

Directive (EU) 2016/1148 of the European Parliament and of the Council of 6 July 2016 concerning measures for a high common level of security of network and information systems across the Union

CHAPTER IV

SECURITY OF THE NETWORK AND INFORMATION SYSTEMS OF OPERATORS OF ESSENTIAL SERVICES

Article 14

Security requirements and incident notification

1 Member States shall ensure that operators of essential services take appropriate and proportionate technical and organisational measures to manage the risks posed to the security of network and information systems which they use in their operations. Having regard to the state of the art, those measures shall ensure a level of security of network and information systems appropriate to the risk posed.

2 Member States shall ensure that operators of essential services take appropriate measures to prevent and minimise the impact of incidents affecting the security of the network and information systems used for the provision of such essential services, with a view to ensuring the continuity of those services.

3 Member States shall ensure that operators of essential services notify, without undue delay, the competent authority or the CSIRT of incidents having a significant impact on the continuity of the essential services they provide. Notifications shall include information enabling the competent authority or the CSIRT to determine any cross-border impact of the incident. Notification shall not make the notifying party subject to increased liability.

4 In order to determine the significance of the impact of an incident, the following parameters in particular shall be taken into account:

- a the number of users affected by the disruption of the essential service;
- b the duration of the incident;
- c the geographical spread with regard to the area affected by the incident.

5 On the basis of the information provided in the notification by the operator of essential services, the competent authority or the CSIRT shall inform the other affected Member State(s) if the incident has a significant impact on the continuity of essential services in that Member State. In so doing, the competent authority or the CSIRT shall, in accordance with Union law or national legislation that complies with Union law, preserve the security and commercial interests of the operator of essential services, as well as the confidentiality of the information provided in its notification.

Where the circumstances allow, the competent authority or the CSIRT shall provide the notifying operator of essential services with relevant information regarding the follow-up of its notification, such as information that could support the effective incident handling.

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At the request of the competent authority or the CSIRT, the single point of contact shall forward notifications as referred to in the first subparagraph to single points of contact of other affected Member States.

6 After consulting the notifying operator of essential services, the competent authority or the CSIRT may inform the public about individual incidents, where public awareness is necessary in order to prevent an incident or to deal with an ongoing incident.

7 Competent authorities acting together within the Cooperation Group may develop and adopt guidelines concerning the circumstances in which operators of essential services are required to notify incidents, including on the parameters to determine the significance of the impact of an incident as referred to in paragraph 4.