

NIS2 TRANSPOSITION OVERVIEW

27 August 2024



Adopted NIS2
laws:



Draft laws in
legislative
procedures:



Awaiting draft
NIS2 laws:



NIS2: BACKGROUND

The state of play of the NIS2 Directive

Europe's critical infrastructure faces ever-increasing cyber threats. Examples of serious consequences are the Danish railways coming to a standstill in 2022, or the millions of Ukrainians being cut off from the internet in 2023. To combat these threats, the revised Network and Information Security (NIS2) Directive was adopted in November 2022, and entered into force on 16 January 2023. It aims to increase the common level of cybersecurity of critical infrastructure in the EU, and sets out obligations related to member states' cyber capabilities, risk management & reporting, and cooperation and information exchange for 'essential and important entities'.

The deadline for Member States to transpose the Directive into national law is 17 October 2024. However, many national governments have not published their draft national laws yet, while some have already stated to miss the transposition deadline. The (draft) transposition laws that have been made available show that there is a risk of fragmentation across the EU, creating uncertainty and unnecessary burden for the industry on multiple fronts. Recently, DIGITALEUROPE has also published studies on improving the [EU Digital Single Market](#), and on how Europe can lead on [critical technology](#).

This document seeks to provide an overview of the state of NIS2 transposition in the EU Member States, based on details provided by national trade association (NTA) members of DIGITALEUROPE, complemented by desk research. Note that the information found below is a snapshot of the current situation, and may be subject to change.

16 January 2023:

EU NIS2 Directive enters into force

June 2024:

Draft implementing act for Arts 21 + 23 published

September 2023:

Guidelines published for Arts 3 + 4

17 October 2024:

Transposition deadline for Member States

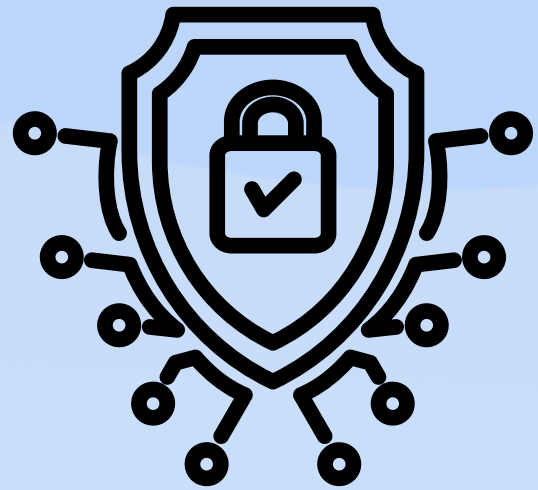


NIS2: BACKGROUND

Summary of the state of play

The revised Network and Information Security (NIS2) Directive must be transposed into national law by 17 October 2024, and apply from 18 October 2024 onwards. Roughly 1.5 months before the official application date, only four countries have adopted national laws transposing the NIS2 Directive: Belgium, Hungary, Lithuania and Croatia.

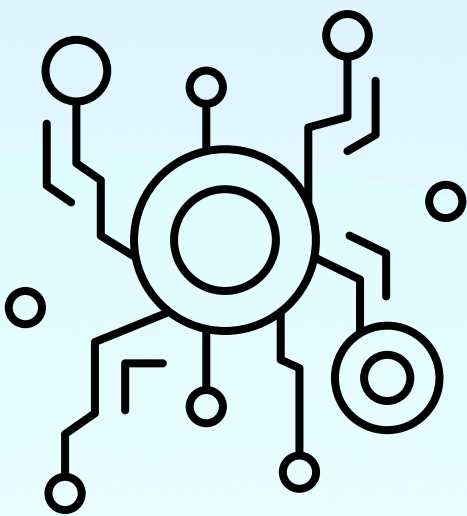
NIS2 will be highly impactful for companies in scope. Especially for those that did not yet prepare for a high level of cybersecurity, the cost of compliance will be high, and significant changes to their cybersecurity management may be needed. This necessitates a sufficient period for the private sector to prepare for compliance with the NIS2 transposition laws, also bearing in mind the potential discrepancies between the requirements that Member States set out, and the different timelines they adhere to.



Whereas four national administrations have already adopted their transposition laws, there are various countries where the draft law is still undergoing the respective legislative procedures, for instance in Finland, Germany, the Netherlands, Poland and Sweden. In most cases, this will result in later dates of application than the date of 18 October 2024, leaving entities in scope with little time to prepare for compliance with the requirements. Various Member States have not yet published draft NIS2 transposition laws, resulting in greatly diverging implementation timelines across the EU27 block.

In further detail, some transposition laws go beyond what the NIS2 Directive sets out. Belgium, for instance, has established requirements that are more comprehensive, while the Dutch draft transposition law imposes extra costs on essential entities. Poland's draft NIS2 law includes the possibility to exclude 'High Risk Vendors' in particular instances. In Germany, the possibility of self-assessment resulting in a presumption of conformity can be examined for non-consumer products, while government entities are excluded from the scope.

All in all, companies face uncertainty due to discrepancies in implementation timelines, cybersecurity measures, scope, and supervising authorities - and eagerly await the transposition laws to be in place to prepare for compliance.



NIS2: CURRENT TIMELINE

KNOWN ENTRY INTO FORCE & APPLICATION DATES



Entry into force:
15 February
2024



Applies from:
18 October
2024



Expected entry into
force:
January 2025



Expected entry into
force:
Summer 2025



2024

2025

2026



Expected to
apply from:
18 October 2024

Expected entry into
force:
Beginning 2025

Expected entry into
force:
1 March 2025

Expected to
apply from April
2026



ADOPTED NIS2 LAWS

Belgium



Timeline: Belgium's NIS2 transposition law has been adopted and published on 17 May 2024.

Key takeaways of the Belgian transposition law

The scope of the Belgian law does not deviate from the EU Directive, but could be expanded through a Royal Decree. The measures are almost identical to the EU Directive. The Coordinated Vulnerability Disclosure (CVD) policy is mandatory and needs continuous improvement. Presumption of compliance for entities can be derived through third party conformity assessments based on ISO 27001 or the Belgian Cyberfundamentals. The alternative is an inspection by the authorities against these two frameworks. It is unclear if entities need to be 100% compliant with the frameworks or just with the NIS2 requirements within them, as they go beyond the austerity of NIS2 measures.



Croatia

Timeline: Croatia's NIS2 transposition law has been adopted and entered into force on 15 February 2024.

ADOPTED NIS2 LAWS

Hungary



Timeline: The Hungarian 'Cybersecurity Certification and Supervision Act' partially transposes the NIS2 Directive and has been adopted. Entities in scope had to register as such with the relevant authority by 30 June 2024.

The remainder of the NIS2 Directive is expected to be transposed into a new Hungarian 'Act on Cybersecurity' in September. A brief public consultation on this Act is expected soon.



Lithuania

Timeline: The Lithuanian transposition law was adopted by Parliament in July 2024. In April 2025, the relevant authorities have to publish a list of critical and important entities. From that date onwards, these entities have 12 months to comply with the obligations imposed on them.

DRAFT NIS2 LAWS

Germany



Timeline: The German draft NIS2 transposition law was published in May 2024. The law is expected to enter into force beginning of 2025.

Key takeaways of the German transposition law

The German government may issue technical guidelines with requirements and specifications to carry out self-assessments of conformity for entities manufacturers or providers of products, services or processes that are not consumer products. The biggest concern is various legal uncertainties for businesses - it is difficult to assess how a company is affected by NIS2, particularly for SMEs, and it is unclear whether a company's entire ICT infrastructure is covered, or just those that are used directly for relevant services. Moreover, municipalities and federal institutions are exempted from the NIS2 requirements, shifting the burden to the private sector alone, leaving institutions vulnerable.

The German government has also published a tool for companies to assess their vulnerability under NIS2 [here](#).



Sweden

Timeline: The Swedish draft NIS2 transposition law has been published and is expected to enter into force on 1 January 2025.

Key takeaways of the Swedish transposition law

There seem to be deviations from the EU NIS2 Directive, mainly pertaining to a stricter implementation. There are various concerns, revolving around single businesses being subject to many supervising authorities, a short implementation timeline, the fact that costs are not fully investigated, and how liability for Board Members is set out.

DRAFT NIS2 LAWS



The Netherlands

Timeline: The Dutch draft NIS2 transposition law was published on 21 May. The government expects the law to enter into force in Q2-Q3 2025.

Key takeaways of the Dutch transposition law

There is a concern that specific subsectors like Managed Service Providers (MSPs) and Managed Security Service Providers (MSSPs) are brought into scope irrespective of their size, without any direct consequence for those not important or essential. It also defines most levels of government, including municipalities and water authorities as important/essential. The transposition of risk management measures (Art 21 in the NIS2 Directive, Arts 23-25 in the Dutch law) and reporting obligations (Art 23 vs Arts 27-31) is aligned with the Directive. Open questions remain around obligatory requirements imposed on essential entities, for instance the implementation of monitoring officers (NIS2 32(4)(g)), which can be assigned without direct cause while their cost are charged to the company. As many details of the Dutch law will be decided to administrative measures it is currently impossible to fully evaluate the Dutch law.

Poland



Timeline: The Polish draft NIS2 transposition law has been published. The government expects the law to be in force in time, but this may turn out to be too ambitious.

Key takeaways of the Polish transposition law

The Polish draft NIS2 transposition law is 'gold-plated' and goes beyond the NIS2 Directive. One point of attention is that it introduces measures providing room to exclude 'High Risk Vendors' in critical areas.

DRAFT NIS2 LAWS



Finland

Timeline: The Finnish draft transposition law was published on 23 May, and is still expected to apply from 18 October 2024, as intended by the NIS2 Directive.

Key takeaways of the Finnish transposition law

The Finnish draft law transposes the EU Directive in a fairly straightforward manner. It is fully aligned, apart from minimal specificities in its scope. The measures are leveled with the Directive - there are no additional requirements, nor requirements for standard certifications (e.g., ISO series). The draft law is estimated to directly affect 5000 entities, of which only a third is expected to be well prepared by the time it becomes applicable.

Three sets of documents are promoting the regulation in the country: the transposition regulation, a draft guidance paper prepared by the Agency for Transport and Communication for all the sectoral agencies to follow, and a compliance guide for all organisations operating in the country that fall under the scope of the regulation.



Italy

Timeline: The Italian draft transposition law is currently awaiting the Parliament's approval.

Latvia



Timeline: The Latvian draft is currently awaiting the Parliament's approval. If adopted, it enters into force on 1 September 2024.

DRAFT NIS2 LAWS



Austria

Timeline: The Austrian draft transposition law was sent to Parliament (Nationalrat) in April 2024, but is being revised after negative feedback.

Czech Republic



Timeline: The Czech draft transposition law was subject to public consultation mid-2023, and shared with the Legislative Council (government advisory body) end 2023. It is expected to enter into force in H2 2024.



Denmark

Timeline: The draft Danish transposition for most sectors was published on 5 July. Its entry into force has been postponed to March 2025. More sector-specific draft legislation is expected for public consultation in late fall.

Key takeaways of the Danish transposition law

The Danish transposition law is divided in various sector-specific laws, and one general law for all sectors without sector-specific legislation. The drafts for the finance and energy sectors, as well as the general transposition law, have been published. More sector-specific draft legislation is expected during the fall.

The biggest concern identified in Denmark is the insufficient guidance for companies to achieve compliance, complicated by the short deadline. Another concern is the lack of harmonisation across sectors and member states, but also regarding the authorities' supervision of Danish and European companies. Additionally, the energy sector's draft law does not adhere to the risk-based approach of the Directive.

DRAFT NIS2 LAWS

Luxembourg



Timeline: The Luxembourgish draft transposition law has been sent to the Parliament in March 2024, currently awaiting approval.



Slovenia

Timeline: The Slovenian draft transposition law was subject to public consultation in February and March 2024.

Cyprus



Timeline: Amendments have been made to national law 89(I)/2020 to reflect the NIS2 transposition. These amendments are currently subject to a public consultation.



Slovakia

Timeline: The Slovakian draft transposition law was published on 31 March 2024. It is expected to enter into force on 1 January, 2025.

COUNTRIES AWAITING DRAFT NIS2 LAWS

Romania



Timeline: The Romanian government has published a draft transposition law, currently subject to public consultation.

Preparation of the Romanian transposition law

The National Directorate for Cybersecurity (DNSC) conducted consultations with stakeholders covered by the NIS2 Directive. The focus was on protecting citizens rights, respecting economic, commercial and image interests of entities in scope, ensuring proportionality, and ensuring the effectiveness of regulatory, supervisory and control activity.



France

Timeline: A new Government should be appointed before formally presenting the draft law, expected in mid-August. Parliamentary works resume in September, meaning the adoption will, at the earliest, happen in mid/end of September.

Details of the expected French transposition law

There are still uncertainties on what the scope will be, but it is expected to generally align with the NIS2 Directive. The number of companies, including SMEs, falling into scope is estimated by ANSSI to be 10.000-15.000. Implementation is therefore complicated - it will require awareness campaigns, and compliance to be as clear as possible.

The requirements on self-registration will be specified through decrees, not the legislation itself, whereas the cybersecurity and risk management measures will be laid down by the implementing act, of which the draft was published by the European Commission recently. Reporting obligations may emerge as an area of concern.

COUNTRIES AWAITING DRAFT NIS2 LAWS

Ireland



Timeline: The Irish transposition of NIS2 will be included in a 'National Cyber Security Bill'. It is listed for priority drafting in summer 2024, but there is no definitive timeline yet.

Preparation of the Irish transposition law

Supervision and enforcement of the NIS2 Directive in Ireland is expected to be divided between the NCSC and sectoral regulators. The NCSC is to chair a National Competent Authorities Forum to ensure a harmonised approach, and will engage with consultations on secondary acts at EU level.

The Irish government intends to transpose NIS2 by the deadline of 17 October. This seems ambitious, however, also because general elections could take place in Autumn 2024.



Greece

Timeline: The draft Greek NIS2 transposition law is not yet published, but is still expected to be adopted by 17 October 2024.

Preparation of the Greek transposition law

It is expected that NIS2 compliance will be costly for companies, and difficult to implement for those entities that may not be aware and have not yet prepared for NIS2 requirements.

There will be a 1-week public consultation on the draft transposition law. It is not yet clear when this will be.

COUNTRIES AWAITING DRAFT NIS2 LAWS

Estonia



Timeline: The publication of the draft Estonian transposition law has been postponed several times, and is now expected by the end of August 2024.

Preparation of the Estonian transposition law

The concern in the run-up to publication of the draft transposition law is the short timeline for the private sector to implement the NIS2 requirements, and to be properly consulted during the legislative procedure.



Spain

Timeline: There is no draft transposition law yet in Spain.

Malta



Timeline: There is no draft transposition law yet in Malta.

COUNTRIES AWAITING DRAFT NIS2 LAWS

Bulgaria



Timeline: There is no draft transposition law yet in Bulgaria.



Portugal

Timeline: There is no draft transposition law yet in Portugal.

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