

## DECISION No MB/2021/4 OF THE MANAGEMENT BOARD OF THE EUROPEAN UNION AGENCY FOR CYBERSECURITY (ENISA)

### Memorandum of Understanding on a Structured Cooperation with CERT-EU

THE MANAGEMENT BOARD OF ENISA,

**Having regard to** Regulation (EU) 2019/881 of the European Parliament and of the Council of 17 April 2019 on ENISA (the European Union Agency for Cybersecurity) and on information and communications technology cybersecurity certification and repealing Regulation (EU) No 526/2013 (Cybersecurity Act), hereinafter referred to as the Regulation, and in particular Article 6, Article 7 and Article 9 thereof.

**Having regard to** the Decision No MB/2020/9 of the Management Board of the European Union Agency for Cybersecurity (ENISA) on the establishment of ENISA's internal structures;

Whereas

- (1) The European Union Agency for Cybersecurity, hereinafter referred to as "ENISA" or "the Agency" should assist the Member States and Union institutions, bodies, offices and agencies in their efforts to build and enhance capabilities and preparedness to prevent, detect and respond to cyber threats and incidents and in relation to the security of network and information systems;
- (2) In order to ensure that it fully achieves its objectives, ENISA should liaise with the relevant Union supervisory authorities and with other competent authorities in the Union, Union institutions, bodies, offices and agencies, including CERT-EU (Computer Emergency Response Team for the Union's institutions, bodies and agencies);
- (3) ENISA, in its role as the secretariat of the CSIRTs (computer security incident response teams) network, should support Member States' CSIRTs and the CERT-EU in the operational cooperation in relation to the relevant tasks of the CSIRTs network, as referred to in Directive (EU) 2016/1148;
- (4) ENISA and CERT-EU shall engage in structured cooperation to benefit from synergies and to avoid the duplication of activities;
- (5) The establishment of a structured cooperation with the Computer Emergency Response Team for the EU institutions, agencies and bodies, hereinafter referred to as "CERT-EU" should enable the ENISA to assist Member States in synergy with CERT-EU and establish solid operational cooperation at Union level.
- (6) In 2020 a taskforce has been established with staff from both bodies, to elaborate a proposal for a high-level concept on the structured cooperation and work on the implementation of this concept, provided that the proposal receives the approval of both ENISA's Management Board and CERT-EU's Steering Board. The structured cooperation concept paper is a result of close cooperation between ENISA and CERT-EU and a series of consultations with the CSIRTs Network and the European Commission.

- (7) The CERT EU Steering Board has discussed the structured cooperation at its meeting on 21st September 2020 and 25<sup>th</sup> January 2021.
- (8) The minutes of the ENISA Management Board meeting of 26<sup>th</sup> June 2020 record the endorsement to start the process to establish a Brussels Office for the Agency which should support the efficient and effective structured cooperation between the Agency and CERT-EU;
- (9) The Management Board discussed the structured cooperation at its meeting on 18-19<sup>th</sup> November 2020 and have prepared the present decision and its Annex.

HAS DECIDED TO ADOPT THE FOLLOWING DECISION:

**Article 1**  
**Structured Cooperation**

1. A Memorandum of Understanding (MoU) on structured cooperation between ENISA and CERT-EU as annexed to this decision, is endorsed.
2. This MoU does not create any legally binding obligations whatsoever nor does it supersede any legal obligation of any of the Parties, including the need to respect confidentiality, and neither Party has any liability to the other for failure to perform any of the items presented in this MoU.

**Article 2**  
**Approval and Review Procedures**

1. The Management Board shall approve the annual work programme of the structured cooperation on an annual basis.
2. The Management Board shall launch a review procedure of the structured cooperation, if relevant, as from 1st January 2023.

**Article 3**  
**Entry into force**

This Decision shall enter into force on the date of its adoption.

Done by written procedure on 11 February 2021.

On behalf of the Management Board

[signed]

Jean Baptiste Demaison

Chair of the Management Board

**FINAL DRAFT**  
**MEMORANDUM OF UNDERSTANDING**  
**ESTABLISHING A STRUCTURED COOPERATION**  
**BETWEEN**  
**THE EUROPEAN UNION AGENCY FOR CYBERSECURITY (ENISA) AND**  
**THE COMPUTER EMERGENCY RESPONSE TEAM FOR THE EU INSTITUTIONS, AGENCIES AND BODIES (CERT-EU)**

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**The European Union Agency for Cybersecurity (hereinafter referred to as ENISA), represented for the purpose of the signature of this Memorandum of Understanding by its Executive Director,**

**and**

**The Computer Emergency Response Team for the EU Institutions, Agencies and Bodies (CERT-EU), represented for the purpose of the signature of this Memorandum of Understanding by its Head,**

**Hereinafter collectively referred to as the “Parties”, or individually as the “Party”,**

**Having regard to** the Regulation (EU) 2019/881 of the European Parliament and of the Council of 17 April 2019 on ENISA (the European Union Agency for Cybersecurity) and on information and communications technology cybersecurity certification and repealing Regulation (EU) No 526/2013 (Cybersecurity Act - CSA), in particular Article 7.4, but also Articles 6.1.c, 6.1.i, 7, 9.b,e, and Article 15.1(q);

Having regard to the Arrangement 2018/C12/01 between the European Parliament, the European Council, the Council of the European Union, the European Commission, the Court of Justice of the European Union, the European Central Bank, the European Court of Auditors, the European External Action Service, the European Economic and Social Committee, the European Committee of the Regions, and the European investment Bank on the organisation and operation of a computer response team of the Union’s institutions, bodies and agencies (CERT-EU) of 20 December 2017.

**Whereas**

- ENISA and CERT-EU should fulfil their tasks in a synergetic way that involves interaction between both entities in planning and implementing their work, with a view to add value of their activities towards their stakeholders. As such, experts from ENISA and CERT-EU shall closely work together in order to exchange information, best practices, and share expertise on a structured basis.
- ENISA and CERT-EU should strive to avoid the duplication of activities whenever possible through systematically exchanging information on the planning of their activities undertaken across tasks enlisted under Article 7 of the Cybersecurity Act, but also in connection to tasks listed in Articles 6.1.c, 6.1.i and 9.b of the Cybersecurity Act.
- It is in the common interest of the parties to establish a Memorandum of Understanding in the areas of mutual interest and set up mechanisms and processes to implement it.
- This MoU does not create any legally binding obligations whatsoever nor does it supersede any legal obligation of any of the Parties, including the need to respect confidentiality, and

neither Party has any liability to the other for failure to perform any of the items presented in this MoU.

**Have agreed as follows:**

### **Article 1**

#### **Aim and scope of the structured cooperation**

1. Structured cooperation is established on the basis of Article 7.4 of the Cybersecurity Act to allow ENISA and CERT-EU to benefit from synergies and to avoid the duplication of activities foreseen in their respective mandates, with respect to operational cooperation within the CSIRTs network.
2. Both parties shall collaborate and exchange information on a regular basis in the domains identified in Article 2, and engage in a structured exchange of expertise in a way that is beneficial for both organisations and their constituencies.
3. ENISA and CERT-EU shall coordinate organisation of events (in particular training activities), in the domains identified in Article 2, both in scoping as well as in co-organise events, when relevant.
4. Areas covered by the structured cooperation as well as activities undertaken within it shall respect and be limited by the mandates of the parties. Structured cooperation shall respect the mandates of other operational actors at national and Union level.
5. Both Parties agree that any change in their mandates does not prompt automatic extension of scope of the structured cooperation, but it shall be communicated promptly to the governing bodies of the parties, who shall consider any such change in their annual evaluation and review of the structured cooperation.

### **Article 2**

#### **Areas of cooperation**

1. The structured cooperation shall encompass activities undertaken by the parties in assisting the Member States and EU institutions, bodies and agencies in the following areas:
  - Capacity building as referred to in Articles 6.c and 6.i of the CSA
  - Operational cooperation as foreseen in Article 7 of the CSA
  - Knowledge and information as foreseen in Article 9.b of the CSA
2. In assisting the Member States, ENISA will lead on the basis of its mandate and CERT-EU will contribute to the extent and within the limits defined by its mandate and by Union law.
3. In assisting the EU institutions, bodies and agencies, CERT-EU will lead on the basis of its mandate and ENISA will contribute to the extent and within the limits defined by its mandate and by Union law.

### **Article 3 Implementing principles**

1. The structured cooperation will be implemented on the basis of an Annual Cooperation Plan (ACP) after its adoption by the governing boards of the parties (ENISA's Management Board for ENISA and CERT-EU's Steering Board for CERT-EU), and drawn up in line with the work programmes and budgets of the parties. Parties will report annually on the implementation of the ACP to their governing boards.
2. The ACP will outline joint activities and projects and stipulate how these will be resourced.
3. The Parties are responsible towards their respective governing bodies for implementing the ACP in compliance with their mandates. The Parties will report annually to and seek advice from their respective governing bodies which may consult each other as necessary on specific issues.
4. Both Parties will ensure that the drafting as well as the implementation of the ACP is done in consultation with the relevant stakeholders, such as the CSIRTs Network and the EU institutions, bodies and agencies.
5. The Parties will report annually to their governing boards on the implementation of the structured cooperation.

### **Article 4 Final provisions**

1. Changes and amendments to this MoU shall be associated and based on the reviews and evaluations of the structured cooperation conducted by the governing bodies of the Parties. An amendment or a change request can be filed by either of the governing bodies. A mutual consensus shall be reached by the governing bodies for the proposed change or amendment to be in effect.
2. The Parties acknowledge the need to respect strict confidentiality in their structured cooperation.
3. The memorandum of understanding will enter into force on the day of its signature by the last party.

Done online on [date] in two copies in the English language.

For ENISA

For CERT-EU

Juhan Lepassaar  
Executive Director  
[Date]

Saâd Kadhi  
Head  
[Date]