

## THE SECURITY OF NETWORKS AND INFORMATION SYSTEMS LAW OF 2020

Decision under sections 17(y), 19, 20(1)(d), 20(1)(f), 21, 24(c), 26(c), 46(1), 46(2), 46(4) and 46(5)

Preamble                    In exercise of the powers vested in it under sections 17(y), 19, 20(1)(d), 20(1)(f), 21, 24(c), 26(c), 46(1), 46(2), 46(4) and 46(5) of the Security of Networks and Information Systems Law, 2020 as amended from time to time, the Digital Security Authority (hereinafter the "Authority"), issues this Decision establishing the procedure for conducting Public Hearings, in accordance with the requirements and obligations of the Law.

### PART I

#### Introductory Provisions

Short Title.                **1.** This Decision may be cited as the Public Hearings Procedure Decision , 2021.

Interpretation.           **2.** (1) In this Decision, unless the context otherwise requires -

"public hearing" means the public hearing held in accordance with subsection (c) of section 24 of the Law;

"day" means a calendar day, unless it is otherwise provided in the Law, or unless the context otherwise requires ;

"Law" means the Security of Networks and Information Systems Law , 2020 and includes any Law amending or substituted for the same;

"Person" means operators of essential services, operators of critical information infrastructure, providers of electronic

communications networks and/or services and digital service providers, and any other legal or natural persons or organizations at the discretion of the Authority, in accordance of its powers deriving from the Security of Networks and Information Systems Law;

(2) Any terms used in this Decision which are not otherwise defined , shall have the meaning assigned to them by the Law.

Scope of Application  
of this Decision.

**3.** This Decision shall apply to the determination of the procedure for public hearings, to be carried out by the Authority, in accordance with the provisions of section 24 (c ) of the Law, as well as the procedures for notifying and inviting persons to such hearings.

Purpose –  
Object of the Public  
Hearing procedure.

**4.(1)** The public hearing is a form of public dialogue and consultation aimed at ensuring conditions of transparency and democracy in the decision-making process.

(2) The public hearing procedure is primarily intended to form an accurate picture and to inform the Commissioner more fully and accurately, so that it can reach a comprehensive, well-informed and sufficiently reasoned Decision.

## PART II Public Hearings

Scope of application of  
the Public Hearing.

**5.** A public hearing shall be carried out in the cases set out in section 24 (c) of the Law.

Duration of Public Hearing.

**6. (1)** The public hearing shall be held in accordance with the procedure set out in Part IV of this Decision and, unless there are exceptional circumstances , its duration may not exceed sixty (60) days, subject to paragraph (1) of article 15 of this Decision.

(2) The duration of the public hearing starts from its notification, in accordance with the provisions of paragraph (1), (2) and (3) of article 9 of this Decision, and ends with the issuance of a final Decision by the Commissioner, who must publicise or communicate it in accordance with article 15 of this Decision.

Public Hearing Body.

**7.** The public hearing is carried out by the Commissioner who presides, in the presence of a Secretary.

Participation in the Public Hearing.

**8. (1)** The procedure of the public hearing consists in the notification and invitation, by the Authority, of the persons directly affected by the exercise of the Authority's powers and competence arising from section 24 (c) of the Law, as well as any other person or organization who has a legitimate interest to this effect, in order for such persons to present their views and provide any available evidence regarding their claims.

(2) Any person, any Public Sector Service, or any Public Law Organization or Private Law Organization, or any person who, at the discretion of the Authority, is entitled to participate in a public hearing together with their advisors or representatives.

(3) The Authority may, at its discretion, allow the participation of any person at any stage, or invite any person, organization, body or Authority to participate, if it deems it appropriate.

(4) Employees of the Authority as well as any other person whose presence is deemed necessary and who possesses specialized legal and/or financial and/or technical knowledge may be invited during the meetings.

### PART III

#### Procedure before Public Hearings

Notice for a Public Hearing.

**9.** (1) Where a public hearing is required, the Authority shall invite all persons who are directly affected by the exercise of the Authority's responsibilities and powers arising from section 24 (c) of the Law, as well as any other person who has a lawful interest to this effect by a relevant public notice published on the Authority's website and in at least two daily Cyprus newspapers, subject to paragraph (2) of this article.

(2) The Authority may, exceptionally and at its discretion, invite the affected parties by an invitation and/or fax and/or by e-mail and/or electronically in a manner determined by the Authority.

(3) The notice of the parties, in accordance with paragraphs (1) and (2) of this article , constitutes an act which prescribes the subject matter, the relevant deadlines for submission of opinions, the competent body as well as the place and time for carrying out the public hearing.

(4) The invitation to a public hearing shall be notified to the parties by the Authority, at least thirty (30) days prior to the day of the public hearing:

Provided that the Authority may, at its discretion, following a relevant justification, set a shorter period of time regarding the

invitation to a public hearing, namely the thirty (30) days defined in this Decision. When determining the invitation to a public hearing, the Authority shall in particular take the following into account:

- (a) the possible urgent need to take measures on specific issues regarding the Security of Networks and Information Systems,
- (b) the complexity of the issues raised at the public hearing,
- (c) any prior consultations with interested parties.

#### PART IV Main Procedure

Written Procedure.

**10.**(1) The persons invited to a public hearing in accordance with paragraph (3) of article 9 of this Decision, may, after a relevant deadline is prescribed, submit a written report to the Authority by facsimile and/or electronic mail and/or electronically in a manner determined by the Authority, by which they set out their positions and opinions.

(2) The written reports submitted pursuant to paragraph (1) of this article shall be sufficiently detailed, with respect to the issues considered at the said public hearing.

(3) Any of the parties who are invited to the public hearing, may declare in writing that he shall limit themselves to submitting their written report.

(4) Where any of the parties, in the context of a previous consultation or hearing, have already submitted their views to the

Authority, it shall not be necessary to submit their views again, provided that their positions on the specific issue have not changed. In these cases, the party shall inform the Authority in writing within the deadline provided by paragraph (1) of article 10 of this Decision, regarding the hearing or consultation where the party had submitted its views and which do not differ from that party's views regarding the ongoing hearing.

(5) In case any of the participating parties submit voluminous or particularly extensive written reports, it is appropriate to submit a summary of the main points which should not normally exceed four (4) typed pages.

(6) In the written reports which are submitted, it is advisable to avoid generalities, theoretical positions and unproven claims or characterizations which are not related to the case under evaluation. The Commissioner shall not take into account positions and opinions which are not sufficiently substantiated or are clearly arbitrary. The Commissioner will focus its attention on positions supported by scientifically acceptable evidence, facts and data.

(7) The case file in which all relevant documents are recorded will be available after the public hearing to all the persons mentioned in article 8 of this Decision, for information purposes.

(8) All information and data, which are contained in the written reports which are submitted by the parties constitute public information that all parties participating in the proceedings are entitled to access immediately after the completion of the public hearing. If a party wishes the non-disclosure of any part of the information that it submits together with the relevant written

reports, it should clearly state, alongside the submission of the written reports, the information that it does not wish to be made public to the other parties, by giving the relevant justification:

Provided that, pursuant to the provisions of subsection (3) of section 19 of the Law, the Commissioner may otherwise decide regarding the confidentiality of the said information, by providing a specific reason subject to business confidentiality.

Hearing Procedure.

**11. (1)** The public hearing procedure shall be carried out before the Commissioner as prescribed by article 7 of this Decision.

(2) The hearing is guided by the Commissioner, who shall preside over the public hearing.

(3) The Commissioner shall be responsible for controlling the process, so that it is possible to formulate all substantiated positions and opinions which are relevant to the case under evaluation in a fair manner, on the one hand and, on the other, to ensure the completion of the process without delay.

(4) The Commissioner must carry out the public hearing in an efficient and productive manner and ensure that the time of the hearing and of the participants is not used for purposes other than those served by the hearing. For this reason, the Commissioner shall not allow the repetition of positions and opinions that have already been expressed before, the use of time of the hearing for the presentation and discussion of issues that are not directly related to the case under consideration or for the discussion of points that have already been clarified by previous presentations or evidence. The Commissioner will not be influenced in forming his views by the possible repetition of similar views by several

participating parties, but will focus his attention on the merits of the data and arguments presented before him.

(5) Oral public hearings shall be open to the public, unless the matters discussed concern the defence or security of the state or there is another reason of public interest, which will be specified in a relevant reasoned Decision of the Commissioner. Where public hearings are open to the public, the Commissioner shall communicate the public nature of the said hearing in the public notice referred to in paragraph (1) of article 9 of the said Decision.

(6) At the commencement of the public hearing, the Commissioner will proceed to confirm the representation of the invited persons and their advisors, where he will also verbally announce to the invited persons the thematic object of the public hearing and the main characteristics of the case and will invite them to develop their views in relation thereto, preliminarily determining the schedule of the oral public hearing and the order in which the parties will present their views.

(7) Following the oral procedure, the parties shall present their views, commenting, if they wish, on the content of the Commissioner's opening statement, and shall clearly explain the reasons why they consider their positions to be justified. These reasons should not be general and vague, nor should they express unauthorised valuations.

(8) The parties shall present their positions in succession, followed by any person or body participating in the procedure following a relevant decision of the Commissioner.



(9) During the oral public hearing, the parties shall present the main points of their positions, which have already been submitted in writing, and provide the clarifications requested by the Commissioner and the members of the Body who carry out the hearing. If the requested clarifications cannot be provided immediately, the said clarifications will be sent to the Commissioner within seven (7) working days from the completion of the hearing.

(10) In cases where the party does not provide the clarifications requested in accordance with paragraph (9) of this article within the prescribed period, the Commissioner will not grant an extension for the submission of the said clarifications, except in exceptional cases where the delay may be objectively justified and the Commissioner consents to this extension.

(11) The Commissioner may put clarifying questions to any party that appears before him.

(12) During the oral public hearing, all parties participating in the oral public hearing will report exclusively to the Commissioner, unless the Commissioner requests or allows, in his discretion, an exchange of arguments between the parties, with the aim of forming an accurate picture and receiving more complete and accurate information.

(13) The persons attending the oral public hearing do not have the right to participate in the hearing process.

(14) The Commissioner has the power to order the removal from the room where the oral part of the public hearing is held, of any

person who interferes without authorization or in any way obstructs the oral part of the public hearing.

(15) The Commissioner may decide to carry out a site visit related to the case, if he deems that it may assist in making a thorough decision.

(16) At the end of the procedure, the Commissioner will provide, at his discretion, the opportunity to present the final opinions and positions of the parties, in the context of which the opportunity to comment on the positions of the other parties will also be provided.

(17) The Commissioner will close the proceedings of the oral part of the oral public hearing without announcing his conclusions in relation to the case.

Interruption,  
continuation and  
completion of the oral  
procedure.

**12.(1)** The oral public hearing must be completed within a reasonable time limit and within the time limit set for the completion of the public hearing, in accordance with article 6 of this Decision and according to the decision of the Commissioner, who will take into account the particular circumstances and the complexity/specificity of the subject matter of the hearing.

(2) The procedure of the public hearing shall be conducted in one or more meetings, especially if there is a need to submit additional evidence. The Commissioner has the power to interrupt the procedure and to resume it at a fixed date and time. In this case, a new notification shall not be made, but the oral notification of the Commissioner about the place and time of the next meeting shall be sufficient.

Keeping of minutes.

**13.** Minutes shall be kept by the Secretary during the meeting. The Minutes shall, inter alia, record the names and status of those present, the place and time of the meeting, as well as the topics discussed with a brief but comprehensive reference. Subject to the provisions of paragraph (8) of article 10 of this Decision, the Minutes constitute public information and all parties participating in the process can have access thereto.

Supplementary Report.

**14.** The parties may, after the completion of the oral procedure, and within a period of seven (7) working days, submit a written supplementary report, by which they will further state their claims and/or by which they comment on issues raised during the hearing procedure.

Decision of Commissioner.

**15. (1)** The Commissioner shall issue his decision on the relevant case within thirty (30) days from the completion of the public hearing procedure, except in exceptional cases where a justification is given for the delay.

(2) The Commissioner's Decision shall contain sufficient justification and reference to the assessment of the data, the facts, the date of its issue as well as the legal basis that was used.

(3) Without prejudice to his obligations under the law, the Commissioner shall publicise the decision on the Authority's website and at the same time communicate it to the parties by fax and/or by e-mail and/or electronically in a manner determined by the Authority, subject to the non-disclosure of confidential information pursuant to subsection (3) of section 19 of the Law.

(4) The Commissioner may at any time revoke his Decision, if he becomes aware of new facts and/or information that was not disclosed to him.

Pending procedures.      **16.** Pending public hearing procedures shall be governed by the existing rules at the time of their commencement.

## PART V

### Final Provisions

Amendments.      **17.** The Authority may, by its Decision, repeal/replace, amend and/or supplement this Decision. In order to amend or supplement this Decision, the Authority may carry out a public consultation. Each amendment shall be published in the Official Gazette of the Republic and shall be posted on the website of the Authority.

Date of commencement.      **18.** This Decision shall come into effect on the date of its publication in the Official Gazette of the Republic.

## Explanatory Report

According to sections 17(y), 19, 20(1)(d), 20(1)(f), 21, 24(c), 26(c), 46(1), 46(2), 46 (4) and 46(5) of the Law, the Digital Security Authority issues the Decision on the procedure of Public Hearings.

The Decision determines the procedure for carrying out Public Hearings, in accordance with the requirements and obligations of the Law. The Public Hearing procedure establishes both the rights and the obligations of persons regarding the ability of the Authority to carry out Public Hearings.

