

## Improving the resilience of critical entities

Impact assessment (SWD(2020) 358, SWD(2020) 359 (summary)) accompanying a Commission proposal for a Directive of the European Parliament and of the Council on the resilience of critical entities, COM(2020) 829.

This briefing provides an initial analysis of the strengths and weaknesses of the European Commission's [impact assessment](#) (IA) accompanying the above-mentioned [proposal](#), submitted on 16 December 2020 and referred to the European Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE). This proposal, which aims to 'ensure the continuous provision of essential services in the internal market by enhancing the resilience of critical infrastructure<sup>1</sup> (CI) operators in the Member States', was included in the [Commission's 2020 work programme](#), and is part of the [EU's security union strategy](#). This initiative would repeal the [2008 European Critical Infrastructure Directive](#) (ECI) and would seek to address its several identified shortcomings.<sup>2</sup> The proposal is a response to the calls from [Council](#) and the [European Parliament](#) to do more to address the evolving challenges to critical entities in the context of a revision of the ECI Directive, and – given the increasing interconnection and interdependency between digital and physical infrastructure – to align it more closely with the Network and Information Systems (NIS) Directive, on which the Commission adopted a [revised proposal](#)<sup>3</sup> on the same date as the proposal on critical entities.

### Problem definition

The IA explains that the need to reform the EU's approach to critical infrastructures has been under discussion in recent years, and mentions, for instance, that the [2017 comprehensive assessment of EU security policy](#) considered revision of the ECI Directive to be necessary. The [2019 Commission evaluation](#) found that the 2008 ECI Directive had been only partially effective in achieving its objectives, for instance as a result of its narrow scope (energy and transport sectors), the limitation to designated infrastructures with cross-border impacts, the focus on protecting physical assets, and the generality of some provisions leading to differing interpretations in the Member States. The evaluation also pointed at the changed security context, which today involves a number of risks, such as natural hazards, hybrid actions, terrorist attacks, insider incidents, unintentional accidents, and epidemics. The IA notes that increased cross-sectoral and cross-border interdependencies between CIs and a complex operational context mean that 'no single CI operator can reasonably be expected to independently manage and address all risks' (IA, p. 9). The IA also refers to the shift in thinking from protection to resilience, according to which 'CIs cannot realistically be fully protected all the time', but, instead, 'CIs must be resilient', which means the capacity to swiftly restore an acceptable level of performance (IA, pp. 21-22).

The **main problem** identified by the IA is that 'despite different measures at European and national level aimed at enhancing the resilience of CI operations in Europe, the critical infrastructure operators are not adequately equipped to address current and future risks that may result in disruptions to the provision of essential services' (IA, p. 9). The IA defines **four problem drivers**: i) 'risk assessment requirements are not comprehensive and do not account for complex interdependencies'; ii) 'diverging sectoral coverage and designation criteria'; iii) 'critical infrastructure resilience policies and approaches are divergent at different levels and between sectors'; and iv) 'uneven capacities and limited exchange of information' (IA, pp. 16-24). The IA

illustrates interdependencies between sectors, for example many CIs are dependent on telecommunications services, and the energy sector enables many CIs to function (IA, pp. 11-13). As regards the internal market aspects, in cross-border situations an uneven level of resilience of CIs in Member States could cause disruptions to the provision of essential services. In addition, differences between national rules in the designation of CIs, support and oversight may cause distortions of competition within the internal market. Differences in requirements may add to the administrative burden (not quantified) on multinational companies that operate in more than one Member State. (IA, pp. 24-27) The IA notes that, to date, 94 ECIs have been designated on the basis of the ECI Directive, and two-thirds of them are located in only three Member States (not specified), while 16 Member States (not specified) have not designated any ECIs (IA, p. 20).

As regards the scale of the problem, the IA notes that impacts of potential CI disruptions 'cannot be quantified'. Therefore, instead, it illustrates the size and consequences of CI disruptions with descriptions of some incidents, together with the quantified estimates of the impacts occurred. The IA explains that in terms of natural hazards, annual damage costs to European CIs currently total €3.4 billion, which – according to the estimates of the [2018 report](#) on the implementation of the EU strategy on adaptation to climate change – could 'multiply by ten, up to €34 billion annually by the end of the century' (IA, p. 10). Furthermore, with regard to man-made hazards, the IA mentions the terrorist attacks in Paris (2015) and in Brussels (2016), whose adverse economic impacts together were €2.4 billion; unintentional accidents such as the collapse of the bridge in Genoa in 2018, which cut off transport connections to other European cities, entailing economic losses of around €460 million; insider threats such as the sabotage in a Belgian nuclear power facility in 2014 causing damage worth €138 million; threats relating to new technologies such as the drone incident at Gatwick airport in 2018, the damages from which amounted to €55 million (IA, pp. 9-11).

Overall, the IA provides a good, evidence-based description of the problem, which draws on the 2019 evaluation of the 2008 ECI Directive, the external feasibility study in 2020 supporting the IA (which is however not duly referenced), and also reports and studies relating to the policy field of this initiative (e.g. World Bank, OECD, NATO).

## Subsidiarity / proportionality

According to the IA, the legal basis of the initiative would be Article 114 of the Treaty on the Functioning of the European Union (TFEU). The IA provides sufficient justification for EU action, namely that there is a clear cross-border dimension of essential services and networks of critical infrastructure. As a single incident can affect activities in other countries, national measures alone would not be effective in addressing risks and situations of disruption of services. The IA refers to the 'recent feasibility study', which finds that stakeholders would like to see a 'more common and coordinated approach' due to increased interdependencies. The IA notes that EU action would also enhance a more level playing field in the internal market, but, as this aspect is addressed in a general manner, the IA could have illustrated the problem of unfair competition by presenting estimates of the 'higher administrative burden' or 'additional investments' of operators in some Member States that it refers to (IA, pp. 27, 30-32). Proportionality is addressed in the IA and is one of the key criteria in the comparison of options, as required by the [Better Regulation Guidelines](#) (see Toolbox, [Tool#5](#)) (IA, pp. 58-59). The deadline for the [subsidiarity check](#) for national parliaments is 6 April 2021. No reasoned opinions had been submitted at the time of writing.

## Objectives of the initiative

According to the IA, 'the **general objective** of the initiative is to ensure the continuous provision of essential services in the internal market by enhancing the resilience of critical infrastructure operators in the Member States'. The IA defines **four specific objectives** (SO), which are linked to the identified problem drivers: SO1 – 'ensure higher level of understanding of risks and interdependencies, as well as the means to address them'; SO2 – 'ensure that all relevant entities in all key sectors are identified as critical by Member States authorities'; SO3 – 'ensure that the full

spectrum of resilience activities is included in public policies and operational practice'; and SO4 – 'strengthen capacities and improve cooperation and communication between stakeholders'. In accordance with the [Better Regulation Guidelines](#), the IA also presents operational objectives, which are 'defined in terms of the deliverables of specific policy actions', after the selection of the preferred option (see also Toolbox, [Tool#16](#)). The defined objectives should be specific, measurable, achievable, relevant and time-bound (SMART). However, the formulation of the objectives is not time-bound, and appears to be only partially measurable (IA, pp. 32-33, 64).

## Range of options considered

**Baseline:** The ECI Directive would continue to apply. The IA does not expect significant improvements to CI resilience in the coming years, as, for example, the various national frameworks would continue, and operators' capacity to deal with risks would 'remain largely unchanged' (IA, p. 34).

**Option 1 (non-legislative measures at EU level to encourage more common approaches and information-sharing)** would combine the existing ECI Directive and voluntary measures within the existing European programme for critical infrastructure protection (EPCIP). The Commission would provide reports on threats, which could be addressed through a structured dialogue between the Member States and the Commission. Cooperation through structured dialogue could promote 'more common approaches' in relation to risk assessment, the definition of critical sectors, and resilience-based thinking. This option would also enhance the functionality of the critical infrastructure warning information network (CIWIN platform) in relation to communication and information-sharing on the one hand between stakeholders, and on the other hand between the Commission and the Member States (IA, pp. 34-35).

**Option 2 (revised selection criteria and requirements for operators of European critical infrastructures, ECIs)** proposes revision of the existing ECI directive, which would focus more on resilience, and would broaden the sectoral scope to cover the same sectors as the current NIS Directive, namely transport, energy, banking, financial market infrastructure, health, drinking water supply and distribution, and digital infrastructure. In addition, to improve the identification and designation process for ECIs, the existing criteria would be refined and new criteria added, relating for instance to interdependencies. The Member States would have to report to the Commission on the application of the revised criteria. The Commission would examine each report with Member States' authorities to ensure a more aligned approach across the EU. The new directive would oblige the Member States to provide national risk assessments for ECIs (all ECIs on the territory), and operators would produce risk assessments for individual ECIs. Operators would also need to provide operator resilience plans (focus on resilience of individual infrastructure), covering risk reduction and preparedness, business continuity and recovery arrangements, and employee security management, for instance. The Member States would exercise an oversight role over designated ECIs. Competent authorities would ensure capacity-building activities, and the Commission would provide support, for instance by offering training activities for ECI operators and authorities. The directive would also enhance sharing of sensitive data between operators and authorities (IA, pp. 35-37).

**Option 3 (new requirements of critical entities) (preferred option)** envisages a new general cross-sectoral framework (directive), replacing the existing ECI Directive. The broader sectoral scope would reflect the scope of the revised proposal for the NIS Directive, i.e. the scope would be extended to cover, in addition to transport and energy, banking, financial market infrastructures, health, drinking water, waste water, digital infrastructure (incl. telecommunications), public administrations and space. According to this option, the Member States would provide national cross-sectoral risk assessments (for at least all sectors within the scope of the directive) and a national CI resilience strategy. The operators would produce risk assessments for risks to the provision of services. The operators' resilience plans would focus on the resilience of essential services (unlike Option 2 which would focus on individual infrastructures). Similarly to Option 2, the

Member States would use the common criteria defined in the legislation to identify critical entities (risk-based identification). Under Option 3, a list of the type of entities that could be considered would be provided as a basis for the identification process. As regards oversight, Member States could request information from the operators identified and issue orders. The Member States would have to establish cooperation structures with the authorities and operators, which would designate points of contact. Competent authorities would provide resources to oversee and support the resilience building efforts of the critical entities. The Commission would support implementation by means of a knowledge hub (e.g. training, guidance material). This option also envisages an identification process for critical entities of particular European significance (CE-ES), i.e. those that provide essential services across several Member States. They would be subject to the same requirements as critical operators in terms of risk assessments and operators' resilience plans (IA, pp. 37-42).

**Option 4 (new requirements of critical entities and a reinforced role for the EU)** would include all the measures of Option 3 and, in addition, measures providing a reinforced role for the EU. Member States and operators would be supported by the establishment of an EU agency for CI resilience or, alternatively, an existing EU agency (e.g. Europol) would assume this role. In the identification of CIs, sector-specific and country-specific thresholds would be defined for each criterion, to be used to identify operators providing essential services. On the basis of the thresholds, Member States would present the Commission with an initial list of identified operators. The Commission, the EU agency, and competent national authorities would then assess the list jointly in order to identify critical operators. Furthermore, the Commission and the EU agency would provide binding sector-specific risk assessment and interdependency identification methodologies that competent authorities and critical entities would use. The EU agency would support Member States in overseeing the critical entities e.g. by on-site inspections, and contribute to capacity-building, e.g. by providing advice and training (IA, pp. 42-43).

The IA presents a sufficiently broad range of policy options, including one non-legislative option, in accordance with the Better Regulation Guidelines. The options appear to be linked to the problems and objectives defined. Stakeholders' views have been included in the description of the options, for instance Option 3 'was considered as the preferred option by the majority of Member States that provided input', and 'the views of operators as regards the sectors diverged'. Option 4 was 'the least favoured by the Member States and the operators, as they considered it as too intrusive, *one size fits all* approach not leaving room for sectoral specificities' (IA, pp. 42-43).

## Assessment of impacts

The IA assesses – mostly qualitatively – the main economic, social and environmental impacts, and impacts on fundamental rights of the policy packages. It is expected that the proposed measures would reduce disruption to essential services, and thus contribute to the functioning of the internal market and benefit the economy by improving economic stability and attracting investment to Europe. According to the IA, the legislative options (2, 3, 4) in particular would entail compliance costs for operators – some operator costs might shift to consumers via increased tariffs – and all options would entail administrative costs for national authorities. However, the IA does not provide quantified estimates of these costs, except for preferred Option 3 (IA, pp. 47-50). The IA addresses the social impacts of options briefly, explaining that impacts would be positive (in particular Options 3 and 4) for security, public safety, working conditions for CI staff, quality of life and health (IA, pp. 50-51). As regards environmental impacts, the very limited description in the IA states that especially the legislative options would be positive as they would reduce disruptions that could cause threats to the environment (e.g. drinking water, air, biodiversity) (IA, p. 51). In relation to fundamental rights, the [General Data Protection Regulation](#) would govern the processing of personal data under Options 2 to 4, which provide measures to ensure employee security management (IA, p. 52). The policy packages were compared against the better regulation criteria of effectiveness, efficiency, coherence, and proportionality, and against the defined objectives. Options 3 and 4 are found to be more **effective** than other options, as they would apply to a larger number of operators on account

of the broader sectoral scope and 'the identification process', and as they would require a national resilience strategy and also include support measures from the EU for operators and national authorities. According to the IA, Option 4 is considered to be more effective than Option 3 regarding SO1, SO2 and SO4. When it comes to SO3, Options 3 and 4 would be equally effective. However, there is an inconsistency between the analysis and the scoring table, as in the scoring table Options 3 and 4 have an equal score regarding SO1 (IA, pp. 52, 59).

As regards **efficiency**, the IA explains that the assessment is qualitative owing to the difficulty in obtaining 'quantitative data from Member States and operators' because of 'the sensitive nature of this policy area' (IA, p. 54). Option 2, while entailing a 'significant administrative burden' (i.e. higher oversight costs, bilateral and multilateral discussions to designate an ECI), would be the least efficient because the benefits (increased resilience) would directly affect only designated ECI operators (around 1 200) (IA, pp. 49, 56). The IA finds that when comparing Options 3 and 4, Option 3 would be more efficient because Option 4 would entail significant costs on account of the EU Agency, the 'risk of duplicating efforts' in the identification of CIs, and additional costs for operators in relation to EU inspections (IA, pp. 57-58). However, a further explanation of this would have been useful as the IA explains that benefits would be proportionate to costs, i.e. the costs' level correlates to the benefits' level, and efficiency is 'higher in those options where a larger number of operators benefit from the efforts of Member States' (IA, pp. 55-56). According to the IA, Option 3 would concern around 5 000 critical operators and Option 4 would concern 6 000 critical operators (IA, p. 49), and, in addition, the IA considers Option 4 to be more effective than Option 3. Furthermore, it is not clear from the IA whether the EU agency costs refer to a new EU agency or an existing EU agency assuming specific tasks (alternatives mentioned in Option 4). In terms of **coherence**, the IA finds Options 3 and 4, scored as equal in this respect, more coherent than other options, as they would for example 'ensure an alignment with the focus on ensuring the provision of services under the current and future NIS Directive' and 'be coherent with and complementary to the existing EU sectoral obligations' (IA, pp. 43, 58). The IA notes that Option 4 includes measures that are not in line with the **proportionality** principle, namely the binding methodologies, and the role of the Commission and the EU agency on oversight (on-site inspections) 'would interfere in an excessive manner with the primary responsibility of Member States in security' (IA, p. 59). The expected impacts of other options are considered to be proportionate (IA, pp. 58-59).

The IA concludes that even though Option 4 would be more effective, Option 3 is the preferred option as, while it would ensure a high level of resilience of essential services provided by CIs, it is more efficient than Option 4, and provides proportionate measures, contrary to Option 4 (IA, p. 60). The IA provides a summary of costs and benefits of the preferred Option 3 in a separate annex. The benefits (reduction of compliance costs, improved functioning of internal market, reinforced security) are described qualitatively. For costs, the IA provides quantified estimates and explains the basis of the estimates, but refers to difficulties to obtain quantitative data. For example, in relation to resilience plans and risk assessments, the costs for the operators are estimated at around €98-117 million (one-off costs) and €37.5-72 million (recurrent costs). The estimates for the Member States concerning a national strategy on resilience stand at €1.0-1.25 million (one-off costs) and €0.65-0.80 million (recurrent; every three years). The one-off costs of national risk assessments for Member States would amount to €2.9-3.3 million and recurrent costs are estimated at €2.0-2.25 million (every three years on average) (IA, pp. 54, 80-83).

### SMEs/ competitiveness

As a general comment the IA says that 'all sectors of the economy are expected to benefit from enhanced resilience, including small, medium and large scale enterprises', and that those operators, which already have taken security measures on the basis of the existing legislation would have minimal added burden compared to the status quo (IA, p. 48). The IA expects the burden to be small for SMEs, because CI operators are usually sizable enterprises. However in some sectors, such as digital infrastructure, SMEs provide specialised services. The IA notes that SMEs are likely to get financial support to ensure a high level of resilience. In addition, in cases where large-scale operators



outsource tasks to SMEs, the requirements would concern operators and not supporting companies (IA, pp. 48-50). On the competitiveness aspect, according to the IA, different national requirements can lead to unfair competitive advantage and distort competition for operators, and therefore measures of this initiative would enhance a better level playing field in the internal market (IA, pp. 26-27, 30, 48). The IA could have provided estimates, for instance on the additional administrative burden on some operators, in order to illustrate this problem.

### Simplification and other regulatory implications

The IA notes that as this initiative would be part of the Commission's regulatory fitness and performance programme (REFIT), its 'simplification potential for companies and public authorities is explored as part of each objective and in the policy options', but these aspects could have been addressed more clearly however (IA, p. 33). In the dedicated REFIT section, the IA provides a limited qualitative analysis mentioning that the preferred Option 3 would reduce the burden in Member States as it would replace the cross-border ECI designation process by identification of critical entities that provide essential services, which would reduce costs (no quantified estimates). The IA also assumes that, based on existing legislative requirements, a large number of operators already have security planning in place, which would limit the expected additional costs, and that the risk-based approach of the preferred option would ensure that requirements would concern only critical operators (IA, pp. 62-63). The IA explains the links between the ECI Directive and the NIS Directive, and the revision of the NIS Directive and the policy options of this initiative (IA, pp. 8-9, 34-47). This initiative would include a *lex specialis* clause in relation to the sectoral legislation, according to which 'when sectoral legislation establishes requirements on operators which are at least equivalent to the ones foreseen in the general framework on CIs, operators will be subject to the sectoral legislation and the corresponding obligations arising from the new initiative would not apply' (IA, p. 45).

### Monitoring and evaluation

The IA presents a monitoring and evaluation plan, including monitoring indicators, linked to the specific and operational objectives. The sources of data include national authorities, workshops with operators, the Commission's expert group, reports from European resilience advisors and a knowledge hub. According to the plan, the Commission would provide a report two years after the entry into force of the legislation, and an evaluation would be provided four years after the implementation deadline (IA, pp. 63-64). It can be noted that two operational objectives that refer to the fourth specific objective appear to repeat the specific objective rather than formulate the deliverables of this specific policy action, as would be required by the Better Regulation Guidelines.

### Stakeholder consultation

In accordance with the Better Regulation Guidelines, the IA provides a description of the broad stakeholder consultation in a separate annex (IA, pp. 68-78). The [inception impact assessment](#), which was launched on 19 June 2020 for seven weeks (the precise end date is not mentioned), received 37 replies, from: companies and business associations in various sectors (28 replies), public authorities (three Member States), EU funded Horizon 2020 projects (seven contributions), one non-governmental organisation and two citizens (IA, pp. 75-76). While the general view of the responses was that the EU framework for CI resilience should be reviewed (interdependencies, risks, cross-border challenges), views diverged in terms of sectoral scope. According to the IA, there was a 'clear preference' for Options 2 and 3. The normally mandatory open public consultation was not carried out for the IA, on account of 'the technical nature of the topic', although an open public consultation was conducted to support the evaluation of the ECI Directive between 'November 2018' and 'February 2019' (the IA does not provide more precise dates), receiving 69 [replies](#). Various forms of consultation were used to contribute to the feasibility study supporting the IA, such as an online survey of Member States' authorities (replies from 24 Member States), a written consultation of competent authorities and CI operators (replies from 12 Member States, 11 national operators and six European CI associations) and stakeholder interviews (virtual 'field visits') (42 stakeholders). In

In addition, the Commission organised two consultative workshops, namely one with national competent authorities on 29 June 2020 (20 Member States participated), and another with CI operators and industry associations on 30 June 2020 (40 participated). Overall, the consultations aimed to collect views on the existing framework for CI protection; the problems that should be addressed; and possible options and measures to address the problems identified. According to the IA, a majority of Member States and operators found that a more common EU approach on risk assessments was needed, with due attention to cross-sectoral interdependencies, and there was 'overall agreement' on the need to focus on ensuring the resilience of essential services, instead of protection-based thinking. The IA states that among Member States there seemed to be 'considerable support' for broadening the sectoral scope while the operators had divergent views on this (e.g. some suggested more sectors, and others found that the existing sectoral legislation already set out common requirements). The references to stakeholders' views were at times quite vague, such as 'many', 'some', 'several' or 'a number of' respondents, which was not informative in terms of the representativeness of the views. The IA does not provide links to consultation documents (questionnaires) so it is not possible to verify what questions were asked of stakeholders or what feedback they gave. In addition, it would have been helpful had the stakeholders' views presented in the options section been explained in greater detail in the description of the stakeholder consultation. For example the stakeholders' views on Option 3 ('the preferred option by the majority of Member States that provided input') and Option 4 ('the least favoured by the Member States and the operators') do not appear in this description and the representativeness of these views is unclear (a majority of how many replies?).

## Supporting data and analytical methods used

The assessment is mostly qualitative, and the IA openly notes difficulties in quantification as a result of issues in obtaining data. It also explains the main assumptions relating to the estimation of costs and benefits. Overall, the data are sound and based on various sources. The 2019 evaluation of the ECI Directive, the dedicated 2020 feasibility study, conducted by an external contractor, and broad stakeholder consultations (primarily targeted) have supported the preparation of the IA. However, as a transparency issue it is to be noted that the IA does not provide due references (e.g. the contractor's name) or a link to the feasibility study, which makes it difficult to access.

## Follow-up to the opinion of the Commission's Regulatory Scrutiny Board

The Regulatory Scrutiny Board (RSB) gave a [positive opinion with reservations](#) on a draft version of the IA report on 18 November 2020. The RSB found a number of weaknesses, such as an inadequate description of risks related to CIs and the cross-border dimension; the lack of a clear explanation of how this initiative relates to the NIS revision; a lack of justification for broadening sectoral scope and the need to clarify how this initiative relates to sectoral legislation. It also pointed out the need to further explain the ECI designation criteria and the ECI framework; the role and division of supervisory responsibilities between the EU and national levels; and the choice of the preferred option. Furthermore, the RSB considered that the report did not develop the scope for simplification and cost reduction for companies and public authorities sufficiently; and that the report should quantify costs and benefits as well as describe the estimation method. The IA provides explanations, although very briefly, in a dedicated annex on how it has addressed the points raised by the RSB (IA, pp. 65-66). It appears that the IA has addressed the RSB's points to a large extent, but there are still some aspects that could have been further improved and explained, such as regarding the arguments to support the preferred option (efficiency aspects of Options 3 and 4); the simplification and cost reduction for companies and public authorities; and the quantification of benefits.

## Coherence between the Commission's legislative proposal and the IA

On the whole, the legislative proposal appears to largely follow the preferred option of the IA (Option 3). However, in terms of monitoring and evaluation, according to Article 22 of the proposal,

the Commission would provide a (compliance) report 54 months and a review report six years after the entry into force of the directive, while the IA refers to shorter timeframes (two years/four years).

The IA provides a good, evidence-based description of the problem, and a sufficiently broad range of policy options, also including one non-legislative option, as required by the Better Regulation Guidelines. The assessment is mostly qualitative, and the IA explains difficulties in quantification owing to issues in obtaining data. An open public consultation was not conducted for the IA, but a wide range of targeted consultations was carried out. The IA could have been more transparent in its description of stakeholder consultations. References to stakeholders' views are at times quite vague, and in particular, it would have been useful had the stakeholders' views presented for each policy option been explained in more detail in the description of the stakeholder consultation, in order to assess the representativeness of various views. It is also to be noted that the IA does not provide links to the consultation documents (questionnaires); similarly, the feasibility study supporting the IA is neither duly referenced nor linked. Moreover, further explanation of the comparison between Options 3 and 4 in terms of the efficiency criterion would have benefited the assessment. Finally, as this is a REFIT initiative, the IA could have provided a clearer explanation on the simplification and cost reduction for companies and public authorities under the preferred option.

## ENDNOTES

- <sup>1</sup> **'Critical infrastructure:** An asset, system or part thereof located in Member States which is essential for the maintenance of vital societal functions, health, safety, security, economic or social well-being of people, and the disruption or destruction of which would have a significant impact in a Member State as a result of the failure to maintain those functions. **European critical infrastructure:** An infrastructure the disruption or destruction of which would have significant cross-border impact on at least two Member States' ([Council Directive 2008/114/EC](#); IA, p. 5).
- <sup>2</sup> Anglmayer I., [European critical infrastructure – Revision of Directive 2008/114/EC](#), EPRS, European Parliament, 2021.
- <sup>3</sup> Kononenko V., [Improving the common level of cybersecurity across the EU](#), EPRS, European Parliament, 2021.

This briefing, prepared for the Committee on Civil Liberties, Justice and Home Affairs (LIBE), analyses whether the principal criteria laid down in the Commission's own Better Regulation Guidelines, as well as additional factors identified by the Parliament in its Impact Assessment Handbook, appear to be met by the IA. It does not attempt to deal with the substance of the proposal.

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