall be of the same gender as the persons to be searched.

Section 69 (749/2014)

Taking possession of objects found in security checks

Security inspectors have the right to remove from persons the objects or substances found in security checks or otherwise that are referred to in section 68, subsection 1 or the possession of which is otherwise prohibited by an act or provisions issued under it.

Provided that there is no legal impediment to doing so, objects and substances removed shall be returned to the persons on whom the security check was conducted when they leave the Border Guard premises.

Section 70 (749/2014)

Use of force in security checks

Those refusing to undergo a security check, and vehicles in their possession, may be removed by security inspectors from the premises of the Border Guard or areas occupied by it.

When removing persons or vehicles from the premises of the Border Guard or areas occupied by it, security inspectors may use force that can be deemed justified in view of the person's behaviour and other circumstances. However, unless otherwise provided, only border guards may use force to remove persons from the premises of the Border Guard or areas occupied by it.

Provisions on the excessive use of force are laid down in chapter 4, section 6, subsection 3 and section 7 of the Criminal Code.

Section 70a (749/2014)

Right of Commanders of the Districts and the Air Patrol Squadron and the Director of the Border and Coast Guard Academy to conduct checks and searches

Commanders of Border Guard Districts, Coast Guard Districts and the Air Patrol Squadron, and the Director of the Border and Coast Guard Academy have the right to subject those employed by the Border Guard who are not subject to section 45 of the Criminal Code to the searches and checks referred to in section 25, subsection 1 of the Act on Military Discipline and Combating Crime in the Defence Forces, where there is reason to suspect that the provisions of the subsection in question have been violated. At the Border Guard, the provisions on the property of the Defence Forces laid down in that subsection apply to the property of the Border Guard or the property of the Defence Forces held by the Border Guard.

The provisions of section 25, subsection 2 of the Act on Military Discipline and Combating Crime in the Defence Forces apply to unauthorised or unlawful possession of the property of the Border Guard or the property of the Defence Forces held by the Border Guard, or of narcotics or alcoholic beverages.

Section 71 (9/2019)

Restrictions on movement related to the premises and exercises of the Border Guard

Where it is deemed necessary to protect persons from danger or to protect extremely important operations of the Border Guard, restrictions or prohibitions concerning movement in premises or areas occupied by the Border Guard may be issued by decree of the Ministry of the Interior. A temporary restriction or prohibition on movement concerning parts of military exercise areas or of exercise areas relating to border security or a property occupied by the Border Guard under section 39, subsection 3 may, for the duration of the exercises or occupation of the property, be ordered by a border guard of at least the rank of captain or lieutenant, senior grade.

A person violating the restriction or prohibition on movement may be removed from the premises referred to in the restriction or prohibition or from the area referred to therein. Where removal is not likely to be a sufficient action, and the violation of the restriction or prohibition cannot be prevented in another manner, persons may be apprehended. Those apprehended may be kept in custody for as long as it is probable that they will violate the restriction or prohibition, but for no longer than 24 hours from being apprehended.

Chapter 10

Penal provisions

Section 72 (147/2014)

Border zone violation

Anyone who intentionally

- 1) fails to comply with the terms and conditions of the border zone permit referred to in section 53, subsection 2;
- 2) fails to comply with the obligation to carry evidence of a valid border zone permit at all times or with the order to present evidence provided in section 56, subsection 2; or
- 3) fails to comply with the duty to notify provided in section 57,

shall be sentenced to a fine for a *border zone violation*.

Section 73

Violation of restriction on movement related to the Border Guard

Anyone who intentionally or through gross negligence violates restrictions or prohibitions on movement related to premises or areas occupied by the Border Guard shall be sentenced to a fine for a *violation of restriction on movement related to the Border Guard*, unless a more severe punishment for the act is provided elsewhere by law.

Section 73a (749/2014)

Unauthorised use of the Border Guard emblem and uniform and emblems showing border guard status

Anyone who intentionally or through gross negligence uses without authorisation the emblem of the Border Guard, as such or adapted for use in an insignia or a visual presentation, or an insignia that is deceptively similar to the Border Guard emblem, shall be sentenced to a fine for *unauthorised use of the Border Guard emblem*.

Anyone who intentionally or through gross negligence violates the prohibition provided in section 23, subsection 1 of the Border Guard Administration Act, shall be sentenced to a fine for *unauthorised use of the Border Guard uniform*, unless a more severe punishment is provided for the act.

Anyone who intentionally or through gross negligence violates the prohibition provided in section 23, subsection 2 of the Border Guard Administration Act, shall be sentenced to a fine for *unauthorised use of emblems showing border guard status*, unless a more severe punishment is provided for the act.

Section 74

Other penal provisions

Provisions on the punishment for insubordination to a border guard are laid down in chapter 16, section 4a of the Criminal Code. Provisions on the punishment for a state border offence are laid down in chapter 17, sections 7 and 7a of the Criminal Code, the punishment for territorial violation

in section 7b of the said chapter, and the punishment for facilitation of illegal entry in sections 8 and 8a of the said chapter. Provisions on the punishment for invasion of public premises are laid down in chapter 24, section 3 of the Criminal Code.

Chapter 11

Miscellaneous provisions

Section 75

Aviation in the Border Guard

To perform its duties, the Border Guard may engage in aviation solely for State purposes as referred to in section 5 of the Aviation Act (1194/2009). In aviation at the Border Guard, the Aviation Act shall be complied with, unless otherwise provided elsewhere by law or, with regard to State aircraft used for similar purposes, in international treaties binding on Finland. (1195/2009)

Where it is deemed necessary for the performance of aviation duties of the Border Guard, aircraft used by the Border Guard may land and take off elsewhere than at aerodromes referred to in the Aviation Act. The insurance obligation laid down in the Aviation Act does not apply to aircraft used at the Border Guard for State purposes.

Decisions on landing on and taking off from aerodromes other than those referred to in the Aviation Act, and on applying the exceptional procedure referred to in section 5, subsection 2 of the Aviation Act to aviation at the Border Guard, are made by the Chief of the Border Guard. Where the exceptional procedure may compromise flight safety, aviation authorities shall be heard before implementing the procedure and making the exception. (1195/2009)

Section 76

Navigation by the Border Guard

To perform its duties, the Border Guard may engage, for State purposes, in navigation other than merchant shipping. Provisions on the application of the Maritime Act (674/1994) to such navigation are laid down in chapter 1, section 9 of the said Act.

With regard to its rescue duties, the Border Guard has the right to waive the right to salvage rewards provided in the Maritime Act on behalf of both the State and the Border Guard officials,

conscripts and those performing voluntary military service who participated in the rescue work on behalf of the State. Where the right to salvage rewards is not waived, the provisions laid down by government decree apply to the grounds for the apportionment of salvage rewards in such cases.

Section 77 (749/2014)

Executive assistance and support provided by the Border Guard (425/2017)

In addition to what is provided elsewhere by law, the Border Guard may, on request, give executive assistance to State authorities to fulfil the statutory supervision obligation. Provisions on assistance given by the Border Guard to the police and Customs are laid down in the Act on Cooperation between the Police, Customs and the Border Guard.

The Border Guard is obliged to provide rescue authorities, the police, Customs and the Defence Forces with executive assistance that requires the use of equipment, personnel resources or expert services of the Border Guard that are not available to these authorities at the given moment. The Border Guard may provide rescue authorities, the police and Customs with support having similar contents as executive assistance in duties belonging within their mandates outside the territory of Finland. A precondition for the provision of executive assistance and support is that it may not endanger the performance of the other important statutory duties of the Border Guard.

(425/2017)

Decisions to give executive assistance are made by heads of administrative units or by border guards of at least the rank of lieutenant who have been assigned to this task in writing at the administrative unit. Decisions to provide support outside the territory of Finland are made by the Chief of the Border Guard. In case of support outside the territory of Finland of special significance to internal security, the matter is decided by the Ministry of the Interior. Provisions on decision-making concerning the provision of or request for international assistance are also laid down in the Act on the Making of Decisions Concerning the Provision of and Request for International Assistance. (109/2018)

Section 77a (425/2017)

Executive assistance and support by the Border Guard to the police in preventing terrorist offences (9/2019)

Where it is deemed necessary to avert an imminent and serious danger that threatens the life or health of a large number of people, and this cannot be done by using lesser means, the police have the right to receive from the Border Guard executive assistance requiring use of force with weaponry acquired for military purposes in the Finnish sea area and economic zone and at a border crossing point and in the vicinity of the border in order to prevent or interrupt offences made with terrorist intent referred to in chapter 34a, section 1, subsection 1, paragraphs 2, 3 and 5–8 or subsection 2 of the Criminal Code. (9/2019)

The police have the right to receive support having similar contents as the executive assistance referred to in subsection 1 when operating in the sea area and economic zone of a European Union Member State on request of the Member State in a duty belonging within the mandate of the police and based on European Union law or on an international treaty binding on Finland, in order to prevent or interrupt terrorist acts defined in European Union law or in the international treaty binding on Finland. Use of force with weaponry acquired for military purposes requires that it is necessary to avert an imminent and serious danger that threatens the life or health of a large number of people, and that this cannot be done by using lesser means. The use of force shall be in accordance with the national legislation and request of the host Member State of the European Union. The provisions of this section and sections 77b–77d on executive assistance apply to support.

Led by the police, the Border Guard has the right to use force with weaponry acquired for military purposes when assisting the police in the prevention or interruption of a terrorist offence in situations referred to in subsections 1 and 2.

The use of force with weaponry acquired for military purposes means the use of such armed force with weaponry acquired for military purposes that is more powerful than an official's personal sidearms that is suitable for the performance of the police duty.

The force used shall be reasonable and proportionate to the importance and urgency of the duty, the danger of resistance, the resources available, and other circumstances affecting an overall assessment of the situation. In particular, the rights and safety of bystanders shall be taken into consideration. Where possible, a warning shall be given prior to the use of force.

The use of force referred to in this section is decided and directed by the police. Force may only be used by border guards serving in a military post of the Border Guard. Provisions on the use of

force are laid down in chapter 2, section 17, subsection 3 of the Police Act. Provisions on excessive self-defence are laid down in chapter 4, section 4, subsection 2 and section 7 of the Criminal Code. Provisions on the excessive use of force are laid down in chapter 4, section 6, subsection 3 and section 7 of the Criminal Code.

Section 77b (749/2014)

Decision-making on executive assistance given to the police

In the situation referred to in section 77a, executive assistance is requested by the Ministry of the Interior, and decisions to give executive assistance are made in a government plenary session. Where the Government cannot be convened quickly enough, in urgent situations that pose an imminent and serious danger to critical functions of society, the Ministry of the Interior may immediately make a decision to give executive assistance. In that case, the Government and the President of the Republic shall be notified of the request and the decision without delay. The Government may decide to continue or discontinue executive assistance that is already being given.

Provisions on securing the territorial integrity of Finland are laid down in the Territorial Surveillance Act.

Section 77c (749/2014)

Leadership in executive assistance situations

In the situation referred to in section 77a, the strength and equipment of the executive assistance unit are determined by the person making the decision to give the assistance.

Executive assistance units are led, in accordance with the instructions of police officers directing the performance of the duty, by border guards serving in a military post of the Border Guard who have been assigned to be leaders of the units. Decisions to suspend and discontinue executive assistance are made by the police.

The general command necessary for the safe performance of executive assistance, coordination of the activities of parties involved, and occupational safety arrangements are the responsibility of the police.

In particular, the police shall ensure that leaders of executive assistance units have sufficient information on the assistance situation, operating environment, nature and seriousness of the situation and any occupational safety risks.

The Border Guard is responsible for the professional skills and orientation of members of executive assistance units so that the members are familiar with the equipment they use and relevant safety instructions.

Section 77d (749/2014)

Costs of executive assistance

Where executive assistance to the police is deemed necessary owing to the nature and urgency of the duty, costs of the assistance referred to in section 77a are borne by the party giving the assistance.

When the executive assistance in question requires a great amount of resources and is prolonged in such a manner that it essentially hinders the basic functions of the Border Guard or the unit giving the assistance, or entails significant costs, the Border Guard is entitled to compensation for the direct costs incurred.

After negotiating and agreeing with the requesting police unit that the activity becomes subject to a fee, the party giving the executive assistance decides on charging the fee.

Section 78

Executive assistance given by other authorities to the Border Guard

Public authorities shall provide any necessary executive assistance for the performance of Border Guard duties that they have power to provide. Provisions on executive assistance given to the Border Guard are also laid down in the Act on Cooperation between the Police, Customs and the Border Guard. (626/2006)

Decisions to request executive assistance are made by heads of administrative units or by border guards of at least the rank of lieutenant who have been assigned to this task in writing at the administrative unit. (109/2018)

Section 79 (9/2019)

Executive assistance provided to the Border Guard by the Defence Forces

To perform a duty relating to the maintenance of border security in Finland and a duty laid down for the Border Guard in the Maritime Security Act, the Border Guard has the right to obtain from the Defence Forces, as executive assistance, equipment, personnel and special expertise if the provision of executive assistance can take place without endangering the performance of other statutory tasks of the Defence Forces.

In an especially important and urgent task and under the direction of a border guard, the person providing the executive assistance referred to in this section has the right to use such force that is necessary for the performance of the task which is authorised by the border guard under his or her powers and which, taking the situation into account, can be deemed justifiable. Provisions on the right of self-defence are laid down in chapter 4, section 4 of the Criminal Code.

Executive assistance is requested by the Border Guard Headquarters or, in urgent cases, by the administrative unit needing the executive assistance. Decisions to give executive assistance are made by the Defence Command or the Navy, Air Force or Army Command Headquarters. In urgent cases, the provision of executive assistance may be decided on by the garrison commander, the commanding officer of the brigade or a head of a military institution.

Section 79a (425/2017)

Support by the Defence Forces to the Border Guard when providing international assistance

The Defence Forces may provide the Border Guard with support corresponding to executive assistance in the territory of another state in situations referred to in sections 15b and 15d. The support does not include military force or border guard powers. Provisions on the right of bystanders to use necessary force under the direction of border guards are laid down in section 35, subsection 2 and provisions on the right of self-defence in chapter 4, section 4 of the Criminal Code. Provisions on excessive self-defence are laid down in chapter 4, section 4, subsection 2 and section 7 of the Criminal Code as well as on the excessive use of force in chapter 4, section 6, subsection 3 and section 7 of the Criminal Code.

Provisions on requests for support from the Defence Forces are laid down in section 79, subsection 3. In case of support relating to border security assistance under section 15d or of support with special financial significance, the request for support is, however, decided on by the Ministry of the Interior. The provision of support is decided in compliance with the procedure provided in section 12, subsection 3 of the Act on the Defence Forces. Provisions on decision-making concerning the provision of and request for international assistance are also laid down in the Act on the Making of Decisions Concerning the Provision of and Request for International Assistance.

Section 79b (9/2019)

Costs of executive assistance by the Defence Forces

Where executive assistance is deemed necessary due to the nature and urgency of the duty, the Defence Forces bear the costs of the assistance given to the Border Guard.

When the executive assistance requires a great amount of resources and is prolonged in such a way that it essentially hinders the basic functions of the Defence Forces or the unit giving the assistance, or entails significant costs, the Defence Forces are entitled to compensation for the direct costs incurred.

After negotiating and agreeing with the requesting unit of the Border Guard that the activity becomes subject to a fee, the Defence Forces decide on charging the fee.

Section 80 (749/2014)

State liability for damages

Personal injuries and damage to property that are incurred by third parties as a result of coercive measures taken by the Border Guard are compensated from state funds.

The provisions of this chapter do not restrict the right of parties suffering injury or damage to compensation under the Tort Liability Act (412/1974) or another act.

Section 80a (749/2014)

Contribution of parties suffering injury or damage

The compensation referred to in section 80 may be adjusted or denied if the party that suffered the injury or damage significantly contributed to causing the injury or damage through its own actions or by negligence.

Section 80b (749/2014)

Liability of public officials and employees

Provisions on the liability of damages of public officials or employees whose actions caused the injury or damage, and their liability for damages towards the State for the compensation it has to pay under this Act, are laid down in chapters 4 and 6 of the Tort Liability Act.

Section 80c (749/2014)

Investigating injury or damage

Border Guard officials shall notify their superiors without delay of any personal injury or damage to property caused in the performance of official duties, unless the injury or damage is minor.

Where necessary, following the occurrence of the injury or damage referred to in subsection 1, or at the request of the party suffering the injury or damage or the person carrying out the official duty, an investigation shall be conducted to establish such matters as the circumstances in which the official duty was carried out, the chain of command and responsibilities during the official duty, the extent of the injury or damage, and the impact on the occurrence of injury or damage of the actions or negligence of the party suffering the injury or damage. The investigation is conducted by the police, unless the matter is to be tried as a military court case.

Those receiving injuries in connection with the performance of official duties shall be given treatment without delay and assistance from a physician shall be arranged, if necessary. Those stating that they received injuries as a result of a border guard's actions shall be given the opportunity to have a medical examination as soon as possible or, if this is not immediately possible, shall be examined by a disinterested party. The cost of treatment and assistance from a physician are paid in advance from state funds.

Section 80d (749/2014)

Payment of compensation

Decisions on payment of compensation for injury or damage referred to in this chapter are made by the administrative unit within whose area of jurisdiction the official duties or the majority of them were carried out. The provisions of the Border Guard Administration Act or other acts, or provisions issued under an act, apply to referring matters of compensation to another administrative unit.

Compensation shall be applied for in writing within six months of the date when the official duty was carried out or the party entitled to compensation was informed of the injury or damage. For special reasons, compensation may be applied for at a later date.

No request may be made for a review of decisions on compensation made by administrative units.

Compensation for personal injury or damage is paid as provided in the Act on Tort Liability of the State (978/2014). (982/2014)

Section 81

Fees charged for Border Guard services

Executive assistance given to other authorities by the Border Guard may be subject to a fee lower than the cost price referred to in the Act on Criteria for Charges Payable to the State (150/1992), or a fee may not be charged at all, where the tasks referred to in the request for assistance are part of Border Guard duties, the assistance is given in connection with the performance of Border Guard duties, or provisions to this effect are laid down elsewhere in the law.

Notwithstanding the provisions of the Act on Criteria for Charges Payable to the State, the Border Guard has the right to waive a fee for the patient transport services referred to in section 26, subsection 2 in individual cases where charging a fee would be clearly unreasonable.

For special reasons resulting from the obligation to transfer to another position which is complied with at the Border Guard or from the arrangement of Border Guard duties, the Border Guard may charge its officials rents for accommodation that are lower than the current rate.

Section 82 (109/2018)

Section 82 was repealed by Act 109/2018.

Section 83 (749/2014)

International cooperation agreements

In matters falling within the mandate of the Border Guard that are not covered by legislation or do not require the consent of Parliament or an action by the President of the Republic, the Ministry of the Interior may conclude cooperation agreements of a conventional kind with the authorities of other states operating in the same field as the Border Guard.

Section 84 (109/2018)

Further provisions

Further provisions on the following are issued by government decree:

- 1) the apprehension of persons referred to in section 36, subsection 3; section 37; and section 71, subsection 2, taking possession of property referred to in sections 28, 59, 66, 66a and 69, and records to be drawn up or other entries to be made of non-intimate body searches referred to in section 28a;
- 2) equipping border guards with instruments of force and protective equipment and, where necessary, other equipment of border guards;
- 3) where necessary, handling matters concerning permits or notifications provided in this Act and the procedure to be followed in applying for permits and submitting notifications;

Further provisions on the following are issued by decree of the Ministry of the Interior:

- 1) the procedure for keeping property taken into possession;
- 2) the procedure for stopping vehicles and using force;
- 3) catching, keeping and putting down animals;

- 4) where necessary, prohibitory notices and other signs which may be used to mark the premises and exercises of the Border Guard referred to in section 71 and the border zone referred to in chapter 7;
- 5) where necessary, technical procedures for security checks related to the premises or areas of the Border Guard, and the arrangement of security checks in practice;
- 6) where necessary, the content of requests for executive assistance under section 77a.

Chapter 12

Transitional provisions and entry into force

Section 85

Entry into force

This Act enters into force on 1 September 2005.

This Act repeals the Border Guard Act of 12 March 1999 (320/1999) and the Border Zone Act of 17 May 1947 (403/1947), as amended.

Measures necessary for the implementation of this Act may be undertaken before the Act's entry into force.

Section 86

Transitional provisions on the border zone

The provisions of this Act on border zone permits also apply to border zone permits granted prior to the entry into force of this Act.

Owners of fences and similar structures built closer than 50 metres to the borderline which hinder patrolling and other operations of the Border Guard necessary to maintain border security are entitled to compensation at the going rate when the fences or similar structures are ordered to be taken down and the orders have been enforced.