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COVER NOTE

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| From: | Commission Services |
| To: | Delegations |
| Subject: | Update on NIS Directive implementation process - presentation and exchange of views |

Delegations will find attached an update by the Commission Services regarding the NIS Directive implementing process.

Note for the Horizontal WP on Cyber Issues

Update on NIS Directive implementation process

9 December 2016

Introduction

The adoption of the NIS Directive is a major milestone towards building cybersecurity resilience on the European level. The real impact of this first European cybersecurity legal act will, however, largely depend on the success of its transposition and implementation in Member States.

Timeline for implementation of the Directive

| August 2016 | - | Entry into force |
|------------------|---|--|
| Dec. 2016 | 4 months | Submission of the draft of the first implementing act laying down the procedural arrangements necessary for the functioning of the Cooperation Group to the Network and Information Systems Security Committee ¹ |
| Feb. 2017 | 6 months | Cooperation Group and CSIRT network begin to perform their tasks |
| Aug. 2017 | 12 months | Adoption of implementing acts related to the security and notification requirements for DSPs ² |
| Feb. 2018 | 18 months | Cooperation Group establishes work programme |
| May 2018 | 21 months | Transposition into national law |
| Nov. 2018 | 27 months | Member States to identify operators of essential services |
| Nov. 2018 | 27 months | Member States to submit information to Commission necessary to enable the Commission to assess the implementation of the Directive, in particular the consistency of Member States' approaches to the identification of operators of essential services. |
| May 2019 | 33 months (i.e. 1 year after transposition) | Commission report assessing the consistency of Member States' identification of operators of essential services |
| May 2020 | 45 months | Member States to review and, where appropriate, update the list of identified operators of essential services |
| May 2021 | 57 months (i.e. 3 years after transposition) | Commission review of the functioning of the Directive, with a particular focus on strategic and operational cooperation, as well as the scope in relation to operators of essential services and digital service providers |

¹ Pursuant to Article 11 (5) of the NIS Directive, the formal deadline for the submission of the first draft is 9 February 2017. The Commission's intention with this early submission is to have the procedural arrangements adopted before the formal launch of the Cooperation Group so that a swift functioning of the Group is ensured from the very beginning.

² A first rough draft of the implementing act is planned to be presented to the members of the NIS expert group (which includes representatives of Member States advising the Commission) by end of December 2016 / January 2017.

Current state of play

Cooperation Group

The Cooperation Group will have a very important role in ensuring that the Directive is implemented in a consistent manner across different sectors as well as cross borders, to ensure coherent approach across the Union and avoid market fragmentation.

Even though the Cooperation Group will be formally established six months after entry into force of the Directive (February 2017), the Commission has already organised two informal meetings of the Group to start the work and assist Member States in the implementation process from as early stage as possible.

The first informal meeting of the Cooperation Group took place on 14 June 2016. During this meeting the Cooperation Group members discussed the desired set-up, role, working methods and priority of tasks of the Group.

During the second informal meeting of the Cooperation Group on 25 October 2016 the Members of the Group discussed - *inter alia* - an indicative work plan that will serve as a reference point for the work of the Group during its initial operational period starting in February 2017 till the adoption of the first work program (by 9 February 2018 as foreseen in the NIS Directive).

Based on the indicative work plan endorsed by the Group, the Commission intends to start very soon the organisation of the different work streams in order to enable the timely delivery of the agreed outcomes.

During the last meeting, a number of Member States have shared their experience so far with the NIS implementation process (Bulgaria, France, Germany, Ireland).

The next meeting, and at the same time the first official one, of the Group is scheduled on 9 and 10 February 2017.

CSIRT Network

Ahead of and in preparation to the official launch of the CSIRT Network in February 2017, three informal meetings have already taken place during 2016. The first informal meeting was held during the "One Conference" in April at The Hague, quickly followed by the 2nd meeting in May organised by ENISA in Riga and finally, on November the 3rd again in the Hague.

These three informal meetings have allowed the CSIRT network to discuss its terms of reference and rules of procedures as well as draft work plan.

The meetings have also provided the opportunity for participants to be briefed on relevant developments as regards the Cooperation Group and the progress of the Connecting Europe Facility actions on Cybersecurity.

The first official meeting of the CSIRT network will take place in Malta on 22-23 February. A "save the date" notification has already been sent out.

Country Visits

In order to support Member States in the transposition process the Commission is visiting Member States to present the NIS Directive to relevant authorities, respond to any pertinent questions at this stage of the process and learn about national approaches and work that has been done. So far the Commission visited 9 countries: Spain, Poland, Ireland, Bulgaria, Belgium, Denmark, Romania, Germany and Portugal to discuss the ongoing work related to the transposition of the NIS Directive into the national law.

One of the key insights from these visits is that Member States are at very different stages in the transposition process. In some countries the transposition process is quite advanced, whereas in some others it is just starting. During all visits so far it was apparent that the role of the Cooperation Group will be crucial to ensure that the Directive is transposed and implemented in a consistent manner across the EU.
