

DECREE

No 437/2017 Coll.

of December 8, 2017

on the criteria for the determination of an operator of essential service

Pursuant to Section 28, paragraph 2 letter e) of Act No 181/2014 Coll. on Cyber Security and Change of Related Acts (the Act on Cyber Security) as amended by Act No 205/2017 Coll., the National Cyber and Information Security Agency shall set out:

Section 1

Subject of the Decree

This Decree transposes the relevant legislation of the European Union¹⁾ and regulates sectoral and impact criteria for the determination of an operator of essential service and specifications for determining the importance of an impact of the disruption of an essential service on the security of social and economic activities according to Section 22a, paragraph 1 of the Act on Cyber Security.

Section 2

Sectoral and impact criteria

- (1) Sectoral criteria are determined by the type of service, by the type of entity and by a special criterion for the type of entity.
- (2) The special criterion for the type of entity takes into consideration the importance of the given entity in the given sector.
- (3) Sectoral and impact criteria are listed in the annex of this Decree.
- (4) Impact criteria set for a given sector or a given part of a sector are related to the type of service, the type of entity, and the special criterion for the type of entity stated on the same row in the annex to this Decree.

Section 3

Effect

This Decree takes effect on 1 February 2018.

Director:

Navrátil m. p.

Annex to the Decree No 437/2017 Coll.

Sectoral and impact criteria for the identification of essential service operators

1. Energy

1.1. Electricity

Sectoral criteria			Impact criteria
Type of service	Type of entity	Special criterion for the type of entity	
1.1.1. Electricity production	An electricity producer according to the Energy Act	a) A production facility with total installed generating capacity of at least 500 MW; b) a supporting services plant with total installed generating capacity of at least 100 MW or c) a technical control centre used in electricity production.	The impact of a cyber security incident in the information system or in the electronic communications network on the functioning of which the service provision is dependent can cause I. a serious limitation, disruption or unavailability of the type of service which would affect more than 50,000 people; II. a serious limitation or disruption of another essential service or a limitation or disruption of a critical infrastructure element; III. economic loss greater than 0.25 % of GDP; IV. more than 100 casualties or 1,000 injured people in need of medical treatment or V. disruption of public safety in a significant part of the administrative territory of a
1.1.2. Electricity sale	An electricity retailer according to the Energy Act	a) Systems used for electricity sale that directly affect the supply of electricity to end customers.	
1.1.3. Transmission system operation	A transmission system operator according to the Energy Act	a) Transmission system lines; b) an electrical substation of a transmission system or c) a technical control centre used in the transmission system operation.	

1.1.4. Distribution system operation	A distribution system operator according to the Energy Act	a) Distribution system lines; b) an electrical substation of a distribution system or c) a technical control centre used in the distribution system operation.	municipality with extended powers, which may require rescue and liquidation operations by the integrated rescue system units.
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non-binding English translation

1.2. Oil

Sectoral criteria			Impact criteria
Type of service	Type of entity	Special criterion for the type of entity	
<p>1.2.1. The operation of oil production, refining, processing, treatment, storage or transmission facilities</p>	<p>An operator of oil production, refining, processing, treatment, storage or transmission facilities</p>	<p>a) A facility for oil production, processing, refining or treatment with installed annual production capacity of at least 3,000,000 tonnes;</p> <p>b) a storage facility or set of storage facilities with capacity of at least 20,000 m³;</p> <p>c) an LPG storage facility with capacity of at least 20,000 m³;</p> <p>d) a pipeline with transmission capacity of at least 3,000,000 tonnes of product per year;</p> <p>e) an oil transmission facility or</p> <p>f) a technical control centre used in the operation of oil production, refining, processing, treatment, storage or transmission facilities.</p>	<p>The impact of a cyber security incident in the information system or in the electronic communications network on the functioning of which the service provision is dependent can cause</p> <p>I. a serious limitation or disruption of the type of service which would affect more than 50,000 people;</p> <p>II. a serious limitation or disruption of another essential service or a limitation or disruption of a critical infrastructure element;</p> <p>III. economic loss greater than 0.25 % of GDP;</p> <p>IV. unavailability of the type of service for more than 1,600 people which is irreplaceable in another way unless excessive costs were to be incurred;</p>

1.2.2. Operation of an oil transmission pipeline	Operator of an oil transmission pipeline	a) A domestic oil transmission pipeline with transmission capacity of at least 500,000 tonnes of oil per year; b) terminal facility for oil transmission or c) a technical control centre used in the oil transmission pipeline operation.	V. more than 100 casualties or 1,000 injured people in need of medical treatment or VI. disruption of public safety in a significant part of the administrative territory of a municipality with extended powers, which may require rescue and liquidation operations by the integrated rescue system units.
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non-binding English translation

1.3. Gas

Sectoral criteria			Impact criteria
Type of service	Type of entity	Special criterion for the type of entity	
1.3.1. Operation of a gas enterprise	A gas enterprise according to relevant European Union legislation ²	a) Gas production or extraction amounting to annual production of at least 15 % of the annual consumption of the Czech Republic.	<p>The impact of a cyber security incident in the information system or in the electronic communications network on the functioning of which the service provision is dependent can cause</p> <p>I. a serious limitation, disruption or unavailability of the type of service which would affect more than 50,000 people;</p> <p>II. a serious limitation or disruption of another essential service or a limitation or disruption of a critical infrastructure element;</p> <p>III. economic loss greater than 0.25 % of GDP;</p> <p>IV. more than 100 casualties or 1,000 injured people in need of medical treatment or</p> <p>V. disruption of public safety in a significant part of the administrative territory of a municipality with extended powers, which may require rescue and liquidation operations by the integrated rescue system units.</p>
1.3.2. Operation of a gas refining or treatment facility	An operator of a gas refining or treatment facility	--	
1.3.3. Gas sale	A gas retailer according to the Energy Act	a) Systems used for gas sale that directly affect the supply of gas to end customers.	
1.3.4. Transmission system operation	A transmission system operator according to Energy Act	a) Gas transmission system operation or b) a technical control centre used in the gas transmission system operation.	
1.3.5. Distribution system operation	A distribution system operator according to the Energy Act	a) Gas distribution system operation or b) a technical control centre used for the distribution system operation.	
1.3.6. Storage system operation	An operator of a storage facility according to relevant European Union legislation ³	a) Storage facility operation or b) a technical control centre used in the storage facility operation.	

1.3.7. LNG system operation	An LNG system operator according to relevant European Union legislation ⁴	a) Operation of a gas liquefaction facility or b) operation of a facility carrying out LNG import, unloading or re-gasification.	
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non-binding English translation

1.4. Thermal industry

Sectoral criteria			Impact criteria
Type of service	Type of entity	Special criterion for the type of entity	
1.4.1. Thermal energy production	The holder of a license for thermal energy production according to the Energy Act	a) A thermal energy source; b) extracting thermal output from a thermal energy source or c) a technical control centre used in heat energy production	The impact of a cyber security incident in the information system or in the electronic communications network on the functioning of which the service provision is dependent can cause I. a serious limitation, disruption or unavailability of the type of service which would affect more than 25,000 people; II. a serious limitation or disruption of another essential service or a limitation or disruption of a critical infrastructure element; III. economic loss greater than 0.25 % of GDP; IV. more than 100 casualties or 1,000 injured people in need of medical treatment or V. disruption of public safety in a significant part of the administrative territory of a municipality with extended powers, which may require rescue and liquidation operations by the integrated rescue system units.
1.4.2. Operation of a thermal energy supply system	The holder of the a license for thermal energy distribution according to the Energy Act	a) A thermal energy distribution facility or b) a technical control centre used in the operation of a thermal energy supply system.	

2. Transport

2.1. Air transport

Sectoral criteria			Impact criteria
Type of service	Type of entity	Special criterion for the type of entity	
2.1.1. Air transport operation	An air carrier according to the Civil Aviation Act	a) Air transport of at least 500,000 people per year or b) offer of air transport for at least 500,000 people per year.	The impact of a cyber security incident in the information system or in the electronic communications network on the functioning of which the service provision is dependent can cause I. a serious limitation or disruption of the type of service which would affect more than 50,000 people; II. a serious limitation or disruption of other essential service or a limitation or
2.1.2. Operation of an airport or of ancillary installations contained within airports	An airport operator according to the Civil Aviation Act or an entity operating ancillary installations contained within airports	a) Within a global or main airport. ⁵	

<p>2.1.3. Air traffic control service</p>	<p>An air navigation service provider according to the directly applicable European Union legislation⁶</p>	<p>a) Approach control service of a global or main airport or of an airport identified as a critical infrastructure element;</p> <p>b) air traffic control service for controlled flights of arriving or departing aircraft;</p> <p>c) aerodrome control service of a global or main airport or of an airport identified as a critical infrastructure element;</p> <p>d) area control service or</p> <p>e) air traffic control service for controlled flights in controlled areas.</p>	<p>disruption of a critical infrastructure element;</p> <p>III. economic loss greater than 0.25 % of GDP;</p> <p>IV. unavailability of the type of service for more than 1,600 people which is irreplaceable in another way unless excessive costs were to be incurred;</p> <p>V. more than 200 casualties or 1,000 injured people in need of medical treatment or</p> <p>VI. disruption of public safety in a significant part of the administrative territory of a municipality with extended powers, which may require rescue and liquidation operations by the integrated rescue system units.</p>
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non-binding English translation

2.2. Rail transport

Sectoral criteria			Impact criteria
Type of service	Type of entity	Special criterion for the type of entity	
2.2.1. Railway operation	A railway operator according to the Railways Act	a) Authorization for the establishment, management and maintenance of railway infrastructure including traffic control, transport security or traffic signaling; b) a central dispatcher control centre; c) a control and analysis centre; d) automated set up of railway routes; e) automated train operation or f) the European Train Control System.	The impact of a cyber security incident in the information system or in the electronic communications network on the functioning of which the service provision is dependent can cause I. a serious limitation or disruption of the type of service which would affect more than 50,000 people; II. a serious limitation or disruption of another essential service or a limitation or disruption of a critical infrastructure element; III. economic loss greater than 0.25 % of GDP; IV. unavailability of the type of service for more than 1,600 people which is irreplaceable

<p>2.2.2. Operation of railway transportation or service facility</p>	<p>An operator of railway transportation or a service facility according to the Railways Act</p>	<p>a) The provision of railway transportation units engaged in Trans-European Transport Network (TEN-T), Main International Railway Lines system (AGC), Important International Combined Transport Lines system (AGTC) or international Rail Freight Corridors (RFC);</p> <p>b) an operator of railway transportation units engaged in Trans-European Transport Network (TEN-T), Main International Railway Lines system (AGC), Important International Combined Transport Lines system (AGTC) or international Rail Freight Corridors (RFC) or</p> <p>c) an enterprise responsible for the management of at least one service facility or for the provision of at least one additional or ancillary service according to the Railways Act.</p>	<p>in other way unless excessive costs were to be incurred;</p> <p>V. more than 100 casualties or 1,000 injured people in need of medical treatment or</p> <p>VI. disruption of public safety in a significant part of the administrative territory of a municipality with extended powers, which may require rescue and liquidation operations by the integrated rescue system units.</p>
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2.3. Water transport

Sectoral criteria			Impact criteria
Type of service	Type of entity	Special criterion for the type of entity	
2.3.1. Inland, sea or coastal passenger or freight water transport operation	Entities carrying out inland, sea or coastal passenger or freight water transport	a) Operation of water transport or the offering of services in water transport which are irreplaceable or would be replaceable only with excessive costs incurred.	The impact of a cyber security incident in the information system or in the electronic communications network on the functioning of which the service provision is dependent can cause
2.3.2. The operation of managing authorities of ports or entities operating works or equipment contained within ports	A managing authority of a port including the port facilities according to the directly applicable European Union legislation ⁷ or an entity operating works or equipment contained within ports	--	I. a serious limitation or disruption of another essential service or a limitation or disruption of a critical infrastructure element; II. economic loss greater than 0.25 % of GDP; III. unavailability of the type of service for more than 1,600 people which is irreplaceable in another or would be replaceable only with excessive costs incurred; IV. more than 100 casualties or 1,000 injured people in need of medical treatment or V. disruption of public safety in a significant part of the administrative territory of a municipality with extended powers, which may require rescue and liquidation operations by the integrated rescue system units.
2.3.3. Operation of vessel traffic services	An operator of vessel traffic services according to relevant European Union legislation ⁸	--	

2.4. Road transport

Sectoral criteria			Impact criteria
Type of service	Type of entity	Special criterion for the type of entity	
2.4.1. Activity of an entity responsible for traffic control service	An entity responsible for planning, control or maintenance of overland communications falling within its territorial competence	a) Traffic control service for overland communications.	<p>The impact of cyber a security incident in the information system or in the electronic communications network on the functioning of which the service provision is dependent can cause</p> <p>I. a serious limitation or disruption of the type of service which would affect more than 50,000 people;</p> <p>II. a serious limitation or disruption of another essential service or a limitation or disruption of a critical infrastructure element;</p> <p>III. economic loss greater than 0.25 % of GDP;</p> <p>IV. unavailability of the type of service for more than 1,600 people which is irreplaceable in another way unless excessive costs were to be incurred;</p> <p>V. more than 100 casualties or 1,000 injured people in need of medical treatment or</p> <p>VI. disruption of public safety in a significant part of the administrative territory of a municipality with extended powers, which may require rescue and liquidation operations by the integrated rescue system units.</p>
2.4.2. Operation of Intelligent Transport Systems	A provider of Intelligent Transport System service according to the Act on Road Communications	a) Operation of Intelligent Transport Systems in the sphere of road transport, traffic or mobility control services or in the sphere of interface with other types of transport.	

3. Banking

Sectoral criteria			Impact criteria
Type of service	Type of entity	Special criterion for the type of entity	
<p>3.1. Pursuing the activities of a credit institution</p>	<p>A credit institution according to the directly applicable European Union legislation⁹</p>	<p>a) More than 500,000 clients or b) a market share exceeding 1 % of the total balance sheet of the banking sector.</p>	<p>The impact of a cyber security incident in the information system or in the electronic communications network on the functioning of which the service provision is dependent can cause</p> <p>I. a serious limitation of the type of service which would affect more than 500,000 people;</p> <p>II. a serious limitation or disruption of another essential service or a limitation or disruption of a critical infrastructure element;</p> <p>III. economic loss greater than 0.25 % of GDP or</p> <p>IV. disruption of public safety in a significant part of the administrative territory of a municipality with extended powers, which may require rescue and liquidation operations by the integrated rescue system units.</p>

4. Financial market infrastructures

Sectoral criteria			Impact criteria
Type of service	Type of entity	Special criterion for the type of entity	
4.1. Operation of a trading venue	An operator of a trading venue according to the Act on Business Activities on the Capital Market	--	<p>The impact of a cyber security incident in the information system or in the electronic communication networks on the functioning of which the service provision is dependent can cause</p> <p>I. a serious limitation or disruption of the type of service which would affect more than 50,000 people;</p> <p>II. a serious limitation or disruption of another essential service or a limitation or disruption of a critical infrastructure element;</p>
4.2. Pursuing the activities of a central counterparty	A central counterparty according to the directly applicable European Union legislation ⁹	--	<p>III. economic loss greater than 0.25 % of GDP;</p> <p>IV. unavailability of the type of service for more than 1,600 people which is irreplaceable in another way unless excessive costs were to be incurred or</p> <p>V. disruption of public safety in a significant part of the administrative territory of a municipality with extended powers, which may require rescue and liquidation operations by the integrated rescue system units.</p>

5. Health sector

Sectoral criteria			Impact criteria
Type of service	Type of entity	Special criterion for the type of entity	
5.1. Provision of health services	A healthcare provider according to the Act on Health Services	<p>a) A total of at least 800 acute care beds in the last three calendar years or</p> <p>b) the status of a facility for highly specialized trauma care according to the Act on Health Services.</p>	<p>The impact of a cyber security incident in the information system or in the electronic communications network on the functioning of which the service provision is dependent can cause</p> <p>I. a serious limitation of the type of service which would affect more than 50,000 people;</p> <p>II. a serious limitation or disruption of another essential service or a limitation or disruption of a critical infrastructure element;</p> <p>III. unavailability of the type of service for more than 1,600 people which is irreplaceable in another way unless excessive costs were to be incurred;</p> <p>IV. more than 100 casualties or 1,000 injured people in need of medical treatment or;</p> <p>V. disruption of public safety in a significant part of the administrative territory of a municipality with extended powers, which may require rescue and liquidation operations by the integrated rescue system units or</p> <p>VI. Disclosure of sensitive data of more than 200,000 people.</p>

6. Water resource management

Sectoral criteria			Impact criteria
Type of service	Type of entity	Special criterion for the type of entity	
6.1. Production, supply or distribution of drinking water or wastewater collection or treatment	A producer, supplier or distributor of drinking water or an entity securing wastewater collection or treatment, excluding distributors for whom the distribution of drinking water is only a part of their general business activities related to the distribution of other goods	a) Production, supply or distribution of drinking water; b) a wastewater treatment plant; c) a water purification plant or d) operation of a water supply system or sewerage.	<p>The impact of a cyber security incident in the information system or in the electronic communications network on the functioning of which the service provision is dependent can cause</p> <p>I. a serious limitation of the type of service which would affect more than 50,000 people;</p> <p>II. a serious limitation or disruption of another essential service or a limitation or disruption of a critical infrastructure element;</p> <p>III. economic loss greater than 0.25 % of GDP;</p> <p>IV unavailability of the type of service for more than 1,600 people which is irreplaceable in another way unless excessive costs were to be incurred;</p> <p>V. more than 100 casualties or 1,000 injured people in need of medical treatment or</p> <p>VI. disruption of public safety in a significant part of the administrative territory of a municipality with extended powers, which may require rescue and liquidation operations by the integrated rescue system units.</p>

7. Digital infrastructure

Sectoral criteria			Impact criteria
Type of service	Type of entity	Special criterion for the type of entity	
7.1. Interconnecting technically autonomous networks	A provider of an Internet Exchange Point (IXP) service interconnecting networks that are technically and organizationally separated	a) Interconnection of more than 50 autonomous networks and an average bit rate which exceeds 50 Gb/s measured in five-minute intervals throughout 24 hours.	<p>The impact of a cyber security incident in the information system or in the electronic communications network on the functioning of which the service provision is dependent can cause</p> <p>I. a serious limitation or disruption of the type of service which would affect more than 50,000 people;</p> <p>II. a serious limitation or disruption of another essential service or a limitation or disruption of a critical infrastructure element;</p> <p>III. economic loss greater than 0.25 % of GDP;</p> <p>IV. unavailability of the type of service for more than 1,600 people which is irreplaceable in another way unless excessive costs were to be incurred or</p> <p>V. disruption of public safety in a significant part of the administrative territory of a municipality with extended powers, which may require rescue and liquidation operations by the integrated rescue system units.</p>
7.2. Provision of Domain Name System (DNS) services on the Internet	A provider of DNS services	a) Provision of an authoritative DNS service and maintenance or hosting of more than 10,000 second-level domains.	
7.3. Operation or maintenance of a top-level domain registry	An entity that maintains or operates a top-level domain name registry	a) Maintenance of a top-level domain name registry with more than 100,000 registered domains.	

8. Chemical industry

Sectoral criteria			Impact criteria
Type of service	Type of entity	Special criterion for the type of entity	
8.1. Production of industrial gas	A producer of industrial gas	--	<p>The impact of a cyber security incident in the information system or in the electronic communications network on the functioning of which the service provision is dependent can cause</p> <p>I. a serious limitation or disruption of the type of service which would affect more than 50,000 people;</p> <p>II. a serious limitation or disruption of another essential service or a limitation or disruption of a critical infrastructure element;</p> <p>III. economic loss greater than 0.25 % of GDP;</p> <p>IV. unavailability of the type of service for more than 1,600 people which is irreplaceable in another way unless excessive costs were to be incurred;</p> <p>V. more than 100 casualties or 1,000 injured people in need of medical treatment or</p> <p>VI. disruption of public safety in a significant part of the administrative territory of a municipality with extended</p>
8.2. Production of fertilizers or nitrogenous compounds	A producer of fertilizers or nitrogenous compounds	--	
8.3. Production of pesticides or other agrochemical products	A producer of pesticides or other agrochemical products	--	
8.4. Production of explosives	A producer of explosives	--	
8.5. Processing of nuclear fuel	An entity operating nuclear fuel processing	--	
8.6. Production of basic pharmaceutical products	A producer of basic pharmaceutical products	--	
8.7. Production of pharmaceutical preparations	A producer of pharmaceutical preparations	--	
8.8. Production of other basic inorganic substances	A producer of other basic inorganic substances	--	

8.9. Production of other basic organic chemicals	A producer of other basic organic chemicals	--	powers, which may require rescue and liquidation operations by the integrated rescue system units.
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non-binding English translation

Footnotes:

- 1 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.
- 2 Article (2)1 of the Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC.
- 3 Article (2)10 of the Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC.
- 4 Article (2)12 of the Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC.
- 5 Regulation (EU) No 1315/2013 of the European Parliament and of the Council of 11 December 2013 on Union guidelines for the development of the trans-European transport network and repealing Decision No 661/2010/EU
- 6 Article (2)5 of Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the single European sky (the framework Regulation), as amended.
- 7 Article (2)11 of Regulation (EC) No 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security, as amended.
- 8 Article (3) o) of Directive 2002/59/EC of the European Parliament and of the Council of 27 June 2002 establishing a Community vessel traffic monitoring and information system and repealing Council Directive 93/75/EEC.
- 9 Article (4) 1 of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012, as amended.
- 10 Article (2)1 of Regulation (EC) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on enhancing ship and port facility security, as amended.