

Forsvarsministeriet
Holmens Kanal 9
1060 København K

Sagsnummer 2017/006372

Forslag til Lov om sikkerhed i net- og informationssystemer for operatører af væsentlige internetudvekslingspunkter m.v. 1

Netnod Internet Exchange i Sverige AB (Netnod) have been given the ability to come with comments on the proposal for implementation of the NIS-Directive in Denmark, Sagsnummer 2017/006372.

Netnod as a Swedish Organization that provide services in Sweden reports incidents according to the Swedish implementations of ***Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive)***, more specifically ***Lag (2003:389) om elektronisk kommunikation, Förordning (2003:396) om elektronisk kommunikation*** and ***PTSFS 2015:2 Post- och telestyrelsens föreskrifter om krav på driftsäkerhet***.

The IXP that Netnod operates in Malmö also gives the ability for organizations in Denmark to connect to Netnod equipment located in Denmark. Any incidents on such services are according to Netnod escalation and reporting processes reported to affected customers as well as according to instructions provided by The Swedish Post and Telecom Authority (PTS). Specifically ***PTSFS 2015:2 Post- och telestyrelsens föreskrifter om krav på driftsäkerhet***.

Regarding the proposed legislation, Netnod already in the comments provided for the proposed implementation in Sweden¹ point out it is important each organization do not have to report to multiple agencies (part from the affected customers) and this not only based on the services provided but also cross border situations like the services Netnod provides in Copenhagen.

¹ <https://www.netnod.se/news/netnod-comments-on-the-nis-directive>

In Sweden providers of IXP services are covered by the implementation of **Directive 2002/21/EC** and although the NIS-Directive (**Directive (EU) 2016/1148 concerning measures for a high common level of security of network and information systems across the Union**) covers IXPs explicitly, the implementation of **Directive 2002/21/EC** has precedence. The following can be found in Article 1 of the NIS-Directive:

3. The security and notification requirements provided for in this Directive shall not apply to undertakings which are subject to the requirements of Articles 13a and 13b of Directive 2002/21/EC, or to trust service providers which are subject to the requirements of Article 19 of Regulation (EU) No 910/2014.

Netnod wants to, based on this information, provide the following two comments:

1. The contact point for certain services depends on the implementation of Directive 2016/1148 in another member state. In the case of Sweden and IXPs, it might not be the CSIRT, but instead the regulator PTS as IXPs are covered by the implementation of relevant portions of Directive 2002/21/EC.
2. If an organization in one member state provide services in also other member states it is our view that the legislation applies that is implemented in the member state where the organization resides. In the case of Netnod that is Sweden, and oversight over Netnod operation is the The Swedish Post and Telecom Authority (PTS) and specifically in this case **PTSFS 2015:2 Post- och telestyrelsens föreskrifter om krav på driftsäkerhet**.

For Netnod Internet Exchange i Sverige AB

A handwritten signature in blue ink, appearing to read "L. M. Jogbäck".

Lars Michael Jogbäck
CEO