

EnCaViBS

WP 2: The NIS Directive and its transposition into national law.

Member State:

The Netherlands

Decision dated 30 October 2018, concerning the rules related to the execution of the Network and Information Systems Act (Network and Information Systems Directive)

Important notice:

This text is an unofficial translation conducted at the SnT/ University of Luxembourg in the framework of the research project EnCaViBS.

The original legal acts which Member States notified to the European Commission as national execution measures were retrieved from official national databases. In order to focus on the core of the research project, only selected transpositions have been translated.

The translations only serve the purpose of being an information resource; there is no guarantee whatsoever that the translations correctly correspond to the original versions of the laws. Therefore, evidently, the texts have no legal value. The original, as well as the translated version of the legal acts, are available at www.encavibs.uni.lu, where additional information on the research project may be found.

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<https://www.fnr.lu/projects/the-eu-nis-directive-enhancing-cybersecurity-across-vital-business-sectors-encavibs/>.

Member State: Netherlands

Decision dated 30 October 2018, concerning the rules related to the execution of the Network and Information Systems Act (Network and Information Systems Directive)

Applicable as of 01-01-2019 up to and including the present date

Decision dated 30 October 2018, concerning the rules related to the execution of the Network and Information Systems Act (Network and Information Systems Directive)

We, Willem-Alexander, by the grace of God, King of The Netherlands, Prince of Oranje-Nassau, etc. etc. etc.

On the recommendation of Our Minister of Justice and Security dated 4 July 2018, at the department of Legislation and Legal Affairs, no. 2306334, made in agreement with Our Ministers of Defence, Economic Affairs and Climate Policy, Finance and Infrastructure and Public Works;

In view of directive (EU) 2016/1148, implementing regulation (EU) 2018/151 and the articles 5, paragraph one, 6, 9, 15 and 34 of the Network and Information Systems Act;

The Advice Department of the Council of State which has been taken on board (advice dated 25 July 2018, no. W16.18.0203/II);

In view of the follow-up report by Our Minister of Justice and Security dated 24 October 2018, at the department of Legislation and Legal Affairs, no. 2346717, made in agreement with Our Ministers of Defence, Economic Affairs and Climate Policy, Finance and Infrastructure and Public Works;

We have approved and understand:

Article 1. (definitions)

In this law and its derivative provisions, act is understood to mean the following: Network and Information Systems Act.

Article 2. (the designation of providers of essential services)

The providers of an essential services or categories of these types of providers will be designated:

Sector	Provider	Essential service
<i>Power: electricity</i>	The grid operator of the national high-voltage grid, designated on the basis of article 10, paragraph two, or 14 of the Electricity Act 1998 The regional grid operators, designated on the basis of article 10, paragraph nine, 13, paragraph one, or 14 of the Electricity Act 1998	Transmission and distribution of electricity
<i>Power: gas</i>	The grid operator of the national gas transportation network on the basis of article 2, paragraph one, or 5 of the Gas Act The regional grid operators, designated under article 2, paragraph eight, or 5 of the Gas Act	Transmission and distribution of gas
	The Nederlandse Aardolie Maatschappij B.V.	The detection and extraction of

Sector	Provider	Essential service
		gas on the basis of the concession for gas extraction from the Groningenveld on the basis of the Royal Decree dated 30 May 1963, no. 39 (Dutch Government Gazette 1963, 126)
<i>Power: petroleum</i>	The Netherlands Petroleum Stockpiling Agency (COVA)	The management of strategic petroleum stocks
<i>Transportation</i>	The Harbour Master's Division at the Port of Rotterdam N.V.	Handling shipping traffic
	Royal Schiphol Group N.V. <ul style="list-style-type: none"> • Air Traffic Control the Netherlands • Maastricht Upper Area Control Centre (MUAC) • Aircraft Fuel Supply B.V. • Royal Netherlands Marechaussee • each airline with a minimum of 25% of the total number of flight movements at Schiphol during a calendar year 	The quick and safe processing of aircraft activities for Schiphol Airport
<i>Banking Sector</i>	The credit institutions designated by means of a decree issued by De Nederlandsche Bank N.V. as referred to in article 4, point 1, of Regulation (EU) no. 575/2013	Offering and processing payment and securities trading
<i>Infrastructure for the financial market</i>	The parties designated by means of a decree issued by De Nederlandsche Bank N.V.: <ul style="list-style-type: none"> • operators of trading platforms as referred to in article 4, point 24, of Directive 2014/65/EU; • central counterparties as referred to in article 2, point 1, of Regulation (EU) no. 648/2012 	Offering and processing securities trading
<i>Drinking water</i>	A drinking water company as referred to in article 1, paragraph one of the Drinking Water Act	The supply of safe drinking water by means of the provision of public drinking water
<i>Digital infrastructure</i>	The provider of an internet node as referred to in article 4, under 13, of Directive (EU) 2016/1148 which is connected to more than 300 autonomous systems	Facilitating internet and data traffic
	The administrator of a register for top-level domain names which is registered with the Internet Assigned Number Authority (IANA) and administers more than	The management and registration of domain names

Sector	Provider	Essential service
	1,000,000 registered domain names	under a top-level domain
	The administrator of a register for top-level domain names who is registered with the IANA, who manages over 1,000,000 registered domain names and who provides DNS services for those domain names within the context of article 4, under 14 and 15, of Directive (EU) 2016/1148	The provision of DNS services for the benefit of domain names under a top-level domain

Article 3. (designating other vital providers)

Other vital providers or categories of these types of providers, as referred to in article 5, first paragraph, under b, of the act are designated as follows:

Sector	Other vital provider	Service
<i>Nuclear</i>	The holder of a certificate as referred to in article 15, section b, of the Nuclear Energy Act	The protection of facilities where nuclear energy can be released, fissile materials can be produced, manipulated or processed or where fissile materials can be stored, or facilities where nuclear energy can be released or where fissile materials can be produced, manipulated or processed, or where fissile materials can be stored
	Companies subject to the Nuclear Secrecy Decree. Company subject to the Implementation Regulation dated 24 September 1971/no.671/524	The protection of facilities where nuclear energy can be released, fissile materials can be produced, manipulated or processed or where fissile materials can be stored, or facilities where nuclear energy can be released or where fissile materials can be produced, manipulated or processed, or where fissile materials can be stored
		The safeguarding of the security and secrecy of data which are necessary for the splitting of various uranium isotopes found in fissile materials using gas centrifuges and the manufacturing of tools and materials which are necessary for the splitting of various uranium isotopes which can be found in fissile materials using gas centrifuges
<i>Creating and Maintaining</i>	Our Minister of Infrastructure and Public Works	The water barriers or parts thereof designated by Our Minister of Infrastructure

Sector	Other vital provider	Service
		and Public Works by means of a decree
<i>Financial</i>	The parties designated by means of a decree issued by De Nederlandsche Bank N.V.:	
	Clearance and settlement companies, as referred to in article 1:1 of the Financial Supervision Act	The provision of clearing and settlement services, as referred to in article 1:1 of the Financial Supervision Act
	Central securities depository, as referred to in article 2, paragraph one, of Regulation (EU) no. 909/2014	The exploitation of securities settlement systems
<i>Electronic communication networks and services/ICT</i>	A supplier of an electronic communication network or an electronic communications services that administers a network or infrastructure which is either directly or indirectly used for the provision of a telephone, texting or internet access service with a minimum of 1,000,000 end users	The provision of telephone, texting or internet services

Article 4. (exception security phases financial authorities)

Articles 7, 8, 9, 26 and 27 of the act do not apply to the credit institutions, central counterparties and exploiters of trading platforms designated by De Nederlandsche Bank N.V. in conformity with article 2.

Article 5. (security and reporting obligation digital service provider)

Acting contrary to articles 2, 3 and 4, paragraph one, of the implementing regulation (EU) 2018/151 of 30 January 2018 laying down rules for application of Directive (EU) 2016/1148 of the European Parliament and of the Council as regards further specification of the elements to be taken into account by digital service providers for managing the risks posed to the security of network and information systems and of the parameters for determining whether an incident has a substantial impact (PbEU 2018, L 26) is prohibited.

Article 6. (the way in which an incident is reported)

- 1 A notification submitted to Our Minister, as referred to in article 10, paragraphs one or three, of the act will be made in the manner determined by Our Minister.
- 2 A notification submitted to a competent authority, as referred to in article 10, paragraphs two or three, or 13, paragraph one, under b, of the act will be made in the manner determined by the competent authority in question.
- 3 A notification to the CSIRT for digital services as referred to in article 13, paragraph one, under a, of the act will be submitted in the manner determined by the CSIRT for digital services.

Article 7. (revocation Reporting Obligation Cyber Security Decree)

The Reporting Obligation Cyber Security Decree is being revoked.

Article 8. (implementation)

This decree will come into effect on the date determined by royal decree. A different date may be determined for various articles or parts of articles or may open to different interpretation by different categories of providers or services.

Article 9. (short title)

This decree will be known as: Network and Information Systems Directive.

We order and command that this decree and the relevant explanatory memorandum shall be published in the Bulletin of Acts and Decrees.

Wassenaar, 30 October 2018

Willem-Alexander

The Minister of Justice and Security,

F.B.J. Grapperhaus

Published on the eighth of November 2018

The Minister of Justice and Security,

F.B.J. Grapperhaus