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## MANAGEMENT BOARD DECISION

of 16/12/2004

### RULES REGARDING THE ESTABLISHMENT AND OPERATION OF AD HOC WORKING GROUPS OF THE EUROPEAN NETWORK AND INFORMATION SECURITY AGENCY - ENISA

#### THE MANAGEMENT BOARD OF ENISA

Having regard to the Regulation (EC) No. 460/2004<sup>1</sup> of the European Parliament and of the Council of 10<sup>th</sup> March 2004, hereinafter called the "Regulation", establishing a European Network and Information Security Agency, hereinafter called "the Agency" and in particular Article 6(6) thereof;

Whereas:

- (1) To enable the Agency to start its work promptly, the Management Board of the Agency needs to be in a position to adopt the Agency's internal rules of operation;
- (2) Article 7 paragraph 8 states that the procedures regarding the establishment and operation of the ad hoc Working Groups, hereinafter called the « Working Groups » shall be specified in the Agency's internal rules of operation;

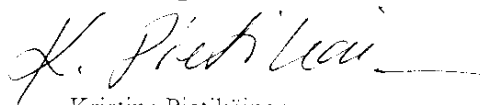
HAS ADOPTED THIS DECISION:

#### *Single Article*

The rules annexed hereto are adopted as the Rules regarding the establishment and operation of the ad hoc Working Groups.

Done at Brussels, 16/12/2004

For the Management Board



Kristina Pietikäinen

*Chairperson of the Management Board*

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<sup>1</sup> OJ L 77, 13.3.2004, p.1.

## ANNEX

### RULES REGARDING THE ESTABLISHMENT AND OPERATION OF AD HOC WORKING GROUPS OF THE EUROPEAN NETWORK AND INFORMATION SECURITY AGENCY

Having regard to the Regulation (EC) No. 460/2004<sup>2</sup> of the European Parliament and of the Council of 10<sup>th</sup> March 2004, hereinafter called the "Regulation", establishing a European Network and Information Security Agency, hereinafter called "the Agency" and in particular to Section 2, Article 6(6) thereof;

Whereas:

(1) the establishment of ad hoc Working Groups, hereinafter called the « Working Groups », should enable the Agency to have access to the most updated, objective and reliable information available, in order to be able to respond to the security challenges posed by the developing Information Society;

(2) Article 7 paragraph 8 of the Regulation states that the procedures regarding the establishment and operation of the Working Groups shall be specified in the Agency's internal rules of operation, *the following rules for the establishment and operation of the Working Groups are adopted.*

#### *Article 1* *MANDATE*

1. The Executive Director shall entrust the Working Groups with tasks which are clearly defined and fall within the Agency's scope, objectives and tasks.
2. In taking his/her decision, the Executive Director shall determine in particular the action to be taken including, if appropriate, a request for a scientific opinion or report on the subject matter.
3. When established, a Working Group may draw the Executive Director's attention to any specific or emerging issue falling within its remit.

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<sup>2</sup> OJ L 77, 13.3.2004, p. 1.

*Article 2*  
*ESTABLISHMENT OF WORKING GROUPS*

1. The Executive Director may establish Working Groups whenever he/she deems it necessary for the fulfilment of the Agency's scope, objectives and tasks. Creation of Working Groups shall be consistent with the Agency's long term work programme/ or objectives and tasks.
2. A request for establishing a new Working Group may be submitted to the Executive Director by the Management Board or by the Permanent Stakeholders Group.
3. Before deciding on the establishment of a Working Group, the Executive Director shall consult the Permanent Stakeholders Group in accordance with the rules of operation of the Agency.
4. Within one (1) month, the Permanent Stakeholders Group may advise the Executive Director on the issues to be addressed, their relevance to the Agency's work programme, the appropriate composition of the Working Groups, as well as seek input from and mobilise the relevant experience of the private sector.
5. Subsequently, the Executive Director shall inform in advance the Management Board of his/her intention to establish a Working Group. For this purpose, an explanatory note containing all necessary and sufficient information, especially budgetary information, shall be transmitted to the members of the Management Board in due time, setting a period for the Management Board to react.
6. The Executive Director shall draw up a list of independent experts, on the basis of open calls for expression of interest to be published on the Enisa web site.
7. Apart from the applications received as a result of this call, the Executive Director may also take into consideration other experts to be included in the list. These experts shall include inter alia representatives from public administration of the Member States, of the private sector (industry and services), of the users' community and academic experts in Network and Information Security<sup>3</sup>.
8. The list shall be kept regularly updated by the Executive Director.

*Article 3*  
*COMPOSITION OF WORKING GROUPS*

1. In order to address particular technical and scientific matters, the Executive Director shall select experts from the above mentioned list and appoint them as Members of a specific Working Group. Appointments of the experts shall be made "ad personam".
2. The experts, who participate in the Working Group, shall not belong to the Agency's staff.

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<sup>3</sup> These experts shall not be members of the Management Board.

*Article 4*

*REIMBURSEMENT OF EXPENSES*

The expenses incurred in connection with the activities of the Working Groups, including travel and subsistence expenses of experts shall be reimbursed by the Agency in accordance with the scales laid down by the Management Board in the financial rules applicable to the Agency and in conformity with the existing Financial Regulations.

*Article 5*

*CHAIRMANSHIP*

1. When established, the Executive Director shall designate a Chairperson among the members of the Working Group.
2. The Chairperson shall ensure the communication of the Working Group with the bodies of the Agency and give an account of its operation to the Executive Director.
3. The Chairperson shall convene the meetings of the Working Group.

*Article 6*

*SECRETARIAT*

The Executive Director shall provide the secretariat of the Working Groups.

*Article 7*

*THE CONVENING OF MEETINGS*

1. As a general rule, the Secretariat will confirm a meeting of the Working Group not less than ten (10) working days before the date of the meeting and shall give notification of cancellation not less than two (2) working days before the date of the meeting.
2. Meetings of a Working Group may be called at short notice according to the urgency of the matter.
3. Wherever possible, documents including draft reports and opinions prepared by a Rapporteur shall be available to the members of the Working Group one week before that meeting.

*Article 8*

*ATTENDANCE AT MEETINGS*

1. The meetings of the Working Groups shall not be held in public. The Executive Director or his/her representative may attend meetings.
2. Where appropriate, a Working Group may invite interested parties to submit independent reports and opinions to its attention.

*Article 9*  
*QUORUM AND VOTING*

For the purpose of voting, a simple majority of the members shall be physically present. In the absence of this number, the meeting might proceed but no opinions or reports shall be adopted.

*Article 10*  
*REPORTS AND OPINIONS*

1. A Working Group may designate one or more Rapporteurs from among its members who shall ensure that draft reports or opinions are prepared, if necessary within a set time period. The Rapporteurs shall work in close co-operation with the Secretariat. The work of a Rapporteur is terminated when the Working Group adopts the report or opinion.
2. The Working Group shall provide a final report at the end of its mandate. In the case that the duration of its activities exceeds six (6) months, the Rapporteur shall prepare in due time an intermediate report.
3. The Working Group shall adopt the draft reports and opinions at its meeting. Minority opinions shall be annexed, when requested. Minority opinions shall be attributed to their authors and shall include supporting argumentation.
4. In the event that nature of the matter, its urgency and circumstances do not necessitate or allow discussion at a meeting, a draft report or opinion may be adopted by written procedure. In this case, the Secretariat shall send the draft to the members of the Working Group with a request for approval by a specified date. The draft shall be adopted if the simple majority of the members have expressed their approval. No written answer by a member of a working group to a call for approval is interpreted as an approval. If a majority is not reached, the draft report or opinion must be placed on the agenda for the next meeting or, if the urgency requires this, an ad-hoc meeting shall be convened at the earliest date.
5. The reports and opinions of the Working Group shall be communicated to the Executive Director. They shall give an overview of the accomplishment of its mandate and the conclusions the Working Group has drawn. The reports may also contain proposals having an impact on the fulfilment of the Agency's scope, objectives and tasks.
6. The Executive Director shall forward the reports and opinions to the Chairperson of the Management Board. The Chairperson shall include them as a discussion point or an information point on the agenda of the following meeting and transmit all relevant documents to the members of the Management Board.
7. The Management Board may hold an exchange of views on the report and decide on any follow up to be pursued.

*Article 11*  
*DECLARATION OF INTERESTS*

1. At each meeting, the members of a Working Group shall be required to make in writing a declaration indicating direct or indirect interests, which may be

considered prejudicial to their independence in relation to specific matters on the agenda

2. In the event of a conflict of interest, the member concerned must, at the request of the Chairperson, withdraw his or her participation whilst the relevant agenda points are being dealt with.

*Article 12*  
*TRANSPARENCY*

1. Regarding the public access to the reports and opinions of the Working Groups, the provisions laid down by the Regulation 1049/2001<sup>4</sup>, shall apply.
2. Unless otherwise decided by the Executive Director or by the Management Board, reports and opinions of the Working Groups shall be made public and notably published in the Agency's web site.

*Article 13*  
*CONFIDENTIALITY*

1. The members of the Working Groups are subject to the requirements of confidentiality pursuant to Article 287 of the EC Treaty, even after their duties have ceased.
2. In particular, without prejudice to the provisions of Regulation (EC) 45/2001<sup>5</sup>, they shall be required not to disclose information of the kind covered by the obligation of professional secrecy, such as information about undertakings, their business relations or their cost components, as well as information relating to the investigation of criminal offences and the application of criminal law.

*Article 14*  
*ENTRY INTO FORCE*

These Rules shall enter into force as soon as they are adopted.

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<sup>4</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, OJ L 145, 31.5.2001, p. 43.

<sup>5</sup> Regulation (EC) 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data, OJ L 8, 12.1.2001, p. 1.