

Translation from Finnish  
Legally binding only in Finnish and Swedish  
Ministry of the Interior, Finland

Border Guard Act  
(578/2005; amendments up to 510/2015 included)

Chapter 1  
General provisions

Section 1  
*Scope of application* (478/2010)

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 (579/2005), the Maritime Search and Rescue Act (1145/2001) and elsewhere in the law. Provisions on the cooperation between the Finnish Police, Customs and Border Guard are laid down in the Act on Cooperation between the Police, Customs and the Border Guard (687/2009).

Provisions on the internal border, external border, border crossing points, border control, border surveillance and border checks are laid down in Regulation (EC) No 562/2006 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.

Section 2  
*Definitions* (478/2010)

For the purposes of 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(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 management* 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 guards* means the Border Guard officials specified in the Border Guard Administration Act who have 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 ensure border management.

### Section 3

#### *Duties of the Border Guard (749/2014)*

The Border Guard is responsible for border management. To perform this duty, the Border Guard cooperates with other authorities, and communities and residents.

The Border Guard performs, in cooperation with other authorities, surveillance duties separately provided by law, and actions to prevent, detect and investigate crimes and to submit cases to prosecutors for consideration of charges.

The Border Guard performs duties of the police and customs, search and rescue operations, provides emergency medical care 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

#### *Regional targeting of the operation of the Border Guard (478/2010)*

The Border Guard operates wherever this is justifiable to maintain order along the border or ensure border management, 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 may operate elsewhere only where this is necessary to complete its statutory duties or to give executive assistance to other authorities.

## Chapter 2

### General principles of the operation of the Border Guard

### Section 5

#### *Performance of duties and their order of importance (749/2014)*

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

### *Requirement of appropriateness, impartiality and conciliation (749/2014)*

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

## Section 7

### *Principle of proportionality (749/2014)*

Actions taken shall be justifiable in proportion to the importance, danger and urgency of the function, the goal being pursued, the behaviour, age and health of those subjected to the actions and other similar considerations related to them, and to other factors with an effect on the overall assessment of the situation.

## Section 7a

### *Principle of least harm (749/2014)*

No individual's rights may be interfered with or no one may be caused more damage or inconvenience than is necessary in order to carry out the duty.

## Section 7b

### *Principle of intended purpose (749/2014)*

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

## Section 8

### *Stating the grounds for actions (749/2014)*

Border guards shall inform those targeted by an action, or their representative, of the grounds for any action affecting their personal freedom as soon as possible, taking into consideration their condition and other prevailing circumstances.

Unless otherwise provided, those targeted by an action other than one affecting their personal freedom, 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

### *Indicating border guard status and identifying border guards (749/2014)*

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 indicate to those targeted by an action that he or she is a border guard and present his or her badge upon request, if such indication 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

### *Deferring actions and refraining from actions*

Border guards have the right to refrain from actions if their completion could result in unreasonable consequences with a view to the outcome sought. In addition, separate provisions on refraining from actions in a criminal procedure apply.

Those who have requested Border Guard action and whose immediate rights are affected by the matter have the right to know the grounds for refraining from the action. (875/2011)

The provisions of Chapter 5, section 46(1) of the Police Act (872/2011) apply to the deferral of intelligence gathering actions referred to in this Act, as appropriate. (875/2011)

#### Section 10

*General principles followed in customs, police and criminal investigation duties (626/2015)*

In police duties, the principles laid down in the Police Act and in other acts on police duties shall be complied with. In customs duties, the principles laid down in the Customs Act (1466/1994) 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) and in other acts on the duties of criminal investigation authorities shall be observed.

#### Section 11

*Respecting fundamental and human rights (749/2014)*

Border guards shall respect fundamental and human rights and, when using their powers, choose from the justifiable alternatives the one that best preserves these rights.

#### Chapter 3

Provisions on border control (478/2010)

#### Section 12

*Border crossing points (749/2014)*

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 4(1)(2) and Article 34(1)(b) of the Schengen Borders Code is made by the Ministry of the Interior.

#### 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 is a compelling reason and if the procedure does not endanger border management. The permits may include terms and conditions necessary to ensure border management.

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 jeopardise border management.

Decisions to refuse an application for a border crossing permit, to withdraw a permit or to change the terms and conditions of a permit are not subject to appeal.

#### Section 14

Section 14 has been repealed by Act 478/2010.

#### Section 15

*Temporary reintroduction of border control at internal borders (749/2014)*

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 of matters concerning the reintroduction of border control at internal borders between the Police, Customs and Border Guard, on the submission of notifications and information and on consultation are issued by government decree.

#### Section 15a

*Requesting European Border Guard Teams (749/2014)*

Decisions on making the request concerning European Border Guard Teams referred to in Article 8a of Council Regulation (EC) No 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, hereinafter the *Frontex Regulation*, to the Agency referred to in the Regulation are made by the Government. However, where an urgent request is required because of a threat to public order, internal security or public health, it may be made by the Minister of the Interior until the matter is decided by the Government.

#### Section 15b

*Participating in European Border Guard Teams (749/2014)*

Decisions on making border guards available to the Agency for the deployment of European Border Guard Teams as referred to Article 8d(8) of the Frontex Regulation and on providing technical assistance are made by the chief of the Border Guard, within the national quota confirmed by the Minister of the Interior.

#### Section 15c

*Participating in international missions and requesting technical or operational assistance (478/2010)*

Decisions on participating in international missions other than those referred to in section 15b above and on requesting the increased assistance referred to in Article 8 of the Frontex Regulation are made by the Border Guard.

For technical or operational assistance given 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), equalling the additional costs incurred by the Border Guard in giving the assistance, may be charged.

## Section 16

### *Temporary closing of border crossing points (749/2014)*

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 legislation on free movement or anyone's right to international protection.

Further provisions on the prompt handling of matters concerning the closing of border crossing points between the Police, Customs and Border Guard 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

### *Border control duty (478/2010)*

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 have been repealed by Act 478/2010.

## Section 20

### *Maintaining public order and security at border crossing points*

The Border Guard monitors the fitness to drive of drivers and the roadworthiness of vehicles at border crossing points. The Border Guard also maintains public order and security at border crossing points in other ways when the police are prevented from doing so. (478/2010)

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

### *Police actions to maintain public order and security (749/2014)*

In individual cases, at the request of commanding police officers, the Border Guard may perform the urgent police actions necessary to maintain public order and security referred to in Chapters 2 and 3 of the Police Act which the police are unable to perform without delay.

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

On pre-planned joint patrols by border guards and police officers that are considered appropriate, when performing duties related to the maintenance of public order and security led by the police, border guards may perform the necessary police actions referred to in Chapters 2 and 3 of the Police Act within the patrolling area.

## Section 22

### *Counter-terrorism and other special situations*

At the request of commanding police officers, 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 Security Measures on certain Ships and in Ports serving them and on monitoring the Security Measure (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–d of this Act. (749/2014)

## Section 23

### *Safeguarding 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 Ministry of the Interior decree (*security guards*) 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

### *Customs duties (749/2014)*

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

At the request of competent customs officers, 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 the Customs. At the request of customs officers, border guards may participate in the performance of individual customs measures.

## Section 24a

### *Monitoring of sanctions and other restrictions in the Finnish sea area (510/2015)*

With regard to vessels arriving in or departing from Finland, the Border Guard is responsible for monitoring 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, decrees 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 of decisions to freeze funds 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, ambulance services and emergency care (749/2014)*

Besides the provisions of the Maritime Search and Rescue Act, the Border Guard participates in other rescue operations and in the search of persons lost in open country 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 ambulance services if the authority or ambulance service provider responsible for the services is unable to perform them without endangering the rescue.

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

#### Section 27

##### *Investigating border incidents and requirements for entry and exit (749/2014)*

The provisions of Chapter 2, section 4(1–2) 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(1–4) 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, and to establish the identity, entry into the country and travel route of those applying for international protection. 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).

Those subjected to investigation are obliged to submit to the investigation for a maximum of twelve hours at a time.

The provisions of Chapter 2, section 4(2), Chapter 6, section 3(2) and Chapter 6, section 4(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

#### *Powers applying to border control (478/2010)*

Besides the provisions in this Act and elsewhere in the law, to carry out border control as referred to in the Schengen Borders Code, border guards have the right 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 to conduct minimum checks specified in Article 7(2) of the Schengen Borders Code;
- 4) carry out on third-country nationals the actions to conduct thorough checks on entry and exit specified in Article 7(3) of the Schengen Borders Code, and the actions to conduct thorough second line checks;
- 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, sections 30(1) and 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 personal data files in compliance with the provisions of the Act on the Processing of Personal Data by the Border Guard. (749/2014)

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 (1–2) above and on temporarily taking possession of goods and vehicles for the duration of border checks are made by

border guards acting as the superior of the border crossing point or by border guards of at least the rank of lieutenant. In urgent cases, exit is prevented and goods and vehicles taken into possession by border guards carrying out the border check, who shall refer the matter without delay to a border guard acting as the superior of the border crossing point or a border guard of at least the rank of lieutenant for decision. (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

##### *Non-intimate body searches in border control (749/2014)*

Decisions on the non-intimate body searches referred to in section 28(1)(9) above are made by border guards acting as the superior of the border crossing point or by border guards 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 using a technical device.

Non-intimate body searches shall be entered in the Data Monitoring Register referred to in section 9 of the Act on the Processing of Personal Data by the Border Guard. In addition, a record describing the process in sufficient detail shall be prepared of non-intimate body searches authorised by border guards acting as the superior of the border crossing point or border guards of at least the rank of lieutenant. Persons searched shall be given a copy of the record on request.

#### Section 29

##### *Technical monitoring related to border control (749/2014)*

To perform border control, at places open to the public in the vicinity of the border, and at border crossing points and in their immediate vicinity, the Border Guard has the right to target technical monitoring referred to in the Police Act at 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 personal offices of employees.

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 the technical monitoring referred to in subsection 1 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 personal data files are laid down in the Act on the Processing of Personal Data 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

### *Powers of border guards to direct and restrict movement at border crossing points (749/2014)*

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

### *Use of images and sound collected during technical monitoring at border crossing points (749/2014)*

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

### *Powers of border guards to maintain public order and security at border crossing points (749/2014)*

The provisions of Chapter 2, sections 2, 5, 6, 8(1) and 10 of the Police Act apply to the right of border guards to take actions to maintain public order and security at border crossing points. The provisions of Chapter 2, section 6(3) of the Police Act on commanding police officers apply to border guards of at least the rank of lieutenant at the Border Guard.

## Section 33

### *Powers of border guards in police duties (749/2014)*

In the police duties related to maintaining public order and security referred to in section 21, to prevent offences committed with terrorist intent as referred to in section 22 and to handle special situations, and in the duties belonging to the Border Guard referred to in the Maritime Security Act, border guards have the powers of police officers provided in Chapters 2 and 3 of the Police Act, unless these powers are restricted by commanding police officers or police tactical leaders.

The provisions of Chapter 2, sections 4(2), 6(3) and 8(2) of the Police Act on commanding police officers apply to border guards of at least the rank of lieutenant at the Border Guard.

## Section 34

### *Powers of border guards in customs duties*

In the customs duties referred to in section 24, border guards have the powers of other competent authorities provided in section 14 of the Customs Act.

Where the performance of customs duties requires carrying out intimate body searches or searches other than of persons' luggage or outer clothing without conducting a criminal investigation, the provisions of section 15 of the Customs Act shall be observed when performing such actions. Decisions on such actions are made by officials with the power of arrest or border guards of at least the rank of major.

### Section 34a

#### *Powers of border guards in safeguarding duties (749/2014)*

Border guards who have received the special training referred to in section 23(2) above may perform safeguarding 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 safeguarding duties in advance.

Where it is deemed necessary for the performance of safeguarding 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 danger otherwise removed. Apprehended persons shall be handed over to the police without delay.

### Section 34b

#### *Powers in monitoring sanctions and other restrictions (510/2015)*

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 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 immediate 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 least means*).

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, sections 6(3) and 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

*Powers of officers participating in Finland in operations and pilot projects coordinated by the Agency referred to in the Frontex Regulation and their right to use force (478/2010)*

Members of rapid border intervention teams deployed to Finland at the request of Finland and guest officers participating in joint operations and pilot projects carried out in Finland have the border guard powers provided in this Act to perform duties under the Schengen Borders Code. Furthermore, said officers have the right to use force as provided in section 35(1) in the presence of competent Finnish officials, if their home Member State has given consent to it, and the right has not been restricted in the operational plans referred to in Article 8e of the Frontex Regulation, or instructions issued by Finland under Article 5 of the Regulation (EC) No 863/2007 of the European Parliament and of the Council establishing a mechanism for the creation of Rapid Border Intervention Teams and amending Council Regulation (EC) No 2007/2004 as regards that mechanism and regulating the tasks and powers of guest officers.

#### Section 35b

*Preparing to use force and warning of its use (749/2014)*

Where, in performing official duties, there is reason to suspect that resistance referred to in section 35(1) or an unlawful attack referred to in Chapter 4, section 4(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(1) of this Act.

Those who are targeted by official duties 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

*Use of firearms (749/2014)*

Firearms may be used only when it is necessary to stop the actions of those posing an immediate 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 of 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 Guard Headquarters Border and Coast Guard Division, 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

##### *Physical restraint (749/2014)*

The freedom to move and freedom to act of those targeted by official duties 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 36

##### *Establishing identity (875/2011)*

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(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

##### *Apprehending wanted persons (749/2014)*

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 apprehension warrant 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 apprehension warrants, 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

##### *Stopping a vehicle and traffic control (749/2014)*

Besides other legal provisions, where it is deemed necessary to carry out border control, police duties, immigration monitoring or safeguarding duties, to maintain public order and security at border crossing points or because of traffic accidents, or to perform monitoring related to the use of vehicles or hunting within the Border Guard's mandate or to prevent or investigate crimes, border guards have the right to order vehicles to be stopped and moved, or to move vehicles, and to control traffic.

#### Section 39

##### *Right to enter another's property (554/2007)*

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 or increasing defence capabilities.

#### Section 40

##### *Authority of border guards (749/2014)*

When exercising the powers laid down in this or in another 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

#### Preventing and investigating crime

#### Section 41

### *Duties of the Border Guard in combating crime (749/2014)*

The Border Guard is the criminal investigation authority referred to in the Criminal Investigation Act. The Border Guard performs actions to prevent, detect and investigate crimes, and to submit cases to prosecutors for consideration of charges, independently or in cooperation with other authorities as provided in this Chapter or elsewhere in the law.

#### Section 42

##### *Criminal cases investigated by the Border Guard (749/2014)*

Unless otherwise provided below, the Border Guard conducts a criminal investigation when, on the basis of a report made to it or otherwise, there is reason to suspect that an offence has been committed involving:

- 1) border offences referred to in Chapter 17, sections 7–7a of the Criminal Code;
- 2) facilitation of illegal entry referred to in Chapter 17, sections 8–8a of the Criminal Code;
- 3) facilitation of illegal entry referred to in paragraph 2 and related trafficking in human beings referred to in Chapter 25, sections 3–3a of the Criminal Code, or other offences against personal liberty referred to in Chapter 25 of the Criminal Code;
- 4) forgery offences referred to in Chapter 33, sections 1–4 of the Criminal Code concerning documents checked by the Border Guard;
- 5) territorial violation referred to in Chapter 17, section 7b of the Criminal Code, or other violations of Finland's territorial integrity;
- 6) failure to comply with provisions which are, under the law, monitored by the Border Guard, or provisions issued under them.

The Border Guard also conducts a criminal investigation when there is reason to suspect:

- 1) offences against border guard authorities or against border signs or border equipment maintained by the Border Guard;
- 2) violation of provisions concerning the border zone;
- 3) in connection with border checks, receiving offences or receiving violations referred to in Chapter 32, sections 1–5 of the Criminal Code;
- 4) those serving at the Border Guard who are subject to the military discipline procedure referred to in section 31 of the Border Guard Administration Act of offences to be tried as military court cases as referred to in section 2 of the Military Court Procedure Act (326/1983), subject to the powers concerning investigation by the Defence Forces or the police;
- 5) those serving at the Border Guard of offences referred to in section 40 of the Criminal Code, subject to the powers concerning criminal investigation by the Defence Forces or the police.

#### Section 43

##### *Other criminal cases investigated by the Border Guard*

At the request of other criminal investigation authorities, the Border Guard may also carry out criminal investigations involving offences other than those referred to in section 42 where these are connected with criminal investigation started by the Border Guard, and the charges could be tried together with those for the offences investigated by the Border Guard.

#### Section 43a

##### *Powers of border guards to prevent and investigate crimes (749/2014)*

With the exception of telecommunications interception, obtaining data other than through telecommunications interception, traffic data monitoring, secret intelligence gathering, technical tracking of persons, undercover activities, pseudo purchases and controlled use of human intelligence sources, the provisions on the powers of the police or police officers to prevent and investigate crimes and to submit cases to prosecutors for consideration of charges laid down in the Police Act, the Criminal Investigation Act and the Coercive Measures Act or elsewhere in the law apply to the powers of border guards to prevent and investigate, and to submit to prosecutors for consideration of charges, cases involving the offences referred to in sections 42–43.

However, when the Border Guard is preventing the aggravated facilitation of illegal entry referred to in Chapter 17, section 8a of the Criminal Code, or said offence and related trafficking in human beings referred to in Chapter 25, sections 3–3a of the Criminal Code, border guards have the right to carry out traffic data monitoring, secret intelligence gathering and technical tracking of persons as provided in the Police Act. When the Border Guard is investigating the aggravated facilitation of illegal entry referred to in Chapter 17, section 8a of the Criminal Code, or said offence and related trafficking in human beings referred to in Chapter 25, sections 3–3a of the Criminal Code, border guards have the right to carry out telecommunications interception, obtaining data other than through telecommunications interception, traffic data monitoring, secret intelligence gathering and technical tracking of persons as provided in the Coercive Measures Act. When the Border Guard is preventing or investigating the aggravated hunting offence referred to in Chapter 48a, section 1a of the Criminal Code, border guards have the right to carry out traffic data monitoring and technical monitoring of persons as provided in the Police Act and the Coercive Measures Act, and when the Border Guard is investigating the aggravated concealing of poached game referred to in Chapter 48a, section 4a of the Criminal Code, they have the right to conduct traffic data monitoring as provided in the Coercive Measures Act.

In criminal intelligence and investigation teams under the Act on Cooperation between the Police, Customs and the Border Guard, border guards have the right to process information obtained through methods that may not be used by border guards.

The provisions on the powers of commanding police officers, and of the police officers with the power of arrest referred to in Chapter 5, section 7(1) of the Police Act, to prevent crime apply to officials with the power of arrest at the Border Guard. However, decisions on secret intelligence gathering, controlled delivery, the protection of the use of covert coercive measures and the protection of secret intelligence gathering are made by the chief or deputy chief of the Border Guard Headquarters Legal Division.

#### Section 43b

##### *Notification obligation related to combating crime (749/2014)*

The Border Guard shall notify the police of starting operations related to the prevention and investigation of crime and of related use of the secret intelligence gathering measures and covert coercive measures referred to in section 43.

#### Section 44

##### *Transferring crime prevention and criminal investigation to the Police or Customs (749/2014)*

Unless otherwise provided on the distribution of tasks between the Border Guard, Police and Customs, where it is deemed necessary owing to the nature or scope of the matter or required actions or the authorities concerned so demand, the Border Guard transfers the prevention and investigation of the customs offences referred to in the Customs Act to Customs and the prevention and investigation of other offences to the police. In matters being transferred, the Border Guard safeguards the prevention and investigation of the offence until the case has been transferred.

In the case of border offences, or facilitation of illegal entry and related offences against personal liberty, or forgery offences concerning documents checked by the Border Guard or violation of Finland's territorial integrity, the authorities to whom the prevention and investigation of offences is transferred give the Border Guard the opportunity to also participate in the prevention and investigation after the transfer.

Where there is reason to suspect that those serving at the Border Guard have committed an offence to be tried as a military court case or an offence referred to in Chapter 40 of the Criminal Code, the Border Guard shall transfer criminal investigation to the police if this is required by the seriousness of the offence or trust in the impartiality of the investigation.

#### Section 45

##### *Oversight of secret intelligence gathering and use of covert coercive measures (749/2014)*

The secret intelligence gathering and use of covert coercive measures referred to in this Chapter are overseen by the Border Guard Headquarters and the administrative units of the Border Guard using covert coercive measures.

Provisions on reports to be submitted to the Parliamentary Ombudsman concerning secret intelligence gathering and covert coercive measures are laid down in the Police Act and in the Coercive Measures Act

#### Section 46

##### *Heads of investigation (875/2011)*

In criminal investigations conducted by the Border Guard, the Border Guard officials referred to in Chapter 2, section 9(1)(3) of the Coercive Measures Act act as heads of investigation.

#### Section 47

##### *Claims for a fine, orders imposing a fine, orders imposing a petty fine, and claims for a penal order (764/2010)*

Border guards issue claims for a fine, orders imposing a fine, orders imposing a petty fine and claims for a penal order as provided in the Act on Imposing a Fine and a Petty Fine (754/2010).

#### Section 47a

##### *Enforcing forfeiture orders and returning seized objects, property or documents (1151/2013)*

The provisions of section 38 of the Act on the Enforcement of a Fine (672/2002) on police duties in the enforcement of forfeiture orders and the provisions of Chapter 7, section 23(2–4) of the

Coercive Measures Act on the return of seized objects, property or documents apply to the Border Guard in its criminal investigations.

Decisions referred to in Chapter 7, section 13(3) of the Coercive Measures Act on the sale of seized objects are made by heads of administrative units.

Forfeiture orders referred to in section 38 of the Act on the Enforcement of a Fine are enforced by administrative units.

## Section 48

Section 48 has been repealed by Act 688/2009.

## Chapter 7

### Provisions concerning the border zone

#### Section 49

##### *Border zone*

Where it is deemed necessary to maintain order along the border and to ensure border management, 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 agreements 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 agreements binding on Finland (*border fence*).

#### Section 50a

##### *Open area along the border and the trail in the border zone (749/2014)*

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 necessary 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 border management;

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 above 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 to border management.

#### 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 those close to them, 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.

To maintain order along the border and to ensure effective border management, terms and conditions concerning activity and movement in the border zone under section 52(1) 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 border management;
- 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 trial.

#### Section 55

##### *Warning*

In cases referred to in section 54(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

### *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.

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 to ensure border management, the border guard authority issues further orders on the activities 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 related to the activities referred to in subsection 1, and on other actions to prevent unintentional border incidents.

## Section 58

### *Restrictions on the scope of application of provisions on the border zone (749/2014)*

By way of 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.

Where it is necessary to stay in the border zone, move in border waters and in the open area along the border, or possess and use firearms, ammunition, explosives and spring-operated weapons 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, border zone permits and border zone notifications are not required.

## 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 notwithstanding appeal unless otherwise ordered by the appeal authority.

#### Section 60

##### *Oral decisions and appeal (749/2014)*

In urgent cases, the permit referred to in section 52(1)(1–2 and 4–5) may be issued orally. Decisions to grant an application in full are not subject to appeal. Oral decisions which are not subject to appeal are made in writing only on a specific request.

Decisions on border zone permits other than those referred to in subsection 1 may be appealed as provided in the Administrative Judicial Procedure Act (586/1996). Decisions of administrative courts may be appealed only if the Supreme Administrative Court grants leave to appeal.

#### Chapter 8

##### Treatment of persons deprived of their liberty

#### Section 61

##### *Provisions applicable to treatment of persons deprived of their liberty (843/2006)*

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 concerning 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 way of derogation from

- 1) Chapter 8, section 3 of the Act referred to above 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(1) of the Act referred to above in subsection 1, decisions on rectification requests 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 above 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 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

##### *Security searches (749/2014)*

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 above 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

##### *Conducting security searches (749/2014)*

Security searches are conducted by feeling with hands, 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

##### *Taking possession of dangerous objects and substances (749/2014)*

Besides the provisions in this or in any other act, in connection with their statutory duties, border guards have the right 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 immediate 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 danger 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

##### *Handling property taken into possession (749/2014)*

Dangerous objects and substances taken into possession by the Border Guard under section 65(3) or 66(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(2) shall always be returned, unless the whole object in question is taken into possession by the Border Guard under section 66(1) before this.

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

The owner or holder shall be reserved 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

### *Security checks in the premises or areas of the Border Guard (749/2014)*

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 it does not cause any unnecessary inconvenience to those searched or any damage to property.

## Section 68

### *Conducting security checks (749/2014)*

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

### *Taking possession of objects found in security checks (749/2014)*

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(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 made when they leave the Border Guard premises.

## Section 70

### *Use of force in security checks (749/2014)*

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, sections 6(3) and 7 of the Criminal Code.

#### Section 70a

*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 (749/2014)*

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(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(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

*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 Ministry of the Interior decree. Temporary restrictions or prohibitions on movement related to parts of military exercise areas or of exercise areas for border management may, for the duration of exercises, be ordered by border guards of at least the rank of captain or lieutenant, senior grade. (749/2014)

Those staying in the premises or area referred to in a restriction or prohibition in violation of the prohibition or restriction may be removed from the premises or area concerned. Where removal is not likely to be a sufficient action, and the violation of the restriction 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, but for no longer than 24 hours from being apprehended.

### Chapter 10

#### Penal provisions

#### Section 72

*Border zone violation (147/2014)*

Anyone who intentionally

- 1) fails to comply with the terms and conditions of the border zone permit referred to in section 53(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(2); or
- 3) fails to comply with the duty to notify provided in section 57,

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

### 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 for a *violation of restriction on movement related to the Border Guard* to a fine, unless a more severe punishment is provided for the act.

### Section 73a

#### *Unauthorised use of the Border Guard emblem and uniform and emblems showing border guard status (749/2014)*

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 for *unauthorised use of the Border Guard emblem* to a fine.

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

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

### Section 74

#### *Other penal provisions*

The punishment for insubordination to a border guard is provided in Chapter 16, section 4a of the Criminal Code. Punishments for border offences are laid down in Chapter 17, sections 7–7a of the Criminal Code, the punishment for territorial violation in section 7b of that Chapter, and punishments for facilitation of illegal entry in sections 8–8a of that Chapter. The punishment for invasion of public premises is 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 in the law or, with regard to State aircraft used for similar purposes, in international agreements 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(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.

#### 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 that 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

##### *Executive assistance given by the Border Guard to other authorities (749/2014)*

Besides other legal provisions, 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. A precondition for giving executive assistance is that it can take place without endangering the performance of other important statutory duties of the Border Guard.

Decisions to give executive assistance to other authorities 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 give executive assistance related to criminal investigations or coercive measures are made by officials with the power of arrest.

#### Section 77a

##### *Executive assistance given by the Border Guard to the police in sea area (749/2014)*

Where it is deemed necessary to avert an immediate and serious danger to 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 be provided by the Border Guard with executive assistance requiring use of military force in the Finnish sea area and economic zone in order to prevent or interrupt offences referred to in Chapter 34a, section 1(1)(2-7) or 1(2) of the Criminal Code.

When assisting the police in the prevention or interruption of terrorist offences in situations under subsection 1, the Border Guard has the right to use military force under police supervision.

Use of military force refers to the use of armed force with weaponry acquired for military purposes that is more powerful than the use of personal sidearms of officers and is suitable for the performance of police duties.

Use of military force 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(3) of the Police Act. Provisions on excessive self-defence are laid down in Chapter 4, section 4(2) of the Criminal Code. Provisions on the excessive use of force are laid down in Chapter 4, sections 6(3) and 7 of the Criminal Code.

#### Section 77b

##### *Decision making on executive assistance given to the police (749/2014)*

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 immediate and serious threat 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

##### *Leadership in executive assistance situations (749/2014)*

In the situation referred to in section 77a, the strength and equipment of the executive assistance unit are ordered 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

##### *Costs of executive assistance (749/2014)*

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 above 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.

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. Decisions to request executive assistance related to criminal investigations or coercive measures are made by officials with the power of arrest. (749/2014)

#### Section 79

##### *Executive assistance given to the Border Guard by the Defence Forces*

The Border Guard has the right to be provided with the following executive assistance by the Defence Forces:

- 1) equipment used for searching, and personnel resources used for searching and traffic control, where this is necessary to immediately find those in Finland who have apparently crossed the national border illegally;
- 2) protective equipment necessary for the safe performance of dangerous Border Guard duties;
- 3) special expertise necessary to perform border control duties or to investigate border incidents;

4) equipment and special expertise necessary to prevent the security threat to ships at sea or passengers on board referred to in the Maritime Security Act.

The executive assistance referred to in this section does not include the use of firearms or military force. Provisions on the right of bystanders to use necessary force under the direction of border guards are laid down in section 35(2) of this Act and provisions on the right to self-defence 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 which needs the assistance. Decisions to give executive assistance are made by the Defence Command or the Navy, Air Force or Army Command Headquarters. In urgent cases, decisions to give executive assistance may be made by commanders of garrisons or brigade-level units. (516/2013)

#### Section 80

##### *State liability for damages (749/2014)*

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

##### *Contribution of parties suffering injury or damage (749/2014)*

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

##### *Liability of public officials and employees (749/2014)*

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

##### *Investigating injury or damage (749/2014)*

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

##### *Payment of compensation (749/2014)*

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.

Decisions on compensation made by administrative units are not subject to appeal. (982/2014)

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, in individual cases, where charging a fee would be clearly unreasonable, the Border Guard has the right to waive a fee for the ambulance services referred to in section 26(2).

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

##### *Combating crime in the territory of foreign states*

To investigate crimes or to apprehend suspects, the Border Guard has the right to continue pursuit, surveillance or technical surveillance of persons started in Finland in the territory of foreign states in compliance with the provisions on continuing these actions in the territory of foreign states laid down in European Union legislation or in international agreements binding on Finland.

In performing the task referred to in subsection 1, border guards have the powers referred to in this Act and specified in European Union legislation and international agreements binding on Finland. The provisions on official duties performed in Finland apply, as appropriate, to the official duties and rights of border guards and to the benefits of public official status in the territory of foreign states.

#### Section 83

##### *International cooperation agreements (749/2014)*

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

##### *Further provisions (749/2014)*

Further provisions on the following are issued by government decree:

- 1) the apprehension of persons referred to in sections 36(2), 37 and 71(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 28;
- 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;
- 4) training requirements for those assigned to act as a head of investigation at the Border Guard.

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

- 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 lines and other signs which, in accordance with the Coercive Measures Act, may be used to mark buildings, rooms or areas closed by the Border Guard to safeguard the investigation of offences;
- 5) 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;
- 6) 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;
- 7) 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 ensure border management 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.