



DECISION No MB/2022/5 OF THE MANAGEMENT BOARD OF THE EUROPEAN UNION AGENCY FOR CYBERSECURITY (ENISA)

ON THE ESTABLISHMENT AND OPERATION OF AD HOC WORKING GROUPS AND REPEALING MB DECISIONS NO MB/2013/11 AND NO MB/2019/11

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), in particular recital (59), Article 20 (4), 25 (2) and 27 (2) and (3);

Having regard to Regulation (EU) 2019/715 of the European Parliament and of the Council of 18 December 2018 on the framework financial regulation for the bodies set up under the TFEU and Euratom Treaty and referred to in Article 70 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council;

Having regard to 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;

Having regard to Decision No MB/2020/5 of the Management Board of the European Union Agency for Cybersecurity (ENISA) on principles for ENISA's Organisation;

Having regard to Decision No MB/2019/8 on the Financial Rules applicable to ENISA in conformity with the Commission Delegated Regulation (EU) No 2019/715 of 18 December 2018 of the European Parliament and of the Council.

Having regard to Decision No MB 2021/15 of the Management Board of European Union Agency for Network and Information Security on rules for prevention and management of conflicts of interest and repealing Decision No MB 2013/7;

Having regard to the Executive Director Decision 2022/3 on specifying the roles and responsibilities of ENISA's structural entities and on putting in place other organisational measures to ensure efficient performance of the Agency's tasks and functions (recast of the Decision 35/2020).

Whereas

- (1) The procedures regarding the establishment and operation of the ad hoc Working Groups, hereinafter called the "Working Groups", are to be specified in the Agency's internal rules of operation;
- (2) The establishment of ad hoc 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 secure information society;
- (3) Article 49(4) of Regulation (EU) 2019/881 provides that *For each candidate scheme, ENISA shall establish an ad hoc working group in accordance with Article 20(4) for the purpose of providing ENISA with specific advice and expertise.* In order to comply with this obligation and address the particularities of the Ad Hoc Working Groups on Certification, Decision No MB/2019/11 of the Management Board on the establishment of Ad Hoc Working Groups for European Cybersecurity Certification Scheme has been adopted.
- (4) The experts who participate in the Working Groups should not belong to the Agency's staff;
- (5) The Executive Director should ensure that the members of ad hoc working groups are selected according to the highest standards of expertise, aiming to ensure gender balance and an appropriate balance, according to the specific issues in question, between the public administrations of the Member States, the Union institutions, bodies, offices and agencies and the private sector, including industry, users, and academic experts in the fields of Activities of the Agency.



HAS DECIDED TO ADOPT THE FOLLOWING DECISION:**Article 1
Scope of this decision**

This decision sets procedures regarding the set-up of working groups and the operation of working groups, in particular the composition of the working groups and the appointment of the experts of the working groups by the Executive Director. This decision shall also outline the modalities for the set-up and organisation of ad hoc working groups in the meaning of Article 49(4) of CSA.

**Article 2
Set-up of Working Groups**

The working groups are set up through open calls for expression of interest, to help the Agency to fulfil a specific objective and task enshrined in the Cybersecurity Act, or help to implement an activity or output foreseen in its Multiannual Single Programming Document. Before announcing the call on ENISA web site, the Executive Director will notify the Management Board of his intentions via electronic means (e-mail, dedicated MB portal).

**Article 3
Selection and appointment of the experts of Working Groups**

1. For each call, the Executive Director shall establish a clear selection criteria for which the selection of experts into the working group shall be based. It shall consist on general criteria, including diversity and gender balance as well as principles safeguarding the interest of the Union, and on specific criteria relevant to the objective or task of the working group.
2. On the basis of the selection criteria, the Agency shall draw up a list of experts, including experts from the Member State's competent authorities, who could be appointed to the working group. The list shall be valid for a maximum duration of 3 years, and the Agency may call on the experts in the list to replace any members indisposed.
3. The Executive Director shall appoint members of the ad hoc working group from a list of experts duly selected in line with the open call provided in paragraphs 1 and 2 of this Article. The members shall be appointed and can be renewed for a total period of up to 4 years. Members or alternate members of ENISA statutory bodies enlisted in Chapter III of the CSA, or ENISA staff members, contractors or interim agents cannot be appointed as members of ad hoc working groups.

**Article 4
Composition and working arrangements of the Working Groups**

1. The Executive Director shall specify the mandate and duration of the ad hoc working group and designate a Unit or permanent team, which shall be responsible for the organisation of the work and support of the working group, notably but not limited to by providing the working group with technical assistance, and shall ensure that its outputs are aligned with the objectives and tasks set to it.
2. The working group shall be composed of a Chairperson, who is designated from ENISA staff by the Executive Director, and members of the ad hoc working group. When and where necessary, the Executive Director may also designate Vice-Chairperson(s) from ENISA staff.
3. At the request of the Chairperson, the representatives of the European Commission shall be entitled to be present at the meetings and the National Liaison Officers may take part or nominate representatives to participate as observers.
4. The Chairperson convenes the meetings of the working group, administers the agenda of the meeting, ensures a timely distribution of information and documents to all working group members and will address all organisational aspects to facilitate the smooth functioning of the working group.
5. A working group may, on the proposal of the Chairperson, invite third parties to submit expert opinions, independent reports and technical advice to its attention. Acting on the basis of the proposal of the Chairperson, a working group may also designate one or more Rapporteurs from among its members who shall ensure the drafting of reports or opinions, if necessary within a set time period. The Rapporteurs shall work in close co-operation with the Chairperson.

6. The Chairperson may ask the working group to adopt formal opinions and reports. For this, a majority of the members must support the motion. Minority opinions shall be brought out and annexed, when at least a third of the members express their support. Minority opinions, to be considered, must include substantive supporting argumentation which must be based on information presented to the working group during its deliberations. The formal opinions and reports of the working group, once adopted, are made public.
7. The meetings of the working groups shall not be held in public and the members shall be bound by the provisions of confidentiality foreseen in Article 27(2) of the CSA. The working language of the working groups is English. The meetings of the Working Groups may be conducted by means of tele/video conferencing.
8. The Agency may set up Standard Operational Procedures to guide the work of the working groups, in particular the procedures and notification timelines for conducting meetings in different formats and adopting decisions and conclusions.

Article 5 Secretariat

1. A secretariat service may be made available by ENISA to a Working Group for the purpose of supporting the Chairperson and the Working Group.
2. The Secretariat will convene a meeting providing due notice thereto ten (10) working days but shorter notice periods are equally acceptable.

Article 6 Reimbursement of expenses

Expenses incurred by members in connection with the activities of the Working Group, including work of the rapporteurs and travel and subsistence expenses of experts shall be reimbursed by the Agency according to the Agency's rules. Members designated by Member States and industry associations' representatives may be reimbursed upon submitting a request to ENISA. Participants who require financial support to attend a meeting can make a request to ENISA to be reimbursed according to the ENISA reimbursement rules.

Article 7 Declaration of interests

Members of a Working Group shall declare at the latest at the start of each meeting, any interest which might be considered to be prejudicial to their independence in relation to the items on the agenda, and shall abstain from participating in the discussion of and voting on such items. The Declarations of interests should be in compliance with Article 25 (2) and Article 26 of Regulation (EU) 2019/881 and the related Management Board Decision in force.

Article 8 Transparency and personal data

1. The provisions laid down by the Regulation 1049/2001¹, shall apply.
2. Personal data shall be treated in accordance with Regulation (EU) 2018/1725².

Article 9 Confidentiality

The members of the Working Groups are subject to the requirements of confidentiality pursuant to Article 339 of the Treaty on the Functioning of the European Union, even after their duties have ceased.

¹ 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.

² Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC.

Article 10
Transitional Measures

1. This decision repeals MBD 2013/11 and MBD 2019/11.
2. This decision is not applicable to the existing ad hoc working groups.

Article 11
Entry into force

This decision shall enter into force on the date of its signature.

Done at Athens on 15 June 2022.

On Behalf of the Management Board,

[signed]

Chair of the Management Board of ENISA

