



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Civil Liberties, Justice and Home Affairs

2010/0275(COD)

11.10.2011

OPINION

of the Committee on Civil Liberties, Justice and Home Affairs

for the Committee on Industry, Research and Energy

on the proposal for a regulation of the European Parliament and of the Council concerning the European Network and Information Security Agency (ENISA) (COM(2010)0521 – C7-0302/2010 – 2010/0275(COD))

Rapporteur: Alexander Alvaro

PA_Legam

SHORT JUSTIFICATION

Information and communication technologies are an integral part of the public and private life in Europe.

In the light of the importance of Network and Information Security, based on the gained experience and the growing cross-border challenges in this field, ENISA's mandate and resources need to be increased to ensure and promote a high level of data security and protection.

To this end, further to the Commission's proposal, the Agency should establish an early warning system, collect, analyse and coordinate privacy and security data breaches and cooperate closer with Member States, European institutions as well as law enforcement and judicial authorities at their request or on its own initiative.

In addition, in order to ensure full transparency, the democratic oversight of the Agency needs to be strengthened.

AMENDMENTS

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on Industry, Research and Energy, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a regulation

Recital 1

Text proposed by the Commission

(1) Electronic communications, infrastructure and services are an essential factor in economic and societal development. They play a vital role for society and have become ubiquitous utilities in the same way that electricity or water supplies are. Their disruption has the potential to cause considerable economic damage, underlining the importance of measures to increase protection and resilience aimed at ensuring continuity of critical services. The security of electronic communications, infrastructure and services, in particular their integrity and availability, faces continuously expanding

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challenges. This is of increasing concern to society not least because of the possibility of problems due to system complexity, accidents, mistakes and attacks that may have consequences for the physical infrastructure which delivers services critical to the well-being of European citizens.

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Amendment 2

Proposal for a regulation Recital 4

Text proposed by the Commission

(4) The representatives of the Member States, meeting in the European Council on 13 December 2003, decided that the European Network and Information Security Agency (ENISA), that was to be established on the basis of the proposal submitted by the Commission, would have its seat in a town in Greece to be determined by the Greek Government.

Amendment

(4) The representatives of the Member States, meeting in the European Council on 13 December 2003, decided that the European Network and Information Security Agency (ENISA), that was to be established on the basis of the proposal submitted by the Commission, would have its seat in a town in Greece to be determined by the Greek Government. ***The seat of the Agency is in Heraklion, Crete.***

Amendment 3

Proposal for a regulation Recital 7

Text proposed by the Commission

(7) Internal market measures in the field of security of electronic communications, and, more generally, network and information security require different forms of technical and organisational applications by the Member States and the Commission. The heterogeneous application of these requirements can lead to inefficiencies and can create obstacles to the internal market. This calls for a centre of expertise at European level providing guidance, advice, and when called upon,

Amendment

(7) Internal market measures in the field of security of electronic communications, and, more generally, network and information security require different forms of technical and organisational applications by the Member States and the Commission. The heterogeneous application of these requirements can lead to inefficiencies and can create obstacles to the internal market. This calls for a centre of expertise at European level providing guidance, advice, and when called upon,

assistance on issues related to network and information security, which may be relied upon by the Member States and the European institutions. The Agency can respond to these needs by developing and maintaining a high level of expertise and assisting the Member States, the Commission and as a consequence the business community in order to help them to meet the legal and regulatory requirements of network and information security, thereby contributing to the smooth functioning of the internal market.

assistance on issues related to network and information security, which may be relied upon by the Member States and the European institutions. The Agency can respond to these needs by developing and maintaining a high level of expertise and assisting the Member States, the Commission and as a consequence the business community in order to help them to meet the legal and regulatory requirements of network and information security, ***and to determine and address network and information security issues***, thereby contributing to the smooth functioning of the internal market.

Amendment 4

Proposal for a regulation Recital 8

Text proposed by the Commission

(8) The Agency should carry out the tasks conferred on it by present Union legislation in the field of electronic communications and, in general, contribute to an enhanced level of security of electronic communications by, among other things, providing expertise and advice, and promoting the exchange of good practices.

Amendment

(8) The Agency should carry out the tasks conferred on it by present Union legislation in the field of electronic communications and, in general, contribute to an enhanced level of security of electronic communications ***as well as privacy and personal data protection*** by, among other things, providing expertise and advice, and promoting the exchange of good practices. ***Furthermore, the Agency should establish confidence by virtue of its independence, the quality of the advice it delivers and the information it disseminates, and the transparency of its procedures and methods of operating.***

Amendment 5

Proposal for a regulation

Recital 11

Text proposed by the Commission

(11) The Agency should contribute to a high level of network and information security within the Union and to the development of a culture of network and information security for the benefit of citizens, consumers, businesses and public sector organisations in the European Union, thus contributing to the smooth functioning of the internal market.

Amendment

(11) The Agency should contribute to a high level of network and information security within the Union, ***to better protection of privacy and personal data,*** and to the development of a culture of network and information security for the benefit of citizens, consumers, businesses and public sector organisations in the European Union, thus contributing to the smooth functioning of the internal market.

Amendment 6

Proposal for a regulation

Recital 12

Text proposed by the Commission

(12) A set of tasks should indicate how the Agency is to accomplish its objectives while allowing flexibility in its operations. The tasks carried out by the Agency should include the collection of appropriate information and data needed to carry out analyses of the risks to the security and resilience of electronic communications, infrastructure and services and to assess, in cooperation with Member States, the state of network and information security in Europe. The Agency should ensure coordination with Member States and enhance cooperation between stakeholders in Europe, in particular by involving in its activities competent national bodies and private sector experts in the area of network and information security. The Agency should provide assistance to the Commission and the Member States in their dialogue with industry to address security-related problems in hardware and software products, thereby contributing to a collaborative approach to network and

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Amendment 7

Proposal for a regulation Recital 14 a (new)

Text proposed by the Commission

Amendment

(14a) The Agency should support a European Forum for Member States (EFMS) aimed at fostering discussion and exchanges on good policy practices, with the aim of sharing policy objectives and priorities on security and resilience of ICT infrastructure, and play a more active role in its work.

Amendment 8

Proposal for a regulation Recital 20

Text proposed by the Commission

Amendment

(20) The Agency should facilitate cooperation among the Member States' competent ***public bodies***, in particular supporting the development and exchange of good practices and standards for education programmes and awareness-raising schemes. Increased information exchange between Member States will facilitate such action. The Agency should also support cooperation between public and private stakeholders at the Union level, partly by promoting information sharing, awareness-raising campaigns and education and training programmes.

(20) The Agency should facilitate cooperation among the Member States' competent ***independent regulatory authorities***, in particular supporting the development and exchange of good practices and standards for education programmes and awareness-raising schemes. Increased information exchange between Member States will facilitate such action. The Agency should also support cooperation between public and private stakeholders at the Union level, partly by promoting information sharing, awareness-raising campaigns and education and training programmes.

Amendement 9

Proposal for a regulation Recital 23 a (new)

Texte proposé par la Commission

Amendement

(23a) The Agency should encourage Member States and service providers to raise their general security standards so that all internet users take the necessary steps to ensure their own personal cyber security.

Amendement 10

Proposal for a regulation Recital 25

Texte proposé par la Commission

Amendement

(25) To ensure full achievement of its objectives, the Agency should liaise with law enforcement bodies and ***privacy*** protection authorities to highlight and properly address the network and information security aspects of fighting cybercrime. Representatives of these authorities should become fully fledged stakeholders of the Agency and should be represented in the Agency's Permanent Stakeholders Group.

(25) To ensure full achievement of its objectives, the Agency should liaise ***and cooperate*** with law enforcement bodies and privacy ***and personal data*** protection authorities to highlight and properly address the network and information security aspects of fighting cybercrime ***and protecting personal data***. Representatives of these authorities should become fully fledged stakeholders of the Agency and should be represented in the Agency's Permanent Stakeholders Group.

Amendment 11

Proposal for a regulation Recital 27

Text proposed by the Commission

Amendment

(27) The exercise of the Agency's tasks should not interfere with the competencies nor pre-empt, impede or overlap with the relevant powers and tasks of: the national regulatory authorities as set out in the

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Directives relating to the electronic communications networks and services, as well as on the Body of European Regulators for Electronic Communications (BEREC) established by Regulation 1211/2009 of the European Parliament and the Council and the Communications Committee referred to in Directive 2002/21/EC, the European standardisation bodies, the national standardisation bodies and the Standing Committee as set out in Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society Services and the supervisory authorities of the Member States relating to the protection of individuals with the regard to the processing of personal data and on the free movement of such data.

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Amendement 12

Proposal for a regulation Article 2 – paragraph 1

Texte proposé par la Commission

1. The Agency shall assist the Commission and the Member States to meet the legal and regulatory requirements of network and information security in present and future Union legislation, thus contributing to the smooth functioning of the internal market.

Amendement

1. The Agency shall assist the Commission, ***the other Union institutions*** and the Member States to meet the legal and regulatory requirements of network and information security, ***as well as privacy and personal data protection***, in present and future Union legislation, thus contributing to the smooth functioning of the internal market.

Amendment 13

Proposal for a regulation
Article 2 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The Agency shall ensure a high level of data protection and security.

Amendment 14

Proposal for a regulation
Article 3 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) Assist the Commission, at its request or on its own initiative, on network and information security policy development by providing it with advice and opinions and with technical and socio-economic analyses, and with preparatory work for developing and updating Union legislation in the field of network and information security;

(a) Assist the Commission, at its request or on its own initiative, on network and information security policy development by providing it with advice and opinions and with technical, ***legal*** and socio-economic analyses, and with preparatory work for developing and updating Union legislation in the field of network and information security, ***as well as privacy and personal data protection, with particular reference to the online aspects;***

Amendement 15

Proposal for a regulation
Article 3 – paragraph 1 – point b

Texte proposé par la Commission

Amendement

(b) Facilitate the cooperation among the Member States and between the Member States and the ***Commission*** in their efforts with a cross-border dimension to prevent, detect and respond to network and information security incidents;

(b) Facilitate the cooperation among the Member States and between the Member States and the ***Union institutions, at their request or on its own initiative***, in their efforts to prevent, detect and respond to network and information security incidents ***where this has an impact across borders;***

Amendment 16

Proposal for a regulation

Article 3 – paragraph 1 – point c

Text proposed by the Commission

(c) Assist the Member States and the European institutions and bodies in their efforts to collect, analyse and disseminate network and information security data;

Amendment

(c) Assist the Member States and the European institutions and bodies, ***at their request or on its own initiative***, in their efforts to collect, analyse and disseminate network and information security data;

Amendment 17

Proposal for a regulation

Article 3 – paragraph 1 – point d

Text proposed by the Commission

(d) ***Regularly assess, in cooperation with*** the Member States and the ***European institutions***, the state of network and information security in ***Europe***;

Amendment

(d) ***On the basis of the information provided by the*** Member States and ***by the Union institutions in accordance with Union provisions and national provisions in compliance with Union law, maintain awareness of the latest*** state of network and information security in ***the Union for the benefit of the Member States and the Union institutions***;

Amendment 18

Proposal for a regulation

Article 3 – paragraph 1 – point e

Text proposed by the Commission

(e) Support cooperation among competent public bodies in Europe, in particular supporting their efforts to develop and exchange good practices and standards;

Amendment

(e) Support cooperation among ***the*** competent public bodies ***and between public and private stakeholders in the Union, at their request or on its own initiative, facilitate dialogue and*** efforts to develop and exchange good practices, ***and promote and ensure their full independence, promote information sharing and awareness raising, and***

facilitate the establishment and take up of European and international standards for risk management and for the security of electronic products, networks and services;

Amendment 19

Proposal for a regulation

Article 3 – paragraph 1 – point f a (new)

Text proposed by the Commission

Amendment

(fa) Support law enforcement and judicial authorities, at their request or on its own initiative, with expertise in fighting cybercrime and responding to cyber incidents;

Amendment 20

Proposal for a regulation

Article 3 – paragraph 1 – point f aa (new)

Text proposed by the Commission

Amendment

(faa) Support law enforcement and judicial authorities, at their request or on its own initiative, with expertise in fighting cybercrime and responding to cyber incidents. The Agency shall however not initiate specific criminal investigations and shall not routinely be called to provide operational assistance to law enforcement and judicial authorities, such as cybercrime investigations or computer forensics;

Amendment 21

Proposal for a regulation

Article 3 – paragraph 1 – point f c (new)

Text proposed by the Commission

Amendment

(fc)Promote good practices in relation to the security of data processing by applying internally the most effective and advanced security procedures and their methods of operation and at the same time minimising as much as possible the impact on privacy and act as a point of reference in the practical implementation of best available techniques in the field of security;

Amendment 22

Proposal for a regulation

Article 3 – paragraph 1 – point i

Text proposed by the Commission

Amendment

(i) Assist the ***Member States and the European*** institutions and bodies, ***at their request***, in their efforts to develop network and information security detection, analysis and response capability;

(i) Assist the ***Union*** institutions and bodies ***set up by Union law*** in their efforts to develop ***prevention***, detection, analysis and response capability in respect to network and information security;

Amendment 23

Proposal for a regulation

Article 3 – paragraph 1 – point k

Text proposed by the Commission

Amendment

(k) Carry out tasks conferred on the Agency by Union legislative acts.

(k) Carry out tasks conferred on the Agency by Union legislative acts, ***as adopted by the European Parliament and the Council.***

Amendment 24

Proposal for a regulation

Article 3 a (new)

Text proposed by the Commission

Amendment

Article 3a

Computer Emergency Response Teams (CERTs)

- 1. The Agency shall support national CERTs in Member States and at Union level and the establishment and operation of a network of national and Union CERTs, including the members of the European Governmental CERTs Group. To assist in ensuring that each of the national and Union CERTs have sufficiently advanced capabilities and that those capabilities correspond as far as possible to the capabilities of the most advanced CERTs, the Agency shall assist in benchmarking the teams and shall promote dialogue and exchange of information and best practices between the CERTs and the European Governmental CERTs Group. The Agency shall promote and support cooperation between the relevant national and Union CERTs in the event of incidents involving or potentially involving several of them.***
- 2. The Agency shall facilitate contacts and exchanges of information and best practices with relevant state and other CERTs, groups and fora in third countries.***
- 3. The Agency shall function as the EU CERTs' coordination body.***

Amendment 25

Proposal for a regulation

Article 7 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

- 1a. Before appointment, the candidate selected by the Management Board shall***

be invited to make a statement before the competent committee(s) of the European Parliament and answer questions from committee members. After this statement, the European Parliament shall adopt an opinion setting out its view of the selected candidate. The Management Board shall inform the European Parliament of the manner in which that opinion has been taken into account.

Amendment 26

Proposal for a regulation Article 10 – paragraph 2

Text proposed by the Commission

2. The Executive Director shall be appointed and dismissed by the Management Board. The appointment shall be done from a list of candidates proposed by the Commission for a period of five years, on grounds of merit and documented administrative and managerial skills, as well as specific competence and experience. Before appointment, the candidate selected by the Management Board *may* be invited to make a statement before the competent committee of the European Parliament and answer questions *put by its* members.

Amendment

2. The Executive Director shall be appointed and dismissed by the Management Board. The appointment shall be done from a list of candidates proposed by the Commission for a period of five years, on grounds of merit and documented administrative and managerial skills, as well as specific competence and experience. Before appointment, the candidate selected by the Management Board *shall* be invited to make a statement before the competent committee(s) of the European Parliament and answer questions *from committee* members. *After this statement, the European Parliament shall adopt an opinion setting out its view of the selected candidate. The Management Board shall inform the European Parliament of the manner in which this opinion has been taken into account.*

Amendment 27

Proposal for a regulation

Article 10 – paragraph 5

Text proposed by the Commission

5. The Management Board shall inform the European Parliament about its intention to extend the Executive Director's term of office. Within a month before the extension of his/her term of office, the Executive Director *may* be invited to make a statement before the competent committee of the Parliament and answer questions put by its members.

Amendment

5. The Management Board shall inform the European Parliament about its intention to extend the Executive Director's term of office. Within a month before the extension of his/her term of office, the Executive Director ***shall*** be invited to make a statement before the competent committee of the Parliament and answer questions put by its members.

Amendment 28

Proposal for a regulation **Article 11 – paragraph 1**

Text proposed by the Commission

1. The Management Board shall set up a Permanent Stakeholders' Group on a proposal by the Executive Director, composed of experts representing the relevant stakeholders, such as the information and communication technologies industry, consumer groups, academic experts in network and information security, and law enforcement and ***privacy*** protection authorities.

Amendment

1. The Management Board shall set up a Permanent Stakeholders' Group on a proposal by the Executive Director, composed of experts representing the relevant stakeholders, such as the information and communication technologies industry, consumer groups, academic experts in network and information security, and law enforcement and ***data*** protection authorities.

Amendment 29

Proposal for a regulation **Article 27 – paragraph 1 a (new)**

Text proposed by the Commission

Amendment

1a. The Management Board shall establish measures for the application of Regulation (EC) No 45/2001 by the Agency, including those concerning the Data Protection Officer of the Agency.

PROCEDURE

Title	European Network and Information Security Agency (ENISA)		
References	COM(2010)0521 – C7-0302/2010 – 2010/0275(COD)		
Committee responsible Date announced in plenary	ITRE 19.10.2010		
Committee(s) asked for opinion(s) Date announced in plenary	LIBE 19.10.2010		
Rapporteur(s) Date appointed	Alexander Alvaro 9.12.2010		
Discussed in committee	24.5.2011	19.9.2011	11.10.2011
Date adopted	11.10.2011		
Result of final vote	+: 48 -: 1 0: 0		
Members present for the final vote	Jan Philipp Albrecht, Sonia Alfano, Alexander Alvaro, Roberta Angelilli, Vilija Blinkevičiūtė, Rita Borsellino, Emine Bozkurt, Simon Busuttil, Carlos Coelho, Rosario Crocetta, Hélène Flautre, Kinga Gál, Kinga Göncz, Nathalie Griesbeck, Sylvie Guillaume, Anna Hedh, Sophia in 't Veld, Lívia Járóka, Teresa Jiménez-Becerril Barrio, Timothy Kirkhope, Juan Fernando López Aguilar, Monica Luisa Macovei, Véronique Mathieu, Nuno Melo, Claude Moraes, Jan Mulder, Antigoni Papadopolou, Georgios Papanikolaou, Jacek Protasiewicz, Carmen Romero López, Birgit Sippel, Csaba Sógor, Renate Sommer, Rui Tavares, Kyriacos Triantaphyllides, Wim van de Camp, Axel Voss, Tatjana Ždanoka, Auke Zijlstra		
Substitute(s) present for the final vote	Edit Bauer, Anna Maria Corazza Bildt, Cornelis de Jong, Dimitrios Droutsas, Ioan Enciu, Nadja Hirsch, Ádám Kósa, Hubert Pirker, Bogusław Sonik, Cecilia Wikström		