



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 6 June 2008**

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**Interinstitutional File:  
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**TELECOM 95  
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**REPORT**

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to : COUNCIL

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No. prev. doc. : 9768/08 TELECOM 76 MI 158 DATAPROTECT 28 CAB 25 INST 52  
CODEC 633

No. Cion prop. : 16840/07 TELECOM 174 MI 353 DATAPROTECT 62 CAB 58 INST 168  
CODEC 1503

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Subject : Proposal for a Regulation of the European Parliament and the Council amending  
Regulation (EC) No 460/2004 establishing the European Network and  
Information Security Agency as regards its duration

- General approach

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1. On 21 December 2007, the Commission transmitted to the Council its proposal extending the current mandate of the European Network and Information Security Agency (ENISA) for two years.

After the discussions on the proposal in the Working Party on Telecommunications and Information Society a Presidency compromise proposal was drafted consisting of an extension of ENISA's mandate for three years and noting the need to have further discussion on the ENISA and to reflect on the general direction of the European efforts towards an increased network and information security. The Presidency intends to formally request the Commission to contribute to this future discussion.

The Presidency compromise proposal, which is annexed to the present document in the form of a general approach, was examined by the Permanent Representatives Committee on 30 April 2008 and on 3 June 2008. The text was agreed in principle by all Delegations and accepted as the basis for the negotiations with the European Parliament.

2. The European Parliament has yet to deliver its opinion in plenary on this proposal. However, the draft report of Mrs Niebler, rapporteur on this file at the ITRE Committee was adopted without any amendments on 5 June 2008. The draft report suggested the same modifications as the General approach in annex. The two institutions seem to be on the same lines and a first reading agreement could be achieved soon.
3. MT still has a parliamentary scrutiny reservation on the proposal. The Commission, pending the European Parliament's vote in first reading, maintains a general scrutiny reservation on the proposed text.
4. The Council is invited to agree the General Approach, as set out in Annex to this document.

**GENERAL APPROACH**

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending Regulation (EC) No 460/2004 establishing the European Network and Information Security Agency as regards its duration**

**(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission(1),

Having regard to the opinion of the European Economic and Social Committee (2),

Having regard to the opinion of the Committee of the Regions(3),

Acting in accordance with the procedure laid down in Article 251 of the Treaty(4),

Whereas:

- (1) On 10 March 2004 the European Parliament and the Council adopted Regulation (EC) N° 460/2004 establishing the European Network and Information Security Agency<sup>1</sup> (hereinafter referred to as “the Agency”) for five years.
- (2) On 23 March 2007 the Management Board of the Agency issued recommendations, following the Evaluation of ENISA, regarding appropriate changes to the Regulation.

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1 Regulation (EC) No 460/2004 of the European Parliament and of the Council of 10 March 2004 establishing the European Network and Information Security Agency (OJ L 77, 13.3.2004, p. 1).

- (3) In line with the Commission's Better Regulation strategy, the Commission initiated a public consultation on the extension and future of the Agency, which was held from 13 June to 7 September 2007.
- (4) Since the mandate of the Agency will expire on 13 March 2009 in order to ensure consistency and continuity it is therefore necessary to adopt an extension which will enable further discussion on the ENISA. The discussion will reflect the results of the ENISA evaluation process, the Management Board recommendations and the ongoing review of the regulatory framework for electronic communications networks and services. It will also allow further reflection on the general direction of the European efforts towards an increased network and information security. The extension of the duration of the Agency is without prejudice to the outcome of this discussion.
- (5) The duration of the Agency should therefore be extended until 13 March 2012,

HAVE ADOPTED THIS REGULATION:

*Article 1*  
*Amendment to Regulation (EC) N° 460/2004*

Article 27 of Regulation (EC) No 460/2004 is replaced by the following text:

“Article 27 - Duration

The Agency shall be established from 14 March 2004 for a period of eight years.”

*Article 2*  
*Entry into force*

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at [...],[...]

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

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