

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

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### Regulations under sections 11 and 45

89(I) of 2020. In exercise of the powers vested in it by sections 11 and 45 of the Security of Networks and Information Systems Law , 2020, the Council of Ministers issues the following Regulations:

Short title. 1. These Regulations may be cited as the Security of Networks and Information Systems (Fees) Regulations, 2020.

Interpretation. 2.-(1) In these Regulations, unless the context otherwise requires -

“Authority” means the Digital Security Authority, of which the National CSIRT forms part, as defined in section 6 of the Law;

"new operator" means an operator of critical information infrastructure and/or an operator of essential services prescribed under the Law for the first time upon the carrying into effect of these Regulations, and/or an electronic communications service provider which is registered for the first time with the Office of the Commissioner for Electronic Communications and Postal Regulation upon the carrying out of these Regulations and/or a digital service provider in the Republic which is registered for the first time with the Authority upon the carrying out of these Regulations;

“Law” means the Security of Networks and Information Systems Law, 2020;

“operator” means an operator of critical information infrastructure and/or an operator of essential services determined pursuant to the Law, and/or a provider of electronic communications services registered with the Office of the Commissioner for Electronic Communications and Postal Regulation

and/or a provider of digital services in the Republic that is registered with the Authority.

(2) Any terms contained in these Regulations and which are not otherwise defined, shall have the meaning assigned to them by the Law.

Determination of the amount of fees. **3.-(1)** The amount of the fees imposed on operators in accordance with section 11 of the Law, shall be determined by the Commissioner.

(2) When determining the amount of fees under paragraph (1) or when periodically adjusting them under Regulation 6, the Commissioner takes into consideration the principles and criteria set out in Regulations 4 and 5.

Covered costs. **4.-(1)** The fees shall cover the administrative costs arising from the management, supervision and application of the Law on the operators covered thereby.

(2) The administrative costs referred to in paragraph (1) shall, inter alia, include:

(a) international cooperation, harmonization and standardisation,

(b) the monitoring of compliance and other controls of operators,

(c) regulatory work which includes the drawing up and enforcement of administrative decisions,

(d) the general costs for the establishment and operation of the Authority,

(e) the drawing up and/or participation in co-financed or other projects,

(f) the elaboration of actions of the cyber security strategy of the Republic.

General  
principles for  
the calculation  
of fees.

**5.-(1)** The manner of calculation and imposition of fees shall be objective, transparent and proportionate and shall cause the minimum possible additional administrative or other related costs.

(2)(a) Subject to the provisions of subparagraph (b), the fees shall be based on the total gross annual revenue of the operators which are certified by an independent approved auditor, for the activities in the sectors and sub-sectors defined under the Law, to which a relevant fee is imposed.

(b) With regard to the network and/or electronic communications providers, the administrative fees shall be based on the total gross annual revenue derived only from electronic communications services.

(3) The fees which are certified by an independent approved auditor for the reporting year (year x), shall be collected in December of year x-1, based on the gross annual revenue of year x-2.

(4) Operators shall submit to the Commissioner, accurate, clear and up-to-date figures certified by an independent approved auditor regarding the amount of gross annual revenue, no later than the 30<sup>th</sup> of August of year x-1.

Annex.

(5) In the event that an operator fails to comply with the provisions of paragraph (3), the Commissioner shall calculate the fee payable in accordance with the provisions of the Annex, taking into account historical and ancillary data relating to the operator's revenue.

(6) In the case of new operators, for which the data referred to in paragraphs (2) and (3) are not yet available and since this is necessary for the determination of the fees in accordance with these Regulations, the

Annex.

Commissioner shall calculate the payable fee in accordance with the provisions of the Annex, taking into account any information submitted at the Commissioner's request and/or other relevant information which is available.

(7) (a) The Commissioner shall send a letter to operators determining the amount of the fee to be paid.

(b) Affected operators shall have the right to submit representations within ten (10) working days from receipt of the relevant letter by which the Commissioner determines the amount of the fee payable in accordance with the provisions of these Regulations.

(c) The Commissioner shall evaluate the representations and shall inform the operator concerned within ten (10) calendar days of receiving its representations of the outcome of the evaluation of the representations and any change in the amount of the fee shall not affect the fees that other operators have to pay:

Provided that the fee shall be payable even if representations are submitted in accordance with the provisions of this paragraph.

(8) Any interruption of the operation or activity of the operator or any loss of its status as an operator providing essential services or as an operator providing critical information infrastructure, does not give it the right to demand from the Commissioner any refund of fees that have already been paid or due pursuant to these Regulations.

Adjustment of fees. **6.-**(1) The Commissioner shall publish an annual review of the Authority's administrative costs and the total amount of fees collected, subject to the non-publication of sensitive or classified information.

(2) In case of any difference between the total amount of fees collected for the year x and the administrative costs realized for the same year, appropriate periodic adjustments shall be made for the following years.

Determination of  
the amount of fees.  
Annex.

**7.-(1)** The method for calculating the fees that fall within the scope of these Regulations and the time period for which they apply are specified in the Annex.

Annex.

(2) The methodology under the Annex shall apply to the first application of the Regulations.

Annex.

(3) For the following years after the first application of the Regulations, new operators shall pay eight hundred and fifty euros (€850) for the current year and for the following years, they shall pay a fee according to the Annex.

Time in which  
fees must be  
paid.

**8.-(1)** The first fee shall be paid at the latest within one month of the relevant written notice given by the Authority.

Annex.

(2) Each subsequent annual fee shall be payable on the 1<sup>st</sup> of December of each year, unless otherwise specified in the Annex and/or in a relevant Decision to be published by the Commissioner.

(3) The annual fee must be paid within thirty (30) calendar days, namely no later than the 31<sup>st</sup> of December of each year.

167(I) of 2006  
118(I) of 2012.

(4) After the expiry of the period provided by paragraph (3), interest shall be automatically added to the amount that is due in accordance with the Single Public Default Rate Law.

(5) Where the operator has submitted representations in accordance with subparagraph (b) of paragraph (7) of Regulation 5, the interest shall be calculated on the final amount to be decided by the Commissioner.

Account of  
payment of fees.

**9.** The fees referred to in these Regulations shall be paid into a special account of the Authority's Fund, the details of which shall be published on the Authority's website or in the Official Gazette of the Republic and/or made available by the Commissioner to any interested person.

Consequences of  
failure to pay  
fees.

**10.** In case of omission to pay the specified annual fee within the deadline in accordance with Regulation 8, the Commissioner may impose an administrative fine on the operator, in accordance with the provisions of section 43 of the Law.

Notice by the  
Commissioner.

**11.** -(1) In case of omission to pay the specified annual fee within the prescribed period in accordance with paragraph (3) of Regulation 8, the Commissioner may, but is not obliged, to notify operators of the annual fee that is payable, the deadline for its payment and the consequences in case of failure to pay same:

Provided that in case the Commissioner does make a reminder, this shall not constitute a ground for the annulment of the Commissioner's Decision on the imposition of an administrative fine.

Consequences  
under other  
provisions.

**12.** Unless otherwise provided, the compliance procedures and the sanctions provided by Regulations 10 and 11 of these Regulations shall not replace or limit any other obligations that the relevant operators may have with regard to the payment of such fees, as well as the powers of the Commissioner and/or the Authority regarding their collection which are prescribed by any law in force for the time being.

ANNEX  
(Regulations 5, 7 and 8)

FEES FOR THE OPERATION OF THE AUTHORITY

*Determination of the Amount of Fees*

The annual fee for year X per operator, as a percentage of the revenues budget concerning the Authority, corresponds to the ratio of the weighted turnover<sup>1</sup> (total audited gross annual revenue in the sectors and sub-sectors defined by the Law, - in the case of network providers and/or providers of electronic communications services only from electronic communications services), or the true costs<sup>2</sup> (for state operators) of each operator for the year X-2, against the weighted turnover or the true costs (for state operators) of the total number of operators specified as operators of critical information infrastructure, operators of essential services, providers of electronic communications and providers of digital services in the Republic for the same period, with a minimum annual administrative fee of eight hundred and fifty euros (€850) (see table below).

Operators of critical information infrastructure and operators providing essential services are defined as such based on a certain level of criticality. Providers of electronic communications which are not on the list of operators of critical information infrastructure or providers of digital services who are not on the list of operators of critical information infrastructure or operators of essential services, shall pay the minimum administrative fee of eight hundred and fifty euros (€850).

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<sup>1</sup> Weighted based on criticality: **Very High: 100%, High: 75%, Medium: 50%, Low or Very Low: 0% with minimum annual administrative fee of €850.**

<sup>2</sup> Provided that when calculating the true costs of state operators, any costs relating to interest are not taken into account.

Turnover (TO) of the operator or true costs of the state operator	Criticality of Infrastructure CI [1]	Weighted Turnover of the operator or true costs of the state operator	% contribution of the operator to the budget of the Digital Security Authority
TO(i)	CI(i)	TO(i) x CI(i)	$[TO(i) \times CI(i)] / C \{ C(i) \dots C(\dots) \}$
TO(ii)	CI(ii)	TO(ii) x CI(ii)	
...	...	...	
TO(...)	CI(...)	TO(...) x CI(...)	
		$\square(i) [TO(i) \dots (\dots) \times CI(i) - (\dots)]$	

Notes: Stages of Calculation of the Contribution

1. Multiplication of the turnover of the operator or of the actual costs of the operator (TO) by the weighting factor (CI), depending on the maximum criticality of the infrastructure of each operator. The criticality factors are defined as follows:

Very

High=100%,

High = 75%,

Medium = 50%,

Low = 0%,

Very Low = 0%.

The outcome is the weighted turnover of the operator or weighted true costs of the state operator, for each operator.

2. Sum of all weighted turnovers of operators or of all weighted total costs for state operators  $(C(i) [TO (i) \dots (\dots) \times CI(i) - (\dots)])$ .
3. For each operator, the outcome of dividing the weighted turnover of the operator or the weighted true costs of the state operator with the total weighted turnover or true costs of all operators, results in the percentage of the contribution to the budget of the Authority that the operator pays for the operation of the Authority  $[TO (i) \times CI(i)] / C \{C(i) \dots C(\dots) \}$ .



4. The multiplication of the rate of contribution of each operator by the total budget of the Authority, results in the initial contribution amount of each operator.
5. Operators whose amount of contribution is below €850, the contribution amount is adjusted to €850.
6. A final adjustment is made of the initial amount of contribution for each operator, taking into account the operators who have to pay €850. The outcome is the final amount of contribution of each operator.