



Cybersecurity@CEPS SUMMIT 2020


The review of the NIS Directive:
make-up or far-reaching changes?

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December 2nd 2020

AGENDA

1. Introduction
2. Objectives of the study to support the review of the NIS Directive
3. Evaluation of the NIS Directive
4. Novel policy concepts and measures
5. Impact assessment

A close-up photograph of a brass padlock resting on a laptop keyboard. The padlock has a black plastic body and a brass shackle and keyhole. The word "Introduction" is written in white text over the black part of the padlock, with a horizontal line underneath it. The background shows the keys of the laptop keyboard, which are slightly out of focus.

Introduction

NIS DIRECTIVE

Directive (EU) 2016/1148¹² concerning measures for a high common level of security of network and information systems across the Union entered into force in **August 2016** as the **first horizontal EU cybersecurity legal act**. Member States had to transpose the Directive into their national laws by **9 May 2018**.

The **NIS Directive** was designed to:

- / **Improve cybersecurity capabilities at national level** (e.g. development of national cybersecurity strategies; designation of a competent authority, the SPOC and the CSIRT);
- / **Increase EU-level cooperation** (e.g. improved strategic cooperation and the exchange of information among Member States through NIS Cooperation Group and CSIRTs Network); and
- / **Establish risk management and incident reporting obligations for operators of essential services and digital service providers** (e.g. implement security requirements and incident reporting).



A blue-tinted photograph of a metal padlock resting on a laptop keyboard. The padlock is in sharp focus, while the keyboard keys are blurred in the background. The overall image has a cool, monochromatic blue color scheme.

Objectives of the study to support the review of the NIS Directive

NIS Directive review study



Evaluation of the NIS Directive

Retrospective evaluation of the functioning of the legal framework in its current shape elaborating on the lessons learned from the implementation of the NIS Directive in the Member States while identifying persisting and emerging issues.

New policy concepts and measures

Identify both **novel policy concepts and measures** including concrete new regulatory elements not addressed in the current NIS Directive, but which would contribute to increasing the level of cybersecurity in Europe in the future.

Impact assessment

Forward-looking impact assessment in which the positive and negative impacts of several possible measures and policy options were assessed.

Consultation activities

Comprehensive **stakeholder dialogue** (i.e. National Competent Authorities, SPOCs, CSIRTs, OESs and DSPs) feeding into the study and into the wider impact assessment process carried out by the European Commission.

Main findings from the evaluation



Problems related to the **increasing magnitude, frequency and impact of security incidents** and the **lack of common requirements on OESs and DSPs**.



There is the need to **enlarge the scope** and cover **new sectors and new types of services**.



Misalignments in obligations leading to **additional administrative burden** and **additional fines**.



Uneven **levels of preparedness** across and within Member States, leading to fragmented approaches particularly regarding the **identification of OESs**.



A great **variation of security requirements** was identified (e.g. from minimum length for passwords in absence of two-factor authentication to more general requirements).



There is **substantial variation in incident reporting** (e.g. modalities of reporting and thresholds).



A **highly fragmented supervisory framework** that sometimes creates **uncertainty regarding the supervisory function**.



Discrepancies related to the **identification and requirements for OESs** impacting **OESs operating across different Member States**.

A close-up photograph of a person's hands sorting through a large stack of papers in a filing cabinet. The hands are positioned in the upper right, with one hand holding a white paper tab and the other reaching into the stack. The papers are organized into folders with yellow and white tabs. The background is a blurred window with white frames, suggesting an office environment. The text "Novel policy concepts and measures" is overlaid in the center of the image, underlined.

Novel policy concepts and measures

Policy concepts and measures considered 1/2



Policy concepts and measures considered 2/2

Aligning provisions on **penalties** across Members States.



Introducing national policies related to the **security of the supply chain**.



Including **cyber crisis management** measures.



Introducing **new tasks and responsibilities for NCA** and **improved mandate for the CG and CSIRTs**.



Introducing national policies on **coordinated vulnerability disclosure**.



Considering a potential role for **Cybersecurity Liability Insurance** policies.



Focus on ***Lex Specialis*** and absence of coherence between different legal instruments.



Turning the current **Directive** into **Regulation**.



Impact assessment

Impact assessment methodology

1 Problem definition
Drivers, scale and consequences of problems identified.

2 Rationale for EU intervention
Legal basis and subsidiarity principles are respected.

3 Policy objectives
Synergies and trade-offs between policy objectives.

4 Policy options
Most relevant policy measures to address the problems identified.

5 Impact Analysis
Impacts of each policy option based on the measures retained.

6 Comparative assessment
How do policy options complement and compare to each other.



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