

**No.295/63** (1)**Regulation on the Designation of Bodies for the Conformity Assessment of Secure-Signature-Creation Devices and Secure Cryptographic Modules and on the Designation of Bodies for the Conformity Assessment of Certification Service Providers using the Voluntary Accreditation Criteria.****THE NATIONAL TELECOMMUNICATIONS AND POSTS COMMISSION (EETT)****Taking into account :**

- a. Law . 2867/2000 on the Organization and Operation of Telecommunications and other Provisions (Government Gazette Issue No. 273/A/2000) and more specifically Article 3 (14) (y) and (aa),
- b. Presidential Decree No. 150/2001 on the Adaptation of Directive 1999/93/EC of the European Parliament and of the Council on a Community framework for electronic signatures (Government Gazette Issue No. 125/A/2001), and in particular Article 4 (2), (5), (8), and Article 5 and Article 7 (1),
- c. EETT Decision No. 248/71/2002 on the Regulation regarding the provision of electronic signature certification services (Government Gazette Issue No. 603/B/2002),
- d. Commission Decision of 6.11.2000 (E(2000) 3179 final), 2000/709/EC on the minimum criteria to be taken into account by Member States when designating bodies in accordance with Article 3(4) of Directive 1999/93/EC of the European Parliament and of the Council on a Community framework for electronic signatures,
- e. the fact that the provisions of this Decision do not lead to any expenditures to be charged to the State Budget, has adopted this Decision:  
issues a Regulation on the Designation of Bodies for the Conformity Assessment of Secure-Signature-Creation Devices and Secure Cryptographic Modules and on the Designation of Bodies for the Conformity Assessment of Certification Service Providers using the Voluntary Accreditation Criteria, the contents of which are as follows:

**Article 1****Scope and Aim**

The purpose of this Decision is to establish the procedure for the designation of: a) Bodies responsible for the Conformity Assessment of secure-signature-creation devices and secure cryptographic modules with Annexes III and II (f) to PD 150/2001 respectively, and b) Bodies for the Conformity Assessment of certification service providers to the Voluntary Accreditation criteria.

**Article 2****Definitions**

1. **Secure Cryptographic Unit means:** the unit used by the Certification Service Providers issuing Qualified Certificates, Electronic-Signature Products which is protected against modification and ensures the technical and cryptographic security of the certification processes pursuant to Annex II (f) to PD 150/2001 and which complies with the requirements of Article 3 (2) of EETT Decision No. 295/64/2003 on the Regulation for the Conformity Assessment of Secure-Signature-Creation Devices and Secure Cryptographic Modules.
2. **Secure-Signature-Creation Devices and Secure Cryptographic Modules Body or Products Body means:** the Body responsible for the conformity assessment of Secure-Signature-Creation Devices pursuant to Annex III to PD 150/2001 and Secure Cryptographic Modules pursuant to the provisions of EETT Decision No. 295/64/2003 on the Regulation for the Conformity Assessment of Secure-Signature-Creation Devices and Secure Cryptographic Modules.
3. **Voluntary Accreditation Body means:** the Body responsible for the assessment of the conformity of Certification Service Providers to the Voluntary Accreditation criteria, pursuant to the provisions of EETT Decision No. 295/65/2003 on the Regulation for the Voluntary Accreditation of Certification Service Providers.
4. **Designated Body or Body means:** a products body or a voluntary accreditation body.
5. **Conformity assessment means:** the examination by a Products Body of the design of a product against the requirements regarding Secure Signature Creation Devices and Secure Cryptographic Modules, or examination by a Voluntary Accreditation Body of the infrastructure, services and procedures of Certification Service Providers and assessment of conformity thereof with the Voluntary Accreditation requirements.
6. **Body Designation means:** the individual administrative act by means of which EETT designates a legal entity as a Product Body or Voluntary Accreditation Body.

7. **Body Revocation means:** the individual administrative act by means of which EETT revokes its Designation by virtue of a justified decision and following a hearing of the Designated Body.

8. **Body Suspension means:** the individual administrative act by means of which EETT suspends for a given time period the provision of the services of the above Body by virtue of a justified decision and following a hearing of the Designated Body.

9. **Assessment Commission means:** the commission designated by decision of EETT for the performance of on site assessment of the body requesting to be designated Designated Body pursuant to Article 4 hereof.

10. **Body Evaluation Report means:** the report prepared by the Assessment Commission after the on site Assessment at the premises of the candidate Body.

11. **Voluntary Accreditation means:** accreditation under Article 2 (13) of PD 150/2001.

12. **Conformity Certificate means:** the certificate issued by the Designated Body based on the Conformity Assessment carried out.

13. Any other words or phrases used herein shall have the meaning attributed to them in Presidential Decree 150/2001 or should they not be mentioned in it, they shall have the meaning attributed to them in Law 2867/2000 or should they not be mentioned in it, then they shall have the definitions attributed to them in the relevant secondary Community legislation.

### Article 3

#### Eligibility for the Submission of Supporting Documents

1. Designated Bodies must be legal public or private law entities in the form of Societes Anonymes or Limited Liability Companies with a share capital of at least € 140,000.00 and meet the requirements under Annex I to this Regulation. Partnerships having a share capital of at least € 140,000.00 and meeting the requirements of Annex I to this Regulation may also be designated Designated Bodies. EETT may decide to modify the required share capital.

2. In case of legal entities established in a European Union Member State requesting to be designated Designated Bodies in Greece, EETT, once having assessed conformity with the criteria laid down in Annex I to this regulation, shall issue the relevant Designation act. Compliance with the criteria under Annex I to this Regulation shall be proven through the submission of the respective supporting documents issued by the local foreign Authority required for its designation as Designated Body in the respective Member State.

3. Based on a bilateral or multilateral agreement, EETT may recognize the equivalence of the designation of a foreign Designated Body.

### Article 4

#### Body Designation Procedure

1. The entity requesting its designation as Product Body or Voluntary Accreditation Body shall submit an application with the EETT by means of which it shall request its designation, submitting to that end all required supporting documents listed in Annex I to this Regulation. The application shall also make a solemn statement regarding its conformity with the criteria of Annex I to this Regulation.

2. EETT is required, within ten (10) working days from the date of submission of the application, to verify that such an application includes all the documents listed in Annex I hereto, and article 1 of this article, or determine the document(s) missing and request it (them) from the Designation applicant. The applicant is required to supply such document(s) within fifteen (15) days from notification of the relevant EETT document. Should the applicant fail to timely submit the required information, its application shall be rejected.

3. EETT may request all necessary clarifications in order to assess conformity to the criteria under Annex I to this Regulation based on the documents furnished, setting to that end a deadline by which the applicant must duly respond, and which deadline may not exceed fifteen (15) days from the notification of the EETT document to the applicant.

4. EETT shall, by decision of the Assessment Commission, set and notify to the applicant the exact date on which an assessment shall be carried out at its premises within ten (10) days from the provision of all relevant clarifications pursuant to paragraph 3 of this article. Such shall be carried out within fifteen (15) days from the notification of the relevant notice to the applicant.

5. Upon completion of the assessment, the Assessment Commission shall draft an Evaluation Report for the applicant and submit it to EETT which by virtue of its justified decision shall resolve within four (4) weeks from the on site assessment about the Designation of the applicant.

6. With the exception of the case under paragraph 2 of this article, the application shall be rejected in

the following cases:

- a) failure to provide the required clarifications pursuant to paragraph 3 of this article;
  - b) failure of the applicant to provide its necessary assistance for the performance of the on site assessment, pursuant to paragraph 4 of this article and Article 8 (2); and
  - c) failure to comply with one or more of the criteria in Annex I to this Regulation.
7. An individual administrative Product Body or Voluntary Accreditation Body act shall be issued to the body the application of which has been admitted.
8. Prior to the issuance of an individual Body Designation administrative act, no works may be launched falling within the scope of the duties of the body designated Designated Body each time.
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## **Article 5**

### **Rights and Obligations of Bodies**

1. The Designated Body is required to take all necessary measures in order to ensure compliance with the criteria under Annex I to this Regulation throughout its Designation.
2. The Designated Body is required to have suitable procedures for the recording and filing of the Conformity assessments it carries out and the Conformity Certificates it issues, and it must return such files to EETT if its works are terminated or its Designation is Revoked. The Designated Body shall make available to the competent authorities a file with all relevant documents concerning the Conformity assessments it carries out for at least 10 years from the date of the assessment.
3. The Designated Body shall be held exclusively liable for all of its actions or omissions in the context of the Conformity assessments it carries out.
4. The activities of the Designated Body must be in line with the provisions on the protection of free competition of Law 703/1977.
5. The Designated Body's initial capital may not drop below the threshold value established in Article 3 of this Regulation. Assessment of the Designated Body may not change without prior approval by EETT. The relevant approval decision must be issued within thirty (30) days from the day following receipt of the notification or, if the information in the notification is considered insufficient, from the day following receipt of all information. EETT must approve the change of control if there are no grounds for refusal. An exhaustive list of the reasons for refusal is given in Annex II to this Regulation. Moreover, all transfers of shares by means of one or more acts to or from the same legal entity representing a percentage equal to or greater than two per cent (2%) of the Designated Body's share capital must be notified to EETT within fifteen (15) days from the date it has taken place.
6. The Designated Body is also required to immediately notify to EETT all changes in its internal policies and procedures, buildings, personnel, equipment and other resources related to its activities of Designated Body, its legal representative, as well as all changes related to compliance with the criteria of its designation pursuant to Annex I to this Regulation.
7. The Designated Body shall immediately notify to EETT and the organization to which it has supplied Conformity Certificates termination of its works at least five (5) months prior to such termination of works. Should it be proven that the Body is unable to notify such termination of works within the deadline set forth above, then it shall notify it as soon as it is known to it.
8. The Designated Body is required to immediately discontinue the performance of Conformity Assessments and the issuing of Conformity Certificates should its Designation be suspended or revoked.
9. The Designated Body shall, in the scope of its responsibilities and in accordance with the Designation administrative act, Conformity Certificates for Secure Signature Creation Devices and Secure Cryptographic Modules or Certificates of Conformity of the Certification Service Provider with the Voluntary Accreditation requirements.
10. For the purpose of performing Conformity Assessments, the Designated Body is entitled to request information and inspect the establishment and operation facilities of the company requesting the issuance of a Conformity Certificate. In case of refusal or provision of insufficient information, the Designated Body is entitled, at its discretion, not to issue the Conformity Certificate. The Designated Body shall be responsible for evaluating the services provided by it.
11. The Designated Body is required to see to the reevaluation of its Designation at least once every three (3) years.

## **Article 6**

### **Revocation of the Body Designation**

EETT may revoke the Designation of the Designated Body by its justified decision observing the principle of proportionality, should the Body and/ or its personnel no longer comply with even one of the Designation criteria pursuant to Annex I, as well as in the cases listed in Article 5 (5) and (7).

## **Article 7**

### **Suspension of the Provision of Services by a Designated Body**

1. EETT may, until the issuance of a final decision regarding the revocation of the Designation of a Designated Body, order the suspension of the provision of services by that Designated Body, if all of the following conditions apply:

- a) it is conjectured that the Designated Body does not meet not even one of the Designated Body Designation criteria or the Designated Body service provision conditions under applicable legislation;
- b) suspension is necessary for avoiding an immediately imminent or otherwise unavoidable risk or irreversible damage especially to public interest;
- c) a relevant procedure has been launched either ex officio by EETT or following a complaint.

For the implementation of this article with regard to the deadlines, the provisions of the Regulation on the issuance of injunction in implementation of Article 12 (4) of Law 2867/2000, added by means of Article 12 (2) of Law 3082/2002 (Government Gazette Issue No. 316/A/2002), (Government Gazette Issue No. 158/B/2003) shall be proportionally implemented.

2. EETT may issue a temporary order, proportionally to the provisions of the Regulation on the issuance of injunction in implementation of Article 12 (4) of Law 2867/2000, added by means of Article 12 (2) of Law 3082/2002 (Government Gazette Issue No. 316/A/2002), (Government Gazette Issue No. 158/B/2003).

## **Article 8**

### **Supervision**

1. EETT shall supervise the Designated Bodies falling within the scope of this Regulation in order to ensure its implementation, as well as the implementation of the relevant regulatory framework on electronic signatures.

2. For the Assessment under Article 4 (4) of this Regulation, as well as for the Assessments of the Designated Bodies already designated to be performed, and which Assessments are performed ex officio or following a complaint, EETT or the entities designated by EETT shall be entitled to request information and carry out inspections in the establishment and operation facilities of the Designated Body pursuant to applicable legislation. The Designated Body is required to cooperate with EETT and provide it with all information and facilities for the performance of the Assessments. The persons that may be designated by EETT to carry out supervision activities must observe the principles of transparency and objectivity and their designation must not lead into conflict of interests with the Designated Bodies.

3. The Designated Body is required to renew and submit to EETT every six (6) months the certificates listed in paragraph 1 (e), (f) and (g) of Annex I to this Regulation.

4. The Designated Body shall submit to EETT annual reports describing its activities, where particular reference shall be made to the Assessments carried out, the procedures and policies followed to ensure compliance with the criteria of Annex I, as well as the obligations deriving from Article 5 of this Regulation, as well as to requests/ complaints submitted to it. The reports shall be submitted by the end of March each year, starting from March 2004.

5. EETT may disclose information that is needed for performing its duties, observing the principle of proportionality and professional secrecy.

## **Article 9**

### **Sanctions – Complaints**

1. Failure of Designated Bodies to fulfill their obligations shall under the provisions of this Regulation lead to the imposition of the sanctions of Article 12 (1) and (2) of Law 2867/2000, as is applicable each time. The relevant procedure shall be launched either ex officio or following a complaint filed with EETT. EETT shall issue a specially justified decision following a hearing of the interested parties. In the cases of Article 7 of this Regulation, the procedure provided for therein shall be launched.

2. Besides the sanctions under paragraph 1 of this article, EETT may, in accordance with Article 3 (15) of Law 2867/2000, by its justified decision, and following a hearing of the interested parties, impose the sanctions provided for in the above provision upon the Designated Body.

## **Article 10**

### **Publication of Decisions regarding the Designation of Bodies**

1. EETT keeps a Registry of Product Bodies and a Registry of Voluntary Accreditation Bodies which have been designated as responsible for performing the Conformity Assessments under the provisions of this Regulation. The Registry includes the particulars of the Designated Body (name, distinctive title, seat, Tax Identification Number, legal representatives), the description of the scope and the date of its Designation. The same Registry includes all modifications to the Designation, as well as any suspension or revocation thereof.

2. The information under paragraph 1 of this article is published at the EETT website.

## **Article 11**

### **Fees**

1. The fees imposed correspond to the cost of the Body Designation and supervision procedure.

2. At the time of submission of their applications, the entities requesting to be designated Designated Bodies shall, pursuant to the provisions of this Regulation, be required to pay a duty to EETT for services related to the Designation procedure, which is set to €600 per Designation act.

3. Each calendar year and until January 31st each year, an annual Designated Body supervision fee shall be paid fixed to €300.

4. For each notification of modification of its information, the Designated Body shall pay pursuant to Articles 4 and 5 of this Regulation a modification and approval fee of €100.

5. In case of termination of the Designated Body's works and revocation of its Designation, a fee shall be paid for the keeping of its file by EETT, which is set to €500.

6. The Body Designation reevaluation fee, as provided for under Article 5 (11), is set to €300.

7. EETT may by its decision readjust such fees.

## **Article 12**

### **Notification of the European Commission**

1. EETT notifies to the European Commission all legal entities designated Designated Bodies, as well as the criteria and other conditions accompanying such Designations.

2. The above obligation for informing the European Commission also applies in the event of suspension of the services provided or revocation of the Designated Body designation.

## **Article 13**

### **Entry into force**

This Regulation shall enter into force from the date of its publication in the Government Gazette.

## **ANNEX I**

### **BODY DESIGNATION CRITERIA**

1. Designated Bodies must be private or public law legal entities in the form of Societes Anonymes or Limited Liability Companies with a share capital of at least € 140,000.00. The entity's legal form and financial standing must be demonstrated by means of the following supporting documents that need to have been issued not earlier than three months from the date of submission of the application for the designation of the applicant Designated Body or events: a) Applicant Particulars:

1. Name and address of applicant

2. Legal form of applicant

3. Appointment of an attorney and legal representative of the applicant in Greece.

4. Official copy of the registration of the legal entity by the Chamber of Commerce or the equivalent authority of the State where the applicant has its seat.

5. The applicant's Tax Identification Number in the State where it has its seat.

Interested parties may obtain the relevant application form from EETT's offices.

b) Certificates demonstrating fulfillment of insurance and tax obligations.

c) Articles of Association in case of a Societe Anonyme or Limited Liability Company and all subsequent modifications thereto, in accordance with the provisions applicable to the aforementioned types of companies and the issue of the Government Gazette where the articles of association have been published, or in the event of a newly founded legal entity and newly founded company, a notary public company constitution deed, the relevant Government Gazette Issue and, if the said issue has not been yet published, the duplicate receipt of a Public Fund. In the event of a Societe Anonyme, the relevant constitution license issued by the local Societes Anonymes department of the Ministry of Development keeping the Societe Anonyme records (Prefecture) must be also furnished. In the event of a partnership, the Articles of Association shall be supplied which shall be an official copy of the Companies Book of the competent Court of First Instance.

d) Information demonstrating the capital provided for and paid.

e) Balance sheets for the last three (3) years. In the event of a newly constituted business, the respective documents of the partners suffice.

f) They must not be bankrupt, wound up, have ceased their activities, be in receivership or composition, or any other equivalent condition resulting from applicable provisions.

g) No procedure must have been launched against them declaring them bankrupt, under receivership or composition or equivalent decision provided for under applicable provisions.

h) The information under f and g above must also be demonstrated with regard to the person acting as legal representative, administrator or managing director.

2. When the legal entity designated a Designated Body also carries out other activities not falling within the scope of this Regulation, these must be clearly distinct from its activities as Designated Body. Compliance with this criterion shall be demonstrated by any appropriate means, such as the existence of an organizational chart of the organization or relevant employment contracts.

3. The body and its staff involved in the performance of Assessments falling within the scope of this Regulation may not carry out activities that may harm their independent judgment and integrity in terms of their duties. More specifically:

- The Body for Secure Signature Generation Devices and Secure Cryptographic Modules, the legal representative, administrator or Managing Director and its staff involved in the conduction of Assessments must be financially independent and may not be designers, manufacturers, suppliers or installers of electronic signature products, nor Certification Service Providers issuing certificates, nor directly involved in the design, manufacturing, trading, or maintenance of general Electronic Signature Products, nor may they be agents or representatives of the parties involved in the above activities.

- The Voluntary Accreditation Body, the legal representative, the administrator or Managing Director and the personnel of the Body responsible for the Assessment must be financially independent and may not be Certification Service Providers issuing Certificates, nor agents or representatives of the parties involved in the above activities.

The exchange of technical information between the manufacturer, Certification Service Providers and the Secure Signature Creation Devices and Secure Cryptographic Modules or the Voluntary Accreditation Body is not prohibited.

Dependence or not of the Body and its personnel shall be demonstrated in particular by means of documents related to the share or corporate composition of the applicant and its personnel, its participation in other businesses, which are involved in activities that are prohibited under the points of this paragraph, relevant contracts or other information that may be required. For the purposes of this regulation, the terms Assessment and business shall have the meanings they have in Articles 1 and 4 et seq. of Law 703/77. The Body and its personnel must carry out the Conformity Assessment duties with notable professional integrity and reliability. The professional integrity and reliability shall be evaluated by EETT, which shall also be based on all information which at the applicant's discretion is suitable for that purpose. In any case, the applicant must state by means of a Solemn Statement, that in the past three years none of the following events has applied to it or to a company under its Control and which is involved in a similar sector or to a person acting as administrator or Managing Director:

a. Imposition of sanctions owed to failure to perform obligations deriving from the legislation on telecommunications and personal data.

b. Final penal court ruling for crimes against property.

c. Removal from the local Chamber.

d. Bankruptcy, winding up or receivership.

The term control also includes the term joint control.

4. The Body and its personnel must carry out their duties with high technical sufficiency. The personnel charged with Conformity Assessment must have the following qualifications:

- full technical and vocational training, particularly in the sector of electronic signature technologies and related security issues of the information technology, in conjunction with the target control category for which it requests to be designated;
- adequate knowledge of the requirements related to Conformity Assessments that the applicant is to perform, as these are laid down in Greek and Community legislations on electronic signatures;
- adequate experience in the performance of such Conformity Assessments.

Technical sufficiency shall be demonstrated especially by means of a detailed chart of the specialized personnel to be employed, and reference to its know-how, experience and skills, or by means of references or certificates regarding the performance of similar duties. Satisfactory knowledge of the requirements related to the Conformity Assessment to be carried out by the applicant (target Assessment category) shall be demonstrated especially by means of publications, suggestions, certificates attesting to the successful completion of training seminars.

The Designated Body must also ensure suitable supervision of the Conformity Assessments it carries out and demonstrate the existence of methods ensuring such supervision.

5. The Designated Body must have the necessary personnel and facilities in order to carry out its administrative and technical tasks related to the duties for which it has been designated. The sufficiency of personnel and facilities shall be demonstrated by any appropriate means.

6. Independence of the personnel charged with the Assessments must be ensured. Their fees must not depend on the number of conformity Assessments carried out, nor on their results. Compliance with this criterion shall be demonstrated in particular by the personnel employment contracts and the existence of appropriate procedures ensuring good performance of the personnel duties.

7. The Designated Body practices regarding the Conformity Assessment must be characterized by transparency. To that end, the Designated Body shall record all relevant information or data. All interested parties must have access to the Designated Body services. The conformity Assessment methods, as well as all relevant procedures implemented by the Body must ensure impartial Assessments. Compliance with this criterion shall be demonstrated in particular through relevant documents, such as the existence of a manual and criteria for the performance of Conformity Assessments, as well as any other suitable information proving that such criteria apply to all relevant Assessments without exception, and through the existence of a relevant record and appropriate filing methods.

8. The Designated Body must take out civil professional liability insurance for all services it provides and be able to justify the respective coverage. EETT may make a decision by which to set the insurance coverage of bodies. Compliance with this criterion shall be demonstrated by the relevant insurance policy.

9. The Designated Body must make provision for appropriate procedures to ensure the professional secrecy of the information disclosed to it during the course of its duty pursuant to the administrative act of its Designation or any other relevant legislation. Compliance with this criterion shall be demonstrated by means of any relevant document held by the applicant describing its policies, as well as the procedures aiming at the protection of the professional secrecy, as well as by a relevant clause in the contract entered into between the applicant and the persons to which it provides its services.

10. Should the Designated Body make provision for awarding part of the Conformity Assessment procedures to third parties, it must ensure and demonstrate that such third parties have all required capabilities and it must also fully assume all responsibility with regard to the provision of the respective service by such third parties.

11. The Designated Body must ensure compliance with the provisions on the protection of persons against the processing of personal data. Compliance with this criterion shall be demonstrated by any suitable means, such as procedures implemented by the body for the protection of personal data.

## ANNEX II

### REASONS FOR DENIAL OF APPROVAL OF DESIGNATED BODY CHANGE

EETT is required, pursuant to the provisions of Article 5 (5) of this Regulation to refuse to grant approval of the change of control over a Designated Body in the following cases:

a) If the interested legal entity fails to provide, under applicable legislation, the required information to EETT, demonstrating that it meets the terms and conditions under this Regulation should it request its Designation as Designated Body.

b) If there is sustainable evidence that the interested legal entity does not have the required reliability and solvency, minimum transparency, independence and impartiality securities, or the minimum

required capital or staffing, experience and know-how, as required by this Regulation and the applicable legislation, hence guaranteeing compliance with the criteria and conditions of this Regulation.

c) When healthy competition is harmed. In such case the procedure and deadlines under Law 703/77 shall apply.

This decision to be published in the Government Gazette.

Maroussi, October 10, 2003

The President

EMMANOUIL A. GIAKOUMAKIS