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Promoting Good Practices in  
Establishing and Running CSIRTs  
- a legal perspective -

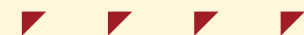
ENISA Workshop of 13-14 December 2005

Hans Graux, ICT Lawyer

## CSIRTs - Legal challenges

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- Background: CSIRTs, Cybercrime and the law
- Information availability: which laws apply?
- Information interpretation: what do these laws mean?
- Information use: how to proceed?



# CSIRTs, Cybercrime and the law (I)

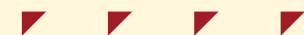
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- ▶ Multitude of difficulties ...
  - National laws vs. International crimes
  - Legal perspective vs. Holistic approach
  - Reactive laws vs. New security incidents
  - Victim's interest vs. Public policy
  - Practical issues: CSIRT liability, contacts/coordination, language, ...
  
- ▶ ... all of which are (at least) partially legal in nature

## CSIRTs, Cybercrime and the law (II)

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- ▶ Our focus:
  - Identifying each Member State's laws
  - Determining applicability and scope
  - Providing contact information and links to additional sources
  
- ▶ What were the main challenges to CSIRT identified in the course of the project?



# Information availability: which law applies?

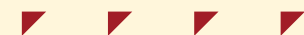
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- ▶ Dual question:
  - International private law
  - If a foreign law applies: what does it say?
- ▶ Main challenges
  - Identifying incidents
  - Identifying laws
  - Consistently mapping incidents to laws

# Information interpretation: what does the law mean?

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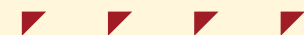
- Interpretations depend on legal texts, language use, penal vs. administrative approach, sanction structure and mechanisms, national doctrine, cultural background, ...
- Main challenges
  - Internal consistency
  - Neutrality and respect for national autonomy
  - Availability and accessibility of local know-how



## Information use: how to proceed?

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- Legal references = law on the books
- Practical use requires an understanding of local practices: material law and procedures
- Main challenges
  - Identifying reporting mechanisms
  - Identifying contacts
  - Ensuring that information exchange is quick, easy and accessible

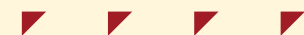




## Conclusion (I)

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- ▶ Legal issues are an all-encompassing consideration
  - Relevant for any CSIRT activity
  - ... yet difficult to keep into account
- ▶ Legal knowledge is relative
  - Any CSIRT requires its own legal expertise
  - ...but is even more reliant on international cooperation and coordination



## Conclusion (II)

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- ▶ CSIRTs need legal assistance for
  - the development and application of internal policies
  - obtaining and interpreting relevant legal information on an as-required basis
- ▶ Key element: the pragmatic availability of legal communication channels

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