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REPORT

on the proposal for a directive of the European Parliament and of the Council
on the resilience of critical entities

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Michal Šimečka

Rapporteurs for the opinion (*):
Nils Torvalds, Committee on Industry, Research and Energy
Alex Agius Saliba, Committee on Internal Market and Consumer Protection

(*) Associated committees – Rule 57 of the Rules of Procedure
**Symbols for procedures**

* Consultation procedure  
*** Consent procedure  
***I Ordinary legislative procedure (first reading)  
***II Ordinary legislative procedure (second reading)  
***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

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**Amendments to a draft act**

**Amendments by Parliament set out in two columns**

Deletions are indicated in *bold italics* in the left-hand column. Replacements are indicated in *bold italics* in both columns. New text is indicated in *bold italics* in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

**Amendments by Parliament in the form of a consolidated text**

New text is highlighted in *bold italics*. Deletions are indicated using either the **symbol or strikeout. Replacements are indicated by highlighting the new text in bold italics and by deleting or striking out the text that has been replaced. By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.**
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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a directive of the European Parliament and of the Council on the resilience of critical entities

(Ordinary legislative procedure: first reading)

The European Parliament,

– having regard to the Commission proposal to Parliament and the Council (COM(2020)0829),

– having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0421/2020),

– having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

– having regard to Rule 59 of its Rules of Procedure,

– having regard to the opinions of the Committee on Industry, Research and Energy, the Committee on Internal Market and Consumer Protection, the Committee on Foreign Affairs and the Committee on Transport and Tourism,

– having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A9-0289/2021),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.
Amendment 1
Proposal for a directive
Recital 1

Text proposed by the Commission

(1) Council Directive 2008/114/EC\textsuperscript{17} provides for a procedure for designating European critical infrastructures in the energy and transport sectors, the disruption or destruction of which would have significant cross-border impact on at least two Member States. That Directive focused exclusively on the protection of such infrastructures. However, the evaluation of Directive 2008/114/EC conducted in 2019\textsuperscript{18} found that due to the increasingly interconnected and cross-border nature of operations using critical infrastructure, protective measures relating to individual assets alone are insufficient to prevent all disruptions from taking place. Therefore, it is necessary to shift the approach towards ensuring the resilience of critical entities, that is, their ability to mitigate, absorb, accommodate to and recover from incidents that have the potential to disrupt the operations of the critical entity.


\textsuperscript{18} SWD(2019) 308.

Amendment

(1) Council Directive 2008/114/EC\textsuperscript{17} provides for a procedure for designating European critical infrastructures in the energy and transport sectors, the disruption or destruction of which would have significant cross-border impact on at least two Member States. That Directive focused exclusively on the protection of such infrastructures. However, the evaluation of Directive 2008/114/EC conducted in 2019\textsuperscript{18} found that due to the increasingly interconnected and cross-border nature of operations using critical infrastructure, protective measures relating to individual assets alone are insufficient to prevent all disruptions from taking place. Therefore, it is necessary to shift the approach towards ensuring the resilience of critical entities, that is, their ability to mitigate, absorb, react, accommodate to and recover from incidents that have the potential to disrupt the provision of essential services by the critical entity, the free movement of essential services and the functioning of the internal market.


\textsuperscript{18} SWD(2019) 308.

Amendment 2
Proposal for a directive
Recital 2
(2) Despite existing measures at Union\(^\text{19}\) and national level aimed at supporting the protection of critical infrastructures in the Union, the entities operating those infrastructures are not adequately equipped to address current and anticipated future risks to their operations that may result in disruptions of the provision of services that are essential for the performance of vital societal functions or economic activities. This is due to a dynamic threat landscape with an evolving terrorist threat and growing interdependencies between infrastructures and sectors, as well as an increased physical risk due to natural disasters and climate change, which increases the frequency and scale of extreme weather events and brings long-term changes in average climate that can reduce the capacity and efficiency of certain infrastructure types if resilience or climate adaptation measures are not in place. Moreover, relevant sectors and types of entities are not recognised consistently as critical in all Member States.

\(^{19}\) European Programme for Critical Infrastructure Protection (EPCIP).

**Amendment**

(2a) Certain critical infrastructures have a pan-European dimension, such as the European Organisation for the Safety

Amendment 4
Proposal for a directive
Recital 3

Text proposed by the Commission

(3) Those growing interdependencies are the result of an increasingly cross-border and interdependent network of service provision using key infrastructures across the Union in the sectors of energy, transport, banking, financial market infrastructure, digital infrastructure, drinking and waste water, health, certain aspects of public administration, as well as space in as far as the provision of certain services depending on ground-based infrastructures that are owned, managed and operated either by Member States or by private parties is concerned, therefore not covering infrastructures owned, managed or operated by or on behalf of the Union as part of its space programmes. These interdependencies mean that any disruption, even one initially confined to one entity or one sector, can have cascading effects more broadly, potentially resulting in far-reaching and long-lasting negative impacts in the delivery of services across the internal market. The COVID-19 pandemic has shown the vulnerability of our increasingly interdependent societies in the face of low-probability risks.

Amendment

(3) Those growing interdependencies are the result of an increasingly cross-border and interdependent network of service provision using key infrastructures across the Union in the sectors of energy, transport, banking, financial market infrastructure, digital infrastructure, drinking and waste water, food production, processing and delivery, health, certain aspects of public administration, as well as space in as far as the provision of certain services depending on ground-based infrastructures that are owned, managed and operated either by Member States or by private parties is concerned, therefore not covering infrastructures owned, managed or operated by or on behalf of the Union as part of its space programmes. These interdependencies mean that any disruption of essential services, even one initially confined to one entity or one sector, can have cascading effects more broadly, potentially resulting in far-reaching and long-lasting negative impacts on the delivery of services across the internal market. The COVID-19 pandemic has shown the vulnerability of our increasingly interdependent societies in the face of low-probability risks.

Amendment 5
Proposal for a directive
Recital 4
The entities involved in the provision of essential services are increasingly subject to diverging requirements imposed under the laws of the Member States. The fact that some Member States have less stringent security requirements on these entities not only risks impacting negatively on the maintenance of vital societal functions or economic activities across the Union, it also leads to obstacles to the proper functioning of the internal market. Similar types of entities are considered as critical in some Member States but not in others, and those which are identified as critical are subject to divergent requirements in different Member States. This results in additional and unnecessary administrative burdens for companies operating across borders, notably for companies active in Member States with more stringent requirements.

It is therefore necessary to lay down harmonised minimum rules to ensure the provision and free movement of essential services in the internal market and enhance the resilience of critical entities. A Union framework will therefore also have the effect of levelling the playing field for critical entities across the Union.

It is therefore necessary to lay down harmonised minimum rules to ensure the provision and free movement of essential services in the internal market, to enhance the resilience of critical entities and to improve cross-border cooperation between competent authorities. It is essential that those rules be future-proof. To that end, the aim of
this Directive is to make critical entities resilient, thereby improving their capacity to ensure the continuous provision of essential services in the face of a diverse set of risks. By laying down minimum rules, this Directive enables Member States to adopt or maintain more stringent rules to ensure the provision of essential services in the internal market and enhance resilience of critical entities.

Amendment 7
Proposal for a directive
Recital 6

Text proposed by the Commission

(6) In order to achieve that objective, Member States should identify critical entities that should be subject to specific requirements and oversight, but also particular support and guidance aimed at achieving a high level of resilience in the face of all relevant risks.

Amendment

(6) In order to achieve that objective, Member States should identify critical entities that provide essential services in the sectors and subsectors set out in the Annex to this Directive. Those critical entities should be subject to specific requirements and oversight, but also particular support and guidance aimed at achieving a high level of resilience in the face of all relevant risks.

Amendment 8
Proposal for a directive
Recital 7

Text proposed by the Commission

(7) Certain sectors of the economy such as energy and transport are already regulated or may be regulated in the future by sector-specific acts of Union law that contain rules related to certain aspects of resilience of entities operating in those sectors. In order to address in a comprehensive manner the resilience of those entities that are critical for the proper functioning of the internal market, those sector-specific measures should be

Amendment

(7) Certain sectors of the economy such as energy and transport are already regulated or may be regulated in the future by sector-specific acts of Union law that contain rules related to certain aspects of resilience of entities operating in those sectors. In order to address in a comprehensive manner the resilience of those entities that are critical for the proper functioning of the internal market, those sector-specific measures should be
complemented by the ones provided for in this Directive, which creates an overarching framework that addresses critical entities’ resilience in respect of all hazards, that is, natural and man-made, accidental and intentional.

Amendment 9
Proposal for a directive
Recital 8

Text proposed by the Commission

(8) Given the importance of cybersecurity for the resilience of critical entities and in the interest of consistency, a coherent approach between this Directive and Directive (EU) XX/YY of the European Parliament and of the Council20 [Proposed Directive on measures for a high common level of cybersecurity across the Union; (hereafter “NIS 2 Directive”)] is necessary wherever possible. In view of the higher frequency and particular characteristics of cyber risks, the NIS 2 Directive imposes comprehensive requirements on a large set of entities to ensure their cybersecurity. Given that cybersecurity is addressed sufficiently in the NIS 2 Directive, the matters covered by it should be excluded from the scope of this Directive, without prejudice to the particular regime for entities in the digital infrastructure sector.

Amendment

(8) Given the importance of cybersecurity for the resilience of critical entities and in the interest of consistency, a coherent approach between this Directive and Directive (EU) XX/YY of the European Parliament and of the Council20 [Proposed Directive on measures for a high common level of cybersecurity across the Union; (hereafter “NIS 2 Directive”)] is necessary wherever possible. In view of the higher frequency and particular characteristics of cyber risks, the NIS 2 Directive imposes comprehensive requirements on a large set of entities to ensure their cybersecurity. Given that cybersecurity is addressed sufficiently in the NIS 2 Directive, the matters covered by it should be excluded from the scope of this Directive, without prejudice to the particular regime for entities in the digital infrastructure sector. As a result, the competent authorities designated under the NIS 2 Directive will be responsible for the supervision of entities identified as critical entities or entities equivalent to critical entities under this Directive as regards matters that fall under the scope of that Directive.

20 [Reference to NIS 2 Directive, once adopted.]
Amendment 10
Proposal for a directive
Recital 10

Text proposed by the Commission

(10) In view of ensuring a comprehensive approach to the resilience of critical entities, each Member State should have a strategy setting out objectives and policy measures to be implemented. To achieve this, Member States should ensure that their cybersecurity strategies provide for a policy framework for enhanced coordination between the competent authority under this Directive and the NIS Directive in the context of information sharing on incidents and cyber threats and the exercise of supervisory tasks.

Amendment

(10) In view of ensuring a comprehensive approach to the resilience of critical entities, each Member State should have a strategy setting out objectives and policy measures to be implemented. To achieve this, and taking into account the hybrid nature of many threats and the Union’s strategy on resilience prepared by the Critical Entities Resilience Group, established by this Directive, Member States should ensure that their strategies provide for a policy framework for enhanced coordination between the competent authorities of Member States under this Directive and the under NIS 2 Directive, including information sharing on incidents and threats and the exercise of supervisory tasks.

Amendment 11
Proposal for a directive
Recital 11

Text proposed by the Commission

(11) The actions of Member States to identify and help ensure the resilience of critical entities should follow a risk-based approach that targets efforts to the entities most relevant for the performance of vital societal functions or economic activities. In order to ensure such a targeted approach, each Member State should carry out, within a harmonised framework, an assessment of all relevant natural and man-made risks that may affect the provision of essential services, including accidents,

Amendment

(11) The actions of Member States to identify and help ensure the resilience of critical entities should follow a risk-based approach that targets efforts to the entities most relevant for the performance of vital societal functions or economic activities. In order to ensure such a targeted approach, each Member State should carry out, within a harmonised framework, an assessment of all relevant natural and man-made risks, including cross-sectoral and cross-border risks, that may affect the
natural disasters, public health emergencies such as pandemics, and antagonistic threats, including terrorist offences. When carrying out those risk assessments, Member States should take into account other general or sector-specific risk assessment carried out pursuant to other acts of Union law and should consider the dependencies between sectors, including from other Member States and third countries. The outcomes of the risk assessment should be used in the process of identification of critical entities and to assist those entities in meeting the resilience requirements of this Directive.

Amendment 12

Proposal for a directive
Recital 12

Text proposed by the Commission

(12) In order to ensure that all relevant entities are subject to those requirements and to reduce divergences in this respect, it is important to lay down harmonised rules allowing for a consistent identification of critical entities across the Union, while also allowing Member States to reflect national specificities. Therefore, criteria to identify critical entities should be laid down. In the interest of effectiveness, efficiency, consistency and legal certainty, appropriate rules should also be set on notification and cooperation relating to, as well as the legal consequences of, such identification. In order to enable the Commission to assess provision of essential services, including accidents, hybrid threats, natural disasters, public health emergencies such as pandemics, and antagonistic threats, including terrorist offences, criminal infiltration and sabotage. When carrying out those risk assessments, Member States should take into account other general or sector-specific risk assessment carried out pursuant to other acts of Union law and should consider the dependencies between sectors, including from other Member States and third countries. Member States should not consider as a risk any regular business risk to operations arising from market conditions or any risk arising from democratic decision-making. The outcomes of the risk assessment should be used in the process of identification of critical entities and to assist those entities in meeting the resilience requirements of this Directive. At their request the Commission should also be able to provide entities based in third countries with advisory expertise.

Amendment

(12) In order to ensure that all relevant entities are subject to those requirements and to reduce divergences in this respect, it is important to lay down harmonised minimum rules allowing for a consistent identification of critical entities across the Union, while also allowing Member States to reflect national specificities. Therefore, common criteria and methodologies to identify critical entities should be laid down in a transparent manner. In the interest of effectiveness, efficiency, consistency and legal certainty, appropriate rules should also be set on notification and cooperation relating to, as well as the legal
the correct application of this Directive, Member States should submit to the Commission, in a manner that is as detailed and specific as possible, relevant information and, in any event, the list of essential services, the number of critical entities identified for each sector and subsector referred to in the Annex and the essential service or services that each entity provides and any thresholds applied.

Amendment 13
Proposal for a directive
Recital 13 a (new)

Text proposed by the Commission

Amendment

(13a) In accordance with applicable Union and national law, including Regulation (EU) 2019/452 of the European Parliament and of the Council\(^a\), which establishes a framework for the screening of foreign direct investments in the Union, the potential threat posed by foreign ownership of critical infrastructure within the Union is to be acknowledged because services, the economy and the free movement and safety of Union citizens depend on the proper functioning of critical infrastructure. It is crucial that Member States and the Commission be vigilant with regard to financial investments that foreign countries make in the operation of critical entities within the Union and the consequences that such investments could have on the ability to prevent significant disruptions.

\(^a\) Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union (OJ L
Amendment 14

Proposal for a directive

Recital 15

Text proposed by the Commission

(15) The EU financial services acquis establishes comprehensive requirements on financial entities to manage all risks they face, including operational risks and ensure business continuity. This includes Regulation (EU) No 648/2012 of the European Parliament and of the Council, Directive 2014/65/EU of the European Parliament and of the Council, Regulation (EU) No 600/2014 of the European Parliament and of the Council, and Regulation (EU) No 575/2013 of the European Parliament and of the Council, as well as Regulation (EU) No 575/2013 of the European Parliament and of the Council, Directive 2013/36/EU of the European Parliament and of the Council. The Commission has recently proposed to complement this framework with Regulation XX/YYYY of the European Parliament and of the Council, which lays down requirements for financial firms to manage ICT risks, including the protection of physical ICT infrastructures. Since the resilience of entities listed in points 3 and 4 of the Annex is comprehensively covered by the EU financial services acquis, those entities should also be treated as equivalent to critical entities for the purposes of Chapter II of this Directive only. To ensure a consistent application of the operational risk and digital resilience rules in the financial sector, Member States’ support to enhancing the overall resilience of financial entities equivalent to critical entities should be ensured by the authorities designated pursuant to Article 41 of [DORA Regulation], and subject to...
the procedures set out in that legislation in a fully harmonised manner.

entities should be ensured by the authorities designated pursuant to Article 41 of [DORA Regulation], and subject to the procedures set out in that legislation in a fully harmonised manner.

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Amendment 15
Proposal for a directive
Recital 16

*Text proposed by the Commission*

(16) Member States should designate authorities competent to supervise the application of and, where necessary, enforce the rules of this Directive and ensure that those authorities are adequately empowered and resourced. In view of the differences in national governance structures and in order to safeguard already existing sectoral arrangements or Union supervisory and regulatory bodies, and to avoid duplication, Member States should be able to designate more than one competent authority. In that case, they should however clearly delineate the respective tasks of the authorities concerned and ensure that they cooperate smoothly and effectively. All competent authorities should also cooperate more generally with other relevant authorities, both at national and Union level.

*Amendment*

(16) Member States should designate authorities competent to supervise the application of and enforce the rules of this Directive and ensure that those authorities are adequately empowered and resourced. In view of the differences in national governance structures and in order to safeguard already existing sectoral arrangements or Union supervisory and regulatory bodies, and to avoid duplication, Member States should be able to designate more than one competent authority. In that case, they should however clearly delineate the respective tasks of the authorities concerned and ensure that they cooperate smoothly and effectively, including with competent authorities of other Member States. All competent authorities should also cooperate more generally with other relevant authorities, both at national and Union level, including with competent authorities of other Member States.

Amendment 16
Proposal for a directive
Recital 17

*Text proposed by the Commission*

(17) In order to facilitate cross-border cooperation and communication and to enable the effective implementation of this Directive, each Member State should, without prejudice to sector-specific Union legal requirements, designate, within one of the authorities it designated as competent authority under this Directive, a single point of contact responsible for coordinating issues related to the resilience of critical entities and cross-border

*Amendment*

(17) In order to facilitate cross-border cooperation and communication and to enable the effective implementation of this Directive, each Member State should, without prejudice to sector-specific Union legal requirements, designate, within one of the authorities it designated as competent authority under this Directive, a single point of contact responsible for coordinating issues related to the resilience of critical entities and cross-border
cooperation at Union level in this regard. Each single point of contact should liaise and coordinate all communication, with the competent authorities of its Member State, with the single points of contact of other Member States and with the Critical Entities Resilience Group. The single points of contact should use efficient, secure and standardised reporting channels.

Amendment 17
Proposal for a directive
Recital 18

Text proposed by the Commission

(18) Given that under the NIS 2 Directive entities identified as critical entities, as well as identified entities in the digital infrastructure sector that are to be treated as equivalent under the present Directive are subject to the cybersecurity requirements of the NIS 2 Directive, the competent authorities designated under the two Directives should cooperate, particularly in relation to cybersecurity risks and incidents affecting those entities.

Amendment

(18) Entities identified as critical entities under this Directive as well as entities in the digital infrastructure sector that are to be treated as equivalent are subject to the cybersecurity requirements of the NIS 2 Directive. The competent authorities designated under the two Directives should therefore cooperate in an effective and consistent manner, particularly in relation to risks and incidents affecting those entities. It is important that Member States take measures to avoid double reporting and checks and to ensure that the strategies and requirements provided for in this Directive and the NIS 2 Directive are complementary and that critical entities are not subject to an administrative burden beyond that which is necessary to achieve the objectives of this Directive.

Amendment 18
Proposal for a directive
Recital 19

Text proposed by the Commission

(19) Member States should support

Amendment

(19) Member States should support
critical entities in strengthening their resilience, in compliance with their obligations under this Directive, without prejudice to the entities’ own legal responsibility to ensure such compliance. Member States could in particular develop guidance materials and methodologies, support the organisation of exercises to test their resilience and provide training to personnel of critical entities. Moreover, given the interdependencies between entities and sectors, Member States should establish information sharing tools to support voluntary information sharing between critical entities, without prejudice to the application of competition rules laid down in the Treaty on the Functioning of the European Union.

**Proposal for a directive**

**Recital 19 a (new)**

*Text proposed by the Commission*

(19a) When implementing this Directive, it is important that Member States take all the necessary actions to prevent any excessive administrative burdens, particularly on SMEs, and avoid duplications or unnecessary obligations. It is crucial that Member States assist with and facilitate the provision of adequate support to SMEs, when requested, by taking the technical and organisational measures required under this Directive.

**Amendment 20**

RR\1241337EN.docx 19/199 PE691.097v02-00
Proposal for a directive
Recital 20

Text proposed by the Commission

(20) In order to be able to ensure their resilience, critical entities should have a comprehensive understanding of all relevant risks to which they are exposed and analyse those risks. To that aim, they should carry out risks assessments, whenever necessary in view of their particular circumstances and the evolution of those risks, yet in any event every four years. The risk assessments by critical entities should be based on the risk assessment carried out by Member States.

Amendment

(20) In order to be able to ensure their resilience, critical entities should have a comprehensive understanding of all relevant risks to which they are exposed and analyse those risks. To that aim, they should carry out risks assessments, whenever necessary in view of their particular circumstances and the evolution of those risks, yet in any event every four years. The risk assessments by critical entities should be based on the risk assessment carried out by Member States and should be in line with common criteria and methodologies.

Amendment 21

Proposal for a directive
Recital 23

Text proposed by the Commission

(23) Regulation (EC) No 300/2008 of the European Parliament and of the Council, Regulation (EC) No 725/2004 of the European Parliament and of the Council and Directive 2005/65/EC of the European Parliament and of the Council establish requirements applicable to entities in the aviation and maritime transport sectors to prevent incidents caused by unlawful acts and to resist and mitigate the consequences of such incidents. While the measures required in this Directive are broader in terms of risks addressed and types of measures to be taken, critical entities in those sectors should reflect in their resilience plan or equivalent documents the measures taken pursuant to those other Union acts. Moreover, when implementing resilience measures under this Directive, critical entities may consider referring to non-

Amendment

(23) Regulation (EC) No 300/2008 of the European Parliament and of the Council, Regulation (EC) No 725/2004 of the European Parliament and of the Council and Directive 2005/65/EC of the European Parliament and of the Council establish requirements applicable to entities in the aviation and maritime transport sectors to prevent incidents caused by unlawful acts and to resist and mitigate the consequences of such incidents. While the measures required in this Directive are broader in terms of risks addressed and types of measures to be taken, critical entities in those sectors should reflect in their resilience plan or equivalent documents the measures taken pursuant to those other Union acts. Moreover, critical entities are also to take into consideration Directive 2008/96/EC of the European Parliament and of the
binding guidelines and good practices documents developed under sectorial workstreams, such as the EU Rail Passenger Security Platform.

Council, which introduces a network-wide road assessment to map the risks of accidents and a targeted road safety inspection to identify hazardous conditions, defects and problems that increase the risk of accidents and injuries, based on a site visit of an existing road or section of road. Ensuring the protection and resilience of critical entities is of the utmost importance for the railway sector and, when implementing resilience measures under this Directive, critical entities are encouraged to refer to non-binding guidelines and good practices documents developed under sectorial workstreams, such as the EU Rail Passenger Security Platform.


Recital 24

Text proposed by the Commission

(24) The risk of employees of critical entities misusing for instance their access rights within the entity’s organisation to harm and cause damage is of increasing concern. That risk is exacerbated by the growing phenomenon of radicalisation leading to violent extremism and terrorism. It is therefore necessary to enable critical entities to request background checks on persons falling within specific categories of its personnel and to ensure that those requests are assessed expeditiously by the relevant authorities, in accordance with the applicable rules of Union and national law, including on the protection of personal data.

Amendment

(24) The risk of employees of critical entities misusing for instance their access rights within the entity’s organisation to harm and cause damage is of increasing concern. That risk is exacerbated by the growing phenomenon of radicalisation leading to violent extremism and terrorism. It is therefore necessary to enable critical entities to request background checks on persons falling within specific categories of its personnel and to ensure that those requests are assessed expeditiously by the relevant authorities, in accordance with the applicable rules of Union and national law, including on the protection of personal data, in particular Regulation (EU) 2016/679.

Amendment 23

Proposal for a directive

Recital 25

Text proposed by the Commission

(25) Critical entities should notify, as soon as reasonably possible under the given circumstances, Member States’ competent authorities of incidents that significantly disrupt or have the potential to significantly disrupt their operations. The notification should allow the competent authorities to respond to the incidents rapidly and adequately and to have a comprehensive overview of the overall risks that critical entities face. For that purpose, a procedure should be established for the notification of certain incidents and parameters should be provided for to determine when the actual or potential disruption is significant and the incidents should thus be notified. Given the potential cross-border impacts of such disruptions, a procedure should be

Amendment

(25) Critical entities should notify, as soon as reasonably possible under the given circumstances and, in any event, no later than 24 hours after becoming aware of the incident in question, Member States’ competent authorities of any incident that significantly disrupts or has the potential to significantly disrupt their operations. The competent authority should inform the public of such an incident where it determines that it would be in the public interest to do so. The competent authority should ensure that the critical entity concerned inform users of its services that might be affected by such an incident of the incident and, where relevant, of any possible safety measures or remedies. The notification should allow the competent authorities to
established for Member States to inform other affected Member States via single points of contacts.

respond to the incidents rapidly and adequately and to have a comprehensive overview of the overall risks that critical entities face. For that purpose, a procedure should be established for the notification of certain incidents and parameters should be provided for to determine when the actual or potential disruption is significant and the incidents should thus be notified. Given the potential cross-border impacts of such disruptions, a procedure should be established for Member States to inform other affected Member States via single points of contacts, **without undue delay.**

*Information on incidents should be treated in a way that respects confidentiality and the security and commercial interests of the critical entity concerned.*

**Amendment 24**

**Proposal for a directive**

**Recital 26**

*Text proposed by the Commission*

(26) While critical entities generally operate as part of an increasingly interconnected network of service provision and infrastructures and often provide essential services in more than one Member State, some of those entities are of particular significance for the Union because they provide essential services to a **large number of** Member States, and therefore require specific oversight at Union level. Rules on the specific oversight in respect of such critical entities of particular European significance should therefore be established. Those rules are without prejudice to the rules on supervision and enforcement set out in this Directive.

*Amendment*

(26) While critical entities generally operate as part of an increasingly interconnected network of service provision and infrastructures and often provide essential services in more than one Member State, some of those entities are of particular significance for the Union and the internal market because they provide essential services to **several** Member States, and therefore require specific oversight at Union level. Rules on the specific oversight in respect of such critical entities of particular European significance should therefore be established. Those rules are without prejudice to the rules on supervision and enforcement set out in this Directive.

**Amendment 25**
Proposal for a directive
Recital 27 a (new)

Text proposed by the Commission

(27a) Standardisation should remain primarily a market-driven process. However, there might still be situations where it is appropriate to require compliance with specified standards at Union level. The Commission and the Member States should support and promote the development and implementation of standards and specifications relevant to the resilience of critical entities as set by the European Standardisation Organisations for the undertaking of technical and organisational measures aimed at ensuring critical entities’ resilience. Member States should also encourage the use of internationally accepted standards and specifications relevant to resilience measures applicable to critical entities.

Amendment

Proposal for a directive
Recital 30

Text proposed by the Commission

(30) Member States should ensure that their competent authorities have certain specific powers for the proper application and enforcement of this Directive in relation to critical entities, where those entities fall under their jurisdiction as specified in this Directive. Those powers should include, notably, the power to conduct inspections, supervision and audits, require critical entities to provide information and evidence relating to the measures they have taken to comply with their obligations and, where necessary, issue orders to remedy identified infringements. When issuing such orders, Member States should not require

Amendment

(30) Member States should ensure that their competent authorities have certain specific powers for the proper application and enforcement of this Directive in relation to critical entities, where those entities fall under their jurisdiction as specified in this Directive. Those powers should include, notably, the power to conduct inspections, supervision and audits, require critical entities to provide information and evidence relating to the measures they have taken to comply with their obligations and, where necessary, issue orders to remedy identified infringements. When issuing such orders, Member States should not require
measures which go beyond what is necessary and proportionate to ensure compliance of the critical entity concerned, taking account of in particular the seriousness of the infringement and the economic capacity of the critical entity. More generally, those powers should be accompanied by appropriate and effective safeguards to be specified in national law, in accordance with the requirements resulting from Charter of Fundamental Rights of the European Union. When assessing the compliance of a critical entity with its obligations under this Directive, competent authorities designated under this Directive should be able to request the competent authorities designated under the NIS 2 Directive to assess the cybersecurity of those entities. Those competent authorities should cooperate and exchange information for that purpose.

Amendment 27

Proposal for a directive

Recital 31

Text proposed by the Commission

(31) In order to take into account new risks, technological developments or specificities of one or more of the sectors, the power to adopt acts in accordance with Article 290 Treaty on the Functioning of the European Union should be delegated to the Commission to supplement the resilience measures critical entities are to take by further specifying some or all of those measures. It is of particular importance that the Commission carry out appropriate consultations during its

Amendment

(31) In order to take into account new risks, technological developments or specificities of one or more of the sectors, the power to adopt acts in accordance with Article 290 Treaty on the Functioning of the European Union should be delegated to the Commission to supplement the resilience measures critical entities are to take by further specifying some or all of those measures. In order to avoid the divergent application of this Directive and to improve the functioning of the internal
preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making\(^\text{32}\). In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.


**Amendment 28**

Proposal for a directive

Article 1 – paragraph 1 – introductory part

*Text proposed by the Commission*

1. This Directive:

*Amendment*

1. *This Directive lays down measures with a view to achieving a high level of resilience of critical entities in order to ensure the provision of essential services within the Union and to improve the functioning of the internal market. To that end, this Directive:*

**Amendment 29**

Proposal for a directive

Article 1 – paragraph 1 – point a

*market, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission to supplement this Directive by drawing up a common list of essential services. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making\(^\text{32}\). In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.*

(a) lays down obligations for Member States to take certain measures aimed at ensuring the provision in the internal market of services essential for the maintenance of vital societal functions or economic activities, in particular to identify critical entities and entities to be treated as equivalent in certain respects, and to enable them to meet their obligations;

Amendment 30
Proposal for a directive
Article 1 – paragraph 2

Text proposed by the Commission

2. This Directive shall not apply to matters covered by Directive (EU) XX/YY [proposed Directive on measures for a high common level of cybersecurity across the Union; (‘NIS 2 Directive’)], without prejudice to Article 7.

Amendment

2. This Directive shall not apply to matters covered by Directive (EU) XX/YY [proposed Directive on measures for a high common level of cybersecurity across the Union; (‘NIS 2 Directive’)], without prejudice to Article 7. In view of the interlinkages between cybersecurity and the physical security of entities, Member States shall ensure a coherent implementation of this Directive and the NIS 2 Directive.

Amendment 31
Proposal for a directive
Article 2 – paragraph 1 – point 3

Text proposed by the Commission

(3) “incident” means any event having the potential to disrupt, or that disrupts, the operations of the critical entity;

Amendment

(3) “incident” means any event having the potential to disrupt, or that disrupts the provision of an essential service by a critical entity;

Amendment 32
Proposal for a directive
Article 2 – paragraph 1 – point 4

Text proposed by the Commission

(4) “infrastructure” means an asset, system or part thereof, which is necessary for the delivery of an essential service;

Amendment

(4) “infrastructure” means assets, including facilities, systems and equipment, or parts thereof, which are necessary for the delivery of an essential service;

Amendment 33

Proposal for a directive
Article 2 – paragraph 1 – point 5

Text proposed by the Commission

(5) “essential service” means a service which is essential for the maintenance of vital societal functions or economic activities;

Amendment

(5) “essential service” means a service which is essential for the maintenance of vital societal functions, economic activities, public health and safety, the environment or the rule of law;

Amendment 34

Proposal for a directive
Article 2 – paragraph 1 – point 6

Text proposed by the Commission

(6) “risk” means any circumstance or event having a potential adverse effect on the resilience of critical entities;

Amendment

(6) “risk” means any circumstance or event having a potential adverse effect on the ability of a critical entity to provide an essential service;

Amendment 35

Proposal for a directive
Article 2 – paragraph 1 – point 7

Text proposed by the Commission

(7) “risk assessment” means a methodology to determine the nature and extent of a risk by analysing potential

Amendment

(7) “risk assessment” means a methodology to determine the nature and extent of a risk by assessing potential
threats and hazards **and evaluating** existing conditions of vulnerability that could **disrupt** the operations of the critical entity.

**Amendment 36**

**Proposal for a directive**

**Article 2 – paragraph 1 – point 7 a (new)**

**Text proposed by the Commission**

(7a) ‘standard’ means standard as defined in Article 2, point (1), of Regulation (EU) No 1025/2012 of the European Parliament and of the Council;

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**Amendment 37**

**Proposal for a directive**

**Article 2 – paragraph 1 – point 7 b (new)**

**Text proposed by the Commission**

(7b) ‘technical specification’ means technical specification as defined
Amendment 38

Proposal for a directive
Article 3 – paragraph 1

Text proposed by the Commission

1. Each Member State shall adopt by [three years after entry into force of this Directive] a strategy for reinforcing the resilience of critical entities. This strategy shall set out strategic objectives and policy measures with a view to achieving and maintaining a high level of resilience on the part of those critical entities and covering at least the sectors referred to in the Annex.

Amendment

1. Following a consultation open to all affected stakeholders, each Member State shall adopt by [three years after entry into force of this Directive] a strategy for reinforcing the resilience of critical entities. This strategy shall take into account the Union strategy on resilience prepared by the Critical Entities Resilience Group, referred to in Article 16, and set out strategic objectives and policy measures with a view to achieving and maintaining a high level of resilience on the part of those critical entities and covering at least the sectors referred to in the Annex.

Amendment 39

Proposal for a directive
Article 3 – paragraph 2 – point c

Text proposed by the Commission

(c) a description of measures necessary to enhance the overall resilience of critical entities, including a national risk assessment, the identification of critical entities and of entities equivalent to critical entities, and the measures to support critical entities taken in accordance with this Chapter;

Amendment

(c) a description of measures necessary to enhance the overall resilience of critical entities, including a national risk assessment as referred to in Article 4, the identification of critical entities and of entities equivalent to critical entities, and the measures to support critical entities taken in accordance with this Chapter, including measures to enhance cooperation between the public sector and the private sector and public and private entities;
Amendment 40

Proposal for a directive
Article 3 – paragraph 2 – point c a (new)

Text proposed by the Commission  

Amendment

(ca)  a list of all authorities and stakeholders involved in the implementation of the strategy;

Amendment 41

Proposal for a directive
Article 3 – paragraph 2 – point d a (new)

Text proposed by the Commission  

Amendment

(da)  a policy framework addressing the specific needs and characteristics of small and medium-sized enterprises identified as critical entities to improve their resilience;

Amendment 42

Proposal for a directive
Article 3 – paragraph 2 – point d b (new)

Text proposed by the Commission  

Amendment

(db)  the relevant aspects of the national cybersecurity strategy provided for in the NIS 2 Directive and any other sectoral national strategy with a view to achieving coordination, complementarity and synergies.

Amendment 43

Proposal for a directive
Article 3 – paragraph 2 – subparagraph 1

Text proposed by the Commission  

Amendment

The strategy shall be updated where Following a consultation open to all
necessary and at least every four years. affected stakeholders, the strategy shall be updated at least every four years.

Amendment 44
Proposal for a directive
Article 4 – paragraph 1 – subparagraph 1

**Text proposed by the Commission**

1. Competent authorities designated pursuant to Article 8 shall establish a list of essential services in the sectors referred to in the Annex. They shall carry out by [three years after entry into force of this Directive], and subsequently where necessary, and at least every four years, an assessment of all relevant risks that may affect the provision of those essential services, with a view to identifying critical entities in accordance with Article 5(1), and assisting those critical entities to take measures pursuant to Article 11.

**Amendment**

1. The Commission is empowered to adopt a delegated act in accordance with Article 21 to supplement this Directive by establishing a list of essential services in the sectors and subsectors referred to in the Annex. The Commission shall adopt the delegated act no later than... [six months after the date of entry into force of this Directive]. Competent authorities designated pursuant to Article 8 shall carry out by [three years after entry into force of this Directive], and subsequently where necessary, and at least every four years, an assessment of all relevant risks that may affect the provision of those essential services listed in the delegated act, with a view to identifying critical entities in accordance with Article 5(1), and assisting those critical entities to take measures pursuant to Article 11.

Amendment 45
Proposal for a directive
Article 4 – paragraph 1 – subparagraph 2

**Text proposed by the Commission**

The risk assessment shall account for all relevant natural and man-made risks, including accidents, natural disasters, public health emergencies, antagonistic threats, including terrorist offences pursuant to Directive (EU) 2017/541 of the European Parliament and of the Council34.

**Amendment**

The risk assessment shall account for all relevant natural and man-made risks, including those of a cross-sectoral or cross-border nature, accidents, natural disasters, public health emergencies, antagonistic threats, including terrorist offences pursuant to Directive (EU) 2017/541 of the European Parliament and
of the Council34.

Amendment 46

Proposal for a directive
Article 4 – paragraph 2 – subparagraph 1 – point c

Text proposed by the Commission

(c) any risks arising from the dependencies between the sectors referred to in the Annex, including from other Member States and third countries, and the impact that a disruption in one sector may have on other sectors;

Amendment

(c) any risks arising from the dependencies between the sectors referred to in the Annex, including from other Member States and third countries, and the impact that a disruption in one sector may have on other sectors, including any risks to citizens and the internal market;

Amendment 47

Proposal for a directive
Article 4 – paragraph 3

Text proposed by the Commission

3. Member States shall make the relevant elements of the risk assessment referred to in paragraph 1 available to the critical entities that they identified in accordance with Article 5 in order to assist those critical entities in carrying out their risk assessment, pursuant to Article 10, and in taking measures to ensure their resilience pursuant to Article 11.

Amendment

3. Member States shall make the relevant elements of the risk assessment referred to in paragraph 1 available, through their single point of contact referred to in Article 8(2), to the critical entities that they identified in accordance with Article 5 in order to assist those critical entities in carrying out their risk assessment, pursuant to Article 10, and in taking measures to ensure their resilience pursuant to Article 11.
Amendment 48

Proposal for a directive
Article 4 – paragraph 5

Text proposed by the Commission

5. The Commission may, in cooperation with the Member States, develop a voluntary common reporting template for the purposes of complying with paragraph 4.

Amendment

5. The Commission shall, in cooperation with the Member States, develop a voluntary common reporting template for the purposes of complying with paragraph 4.

Amendment 49

Proposal for a directive
Article 5 – paragraph 2 – introductory part

Text proposed by the Commission

2. When identifying critical entities pursuant to paragraph 1, Member States shall take into account the outcomes of the risk assessment pursuant to Article 4 and apply the following criteria:

Amendment

2. When identifying critical entities pursuant to paragraph 1, Member States shall take into account the outcomes of the risk assessment pursuant to Article 4 and the strategy on the resilience of critical entities referred to in Article 3 and shall apply the following criteria:

Amendment 50

Proposal for a directive
Article 5 – paragraph 2 – point b

Text proposed by the Commission

(b) the provision of that service depends on infrastructure located in the Member State; and

Amendment

(b) the provision of that essential service depends on infrastructure located in the Member State; and

Amendment 51

Proposal for a directive
Article 5 – paragraph 2 – point c

Text proposed by the Commission

Amendment
(c) an incident would have significant disruptive effects on the provision of the service or of other essential services in the sectors referred to in the Annex that depend on the service.

Amendment 52
Proposal for a directive
Article 5 – paragraph 5

**Text proposed by the Commission**

5. Following the notification referred in paragraph 3, Member States shall ensure that critical entities provide information to their competent authorities designated pursuant to Article 8 of this Directive on whether they have been identified as a critical entity in one or more other Member States. Where an entity has been identified as critical by two or more Member States, these Member States shall engage in consultation with each other with a view to **reduce** the burden on the critical entity in regard to the obligations pursuant to Chapter III.

**Amendment**

5. Following the notification referred in paragraph 3, Member States shall ensure that critical entities provide information to their competent authorities designated pursuant to Article 8 of this Directive on whether they have been identified as a critical entity in one or more other Member States. Where an entity has been identified as critical by two or more Member States, these Member States shall engage in consultation with each other with a view to **achieving the highest possible degree of coherence and to reducing** the burden on the critical entity in regard to the obligations pursuant to Chapter III.

Amendment 53
Proposal for a directive
Article 5 – paragraph 6

**Text proposed by the Commission**

6. For the purposes of Chapter IV, Member States shall ensure that critical entities, following the notification referred in paragraph 3, provide information to their competent authorities designated pursuant to Article 8 of this Directive on whether they provide essential services to or in more than one third of Member States. Where that is so, the Member State concerned shall notify, without undue delay, to the Commission the identity of

**Amendment**

6. For the purposes of Chapter IV, Member States shall ensure that critical entities, following the notification referred in paragraph 3, provide information to their competent authorities designated pursuant to Article 8 of this Directive on whether they provide the same or similar essential services to or in more than three Member States. Where that is so, the Member State concerned shall notify, without undue delay, to the Commission the identity of
those critical entities.

Amendment 54

Proposal for a directive
Article 5 – paragraph 7 – subparagraph 2

Text proposed by the Commission

Where those updates lead to the identification of additional critical entities, paragraphs 3, 4, 5 and 6 shall apply. In addition, Member States shall ensure that entities that are no longer identified as critical entities pursuant to any such update are notified thereof and are informed that they are no longer subject to the obligations pursuant to Chapter III as from the reception of that information.

Amendment

Where those updates lead to the identification of additional critical entities, paragraphs 3, 4, 5 and 6 shall apply. In addition, Member States shall ensure that entities that are no longer identified as critical entities pursuant to any such update are notified thereof and are informed in due time that they are no longer subject to the obligations pursuant to Chapter III as from the reception of that information.

Amendment 55

Proposal for a directive
Article 5 – paragraph 7 a (new) –

Text proposed by the Commission

7a. The Commission shall, in cooperation with the Member States, develop recommendations and guidelines to support Member States in identifying critical entities.

Amendment

Amendment 56

Proposal for a directive
Article 6 – paragraph 1 – point a

Text proposed by the Commission

(a) the number of users relying on the service provided by the entity;

Amendment

(a) the number of users relying on the essential service provided by the entity;

Amendment 57
Proposal for a directive
Article 6 – paragraph 1 – point b

**Text proposed by the Commission**

(b) the dependency of other sectors referred to in the Annex on that service;

**Amendment**

(b) the dependency of other sectors and subsectors referred to in the Annex or of the supply chain on that essential service;

Amendment 58

Proposal for a directive
Article 6 – paragraph 1 – point e

**Text proposed by the Commission**

(e) the geographic area that could be affected by an incident, including any cross-border impacts;

**Amendment**

(e) the geographic area that could be affected by an incident, including any cross-border impacts, taking into account the vulnerability associated with the degree of isolation of certain types of geographic areas, such as insular regions, outermost regions or mountainous areas;

Amendment 59

Proposal for a directive
Article 6 – paragraph 1 – point f

**Text proposed by the Commission**

(f) the importance of the entity in maintaining a sufficient level of the service, taking into account the availability of alternative means for the provision of that service.

**Amendment**

(f) the importance of the entity in maintaining a sufficient level of the essential service, taking into account the availability of alternative means for the provision of that essential service.

Amendment 60

Proposal for a directive
Article 6 – paragraph 3

**Text proposed by the Commission**

3. The Commission may, after consultation of the Critical Entities

**Amendment**

3. The Commission shall, after consultation of the Critical Entities
Resilience Group, adopt guidelines to facilitate the application of the criteria referred to in paragraph 1, taking into account the information referred to in paragraph 2.

Amendment 61

Proposal for a directive
Article 7 – paragraph 1

Text proposed by the Commission

1. As regards the sectors referred to in points 3, 4 and 8 of the Annex, Member States shall, by \textit{three years and three months after entry into force of this Directive}, identify the entities that shall be treated as equivalent to critical entities for the purposes of this Chapter. They shall apply the provisions of Articles 3, 4, 5(1) to (4) and (7), and 9 in respect of those entities.

Amendment

1. As regards the sectors referred to in points 3, 4 and 8 of the Annex, Member States shall, by \textit{one year and six months after entry into force of this Directive}, identify the entities that shall be treated as equivalent to critical entities for the purposes of this Chapter. They shall apply the provisions of Articles 3, 4, 5(1) to (4) and (7), and 9 in respect of those entities.

Amendment 62

Proposal for a directive
Article 8 – paragraph 2

Text proposed by the Commission

2. Each Member State shall, within the competent authority, designate a single point of contact to exercise a liaison function to ensure cross-border cooperation with competent authorities of other Member States and with the Critical Entities Resilience Group referred to in Article 16 (‘single point of contact’).

Amendment

2. Each Member State shall, within the competent authority, designate a single point of contact to exercise a liaison function to ensure cross-border cooperation with competent authorities of other Member States and with the \textit{Commission and the Critical Entities Resilience Group referred to in Article 16} (‘single point of contact’) and, where relevant, to ensure cooperation with third countries.

Amendment 63

Proposal for a directive
Article 8 – paragraph 3

Text proposed by the Commission

3. By [three years and six months after entry into force of this Directive], and every year thereafter, the single points of contact shall submit a summary report to the Commission and to the Critical Entities Resilience Group on the notifications received, including the number of notifications, the nature of notified incidents and the actions taken in accordance with Article 13(3).

Amendment

3. By ... [four years and six months after entry into force of this Directive], and in the first trimester of every year thereafter, the single points of contact shall submit a summary report to the Commission and to the Critical Entities Resilience Group on the notifications received, including the number of notifications, the nature of notified incidents and the actions taken in accordance with Article 13(3).

Amendment 64

Proposal for a directive
Article 9 – paragraph 1

Text proposed by the Commission

1. Member States shall support critical entities in enhancing their resilience. That support may include developing guidance materials and methodologies, supporting the organisation of exercises to test their resilience and providing training to personnel of critical entities.

Amendment

1. Member States shall support critical entities in enhancing their resilience. That support shall include developing guidance materials and methodologies, supporting the organisation of exercises to test their resilience and providing training to personnel of critical entities. Member States may provide financial resources to critical entities, without prejudice to applicable rules on State aid, where necessary and justified by public interest objectives.

Amendment 65

Proposal for a directive
Article 10 – paragraph 1

Text proposed by the Commission

Member States shall ensure that critical entities assess within six months after receiving the notification referred to in Article 5(3), and subsequently where

Amendment

Member States shall ensure that critical entities assess within six months after receiving the notification referred to in Article 5(3), and subsequently where
necessary and at least every four years, on the basis of Member States’ risk assessments and other relevant sources of information, all relevant risks that may disrupt their operations.

**Amendment 66**

Proposal for a directive

Article 11 – paragraph 1 – point d

*Text proposed by the Commission*

(d) recover from incidents, including business continuity measures and the identification of alternative supply chains;

*Amendment*

(d) recover from incidents, including business continuity measures and the identification of alternative supply chains, to ensure the continuous provision of the essential service;

**Amendment 67**

Proposal for a directive

Article 11 – paragraph 1 – point e

*Text proposed by the Commission*

(e) ensure adequate employee security management, including by setting out categories of personnel exercising critical functions, establishing access rights to sensitive areas, facilities and other infrastructure, and to sensitive information as well as identifying specific categories of personnel in view of Article 12;

*Amendment*

(e) ensure adequate employee security management, including by setting out categories of personnel exercising critical functions, laying down appropriate training requirements and qualifications, establishing access rights to sensitive areas, facilities and other infrastructure, and to sensitive information as well as identifying specific categories of personnel in view of Article 12; where external providers are involved in employee security management, critical entities shall ensure that they comply with generally accepted standards and specifications.
Article 11 – paragraph 1 – point f

*Text proposed by the Commission*

(f) raise awareness about the measures referred to in points (a) to (e) among relevant personnel.

*Amendment*

(f) raise awareness about the measures referred to in points (a) to (e) among relevant personnel, including by means of periodic training.

Amendment 69

Proposal for a directive
Article 11 – paragraph 3

*Text proposed by the Commission*

3. Upon request of the Member State that identified the critical entity and with the agreement of the critical entity concerned, the Commission shall organise advisory missions, in accordance with the arrangements set out in Article 15(4), (5), (7) and (8), to provide advice to the critical entity concerned in meeting its obligations pursuant to Chapter III. The advisory mission shall report its findings to the Commission, that Member State and the critical entity concerned.

*Amendment*

3. Upon request of the Member State that identified the critical entity and in consultation with the critical entity concerned, the Commission shall organise advisory missions, in accordance with the arrangements set out in Article 15(4), (5), (7) and (8), to provide advice to the critical entity concerned in meeting its obligations pursuant to Chapter III. The advisory mission shall report its findings to the Commission, that Member State and the critical entity concerned. At their request the Commission may also offer advisory missions to entities based in third countries.

Amendment 70

Proposal for a directive
Article 12 – paragraph 1

*Text proposed by the Commission*

1. Member States shall ensure that critical entities may submit requests for background checks on persons who fall within certain specific categories of their personnel, including persons being considered for recruitment to positions falling within those categories, and that those requests are assessed expeditiously

*Amendment*

1. Member States shall ensure that critical entities may submit requests for background checks on persons who fall within certain specific categories of their personnel, including persons being considered for recruitment to positions falling within those categories, and that those requests are assessed expeditiously
by the authorities competent to carry out such background checks. Such background checks shall be proportionate and strictly limited to what is necessary and relevant for the fulfilment of the duties of the persons concerned.

Amendment 71

Proposal for a directive
Article 12 – paragraph 2 – subparagraph 1 – introductory part

Text proposed by the Commission

2. In accordance with applicable Union and national law, including Regulation (EU) 2016/679/EU of the European Parliament and of the Council, a background check as referred to in paragraph 1 shall:

Amendment

2. In accordance with applicable Union and national law, including Regulation (EU) 2016/679/EU of the European Parliament and of the Council, Member States shall ensure that a background check as referred to in paragraph 1 is carried out for the sole purpose of evaluating a potential security risk to the critical entity concerned. A background check shall:


Amendment 72

Proposal for a directive
Article 13 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that critical entities notify without undue delay the competent authority of incidents that significantly disrupt or have the potential to significantly disrupt their operations. Notifications shall include any available information necessary to enable the competent authority to understand the nature, cause and possible consequences of the incident, including so as to determine any cross-border impact of the incident. Such notification shall not make the critical

Amendment

1. Member States shall ensure that critical entities notify without undue delay the competent authority of incidents that significantly disrupt or have the potential to significantly disrupt their operations. An initial notification shall be submitted within 24 hours of a critical entity becoming aware of an incident, followed by a detailed report no later than one month thereafter. Notifications shall include any available information necessary to enable the competent
entities subject to increased liability. authority to understand the nature, cause and possible consequences of the incident, including so as to determine any cross-border impact of the incident. Such notification shall not make the critical entities subject to increased liability.

Where an incident has or might have a significant impact on critical entities or on the continuity of the provision of essential services in more than three Member States, Member States shall ensure that the critical entities concerned notify such incidents to the Commission. The Commission shall inform the Critical Entities Resilience Group of any such notifications without undue delay. The Commission and the Critical Entities Resilience Group shall, in accordance with Union law, treat information provided as part of such notifications in a way that respects its confidentiality and protects the security and commercial interests of the critical entity or entities concerned.

Amendment 73
Proposal for a directive
Article 13 – paragraph 2 – point c

Text proposed by the Commission
(c) the geographical area affected by the disruption or potential disruption.

Amendment
(c) the geographical area affected by the disruption or potential disruption, taking into account whether the area is geographically isolated.

Amendment 74
Proposal for a directive
Article 13 – paragraph 3 a (new)

Text proposed by the Commission
3a. The competent authority concerned shall submit a summary report
Annually to the Commission and to the Critical Entities Resilience Group on the notifications received and the action taken in accordance with this Article.

Amendment 75

Proposal for a directive
Article 13 – paragraph 4

Text proposed by the Commission

4. As soon as possible upon having been notified in accordance with paragraph 1, the competent authority shall provide the critical entity that notified it with relevant information regarding the follow-up of its notification, including information that could support the critical entity’s effective response to the incident.

Amendment

4. As soon as possible upon having been notified in accordance with paragraph 1, the competent authority shall provide the critical entity that notified it with relevant information regarding the follow-up of its notification, including information that could support the critical entity’s effective response to the incident. The competent authority shall inform the public of an incident where it determines that it would be in the public interest to do so. The competent authority shall ensure that critical entities inform users of their services that might be affected by an incident of the incident and, where relevant, of any possible safety measures or remedies.

Amendment 76

Proposal for a directive
Article 13 a (new)

Text proposed by the Commission

Article 13a
Standards

In order to promote the consistent implementation of this Directive, Member States shall, without imposing or discriminating in favour of the use of a particular type of technology, encourage the use of standards and specifications relevant to the security and resilience of
critical entities.

Amendment 77
Proposal for a directive
Article 14 – paragraph 2

Text proposed by the Commission

2. An entity shall be considered a critical entity of particular European significance when it has been identified as a critical entity and it provides essential services to or in more than one third of Member States and has been notified as such to the Commission pursuant to Article 5(1) and (6), respectively.

Amendment

2. An entity shall be considered a critical entity of particular European significance when it has been identified as a critical entity and it provides the same or similar essential services to or in more than three Member States and has been notified as such to the Commission pursuant to Article 5(1) and (6), respectively.

Amendment 78
Proposal for a directive
Article 15 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Upon request of one or more Member States or of the Commission, the Member State where the infrastructure of the critical entity of particular European significance is located shall, together with that entity, inform the Commission and the Critical Entities Resilience Group of the outcome of the risk assessment carried out pursuant to Article 10 and the measures taken in accordance with Article 11.

Amendment

Upon request of one or more Member States or of the Commission, a critical entity of particular European significance shall, inform the Critical Entities Resilience Group of the outcome of the risk assessment carried out pursuant to Article 10 and the measures taken in accordance with Article 11.

Amendment 79
Proposal for a directive
Article 15 – paragraph 2

Text proposed by the Commission

2. Upon request of one or more Member States, or at its own initiative, and in agreement with the Member State where

Amendment

2. Upon request of one or more Member States, or at its own initiative, and in consultation with the Member State
the infrastructure of the critical entity of particular European significance is located, where the infrastructure of the critical entity of particular European significance is located, the Commission shall organise an advisory mission to assess the measures that that entity put in place to meet its obligations pursuant to Chapter III. Where needed, the advisory missions may request specific expertise in the area of disaster risk management through the Emergency Response Coordination Centre.

Amendment 80

Proposal for a directive
Article 15 – paragraph 4 – subparagraph 2

Text proposed by the Commission

The Commission shall organise the programme of an advisory mission, in consultation with the members of the specific advisory mission and in agreement with the Member State where the infrastructure of the critical entity or the critical entity of European significance concerned is located.

Amendment

The Commission shall organise the programme of an advisory mission, in consultation with the members of the specific advisory mission and the Member State where the infrastructure of the critical entity or the critical entity of European significance concerned is located.

Amendment 81

Proposal for a directive
Article 16 – paragraph 2 – subparagraph 1

Text proposed by the Commission

The Critical Entities Resilience Group shall be composed of representatives of the Member States and the Commission. Where relevant for the performance of its tasks, the Critical Entities Resilience Group may invite representatives of interested parties to participate in its work.

Amendment

The Critical Entities Resilience Group shall be composed of representatives of the Member States and the Commission. Where relevant for the performance of its tasks, the Critical Entities Resilience Group shall invite representatives of relevant stakeholders to participate in its work and the European Parliament to participate as an observer.
Proposal for a directive
Article 16 – paragraph 3 – point c

Text proposed by the Commission

(c) facilitating the exchange of best practices with regard to the identification of critical entities by the Member States in accordance with Article 5, including in relation to cross-border dependencies and regarding risks and incidents;

Amendment

(c) facilitating the exchange of best practices with regard to the identification of critical entities by the Member States in accordance with Article 5, including in relation to cross-border and cross sectoral dependencies and regarding risks and incidents;

Amendment 83

Proposal for a directive
Article 16 – paragraph 3 – point c a (new)

Text proposed by the Commission

(ca) preparing a Union strategy on resilience in compliance with the objectives set out in this Directive;

Amendment

(eca) preparing a Union strategy on resilience in compliance with the objectives set out in this Directive;

Amendment 84

Proposal for a directive
Article 16 – paragraph 3 – point h

Text proposed by the Commission

(h) exchanging information and best practices on research and development relating to the resilience of critical entities in accordance with this Directive;

Amendment

(h) exchanging information and best practices on innovation, research and development relating to the resilience of critical entities in accordance with this Directive;

Amendment 85

Proposal for a directive
Article 16 – paragraph 3 – point h a (new)

Text proposed by the Commission

(ha) promoting and supporting coordinated risk assessments and joint
actions among critical entities;

Amendment 86
Proposal for a directive
Article 16 – paragraph 5

Text proposed by the Commission
5. The Critical Entities Resilience Group shall meet regularly and at least once a year with the Cooperation Group established under [the NIS 2 Directive] to promote strategic cooperation and exchange of information.

Amendment
5. The Critical Entities Resilience Group shall meet regularly and at least once a year with the Cooperation Group established under [the NIS 2 Directive] to facilitate strategic cooperation and exchange of information.

Amendment 87
Proposal for a directive
Article 16 – paragraph 7

Text proposed by the Commission
7. The Commission shall provide to the Critical Entities Resilience Group a summary report of the information provided by the Member States pursuant to Articles 3(3) and 4(4) by [three years and six months after entry into force of this Directive] and subsequently where necessary and at least every four years.

Amendment
7. The Commission shall provide to the Critical Entities Resilience Group a summary report of the information provided by the Member States pursuant to Articles 3(3) and 4(4) by [three years and six months after entry into force of this Directive] and subsequently where necessary and at least every four years. The Commission shall regularly publish a summary report of the activities of the Critical Entities Resilience Group.

The Commission shall set up a common secretariat for the Critical Entities Resilience Group and the Cooperation Group established under the NIS 2 Directive in order to better accommodate communication between the two groups and, consequently, to minimise ambiguities between the different authorities designated under this Directive and the NIS 2 Directive.
Amendment 88
Proposal for a directive
Article 17 – paragraph 2 a (new)

Text proposed by the Commission

2a. In order to receive and properly use the information received under Article 8(3), the Commission shall keep a Union registry of incidents with the aim of developing and sharing best practices and methodologies.

Amendment 89
Proposal for a directive
Article 21 – paragraph 2

Text proposed by the Commission

2. The power to adopt delegated acts referred to in Article 11(4) shall be conferred on the Commission for a period of five years from date of entry into force of this Directive or any other date set by the co-legislators.

Amendment

2. The power to adopt delegated acts referred to in Articles 4(1) and 11(4) shall be conferred on the Commission for a period of five years from date of entry into force of this Directive or any other date set by the co-legislators.

Amendment 90
Proposal for a directive
Article 21 – paragraph 3

Text proposed by the Commission

3. The delegation of power referred to in Article 11(4) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

Amendment

3. The delegation of power referred to in Articles 4(1) and 11(4) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
Amendment 91

Proposal for a directive
Article 22 – paragraph 1

Text proposed by the Commission

By [54 months after the entry into force of this Directive], the Commission shall submit a report to the European Parliament and to the Council, assessing the extent to which the Member States have taken the necessary measures to comply with this Directive.

Amendment

By [54 months after the entry into force of this Directive], the Commission shall submit a report to the European Parliament and to the Council, assessing the extent to which the Member States have taken the necessary measures to comply with this Directive. The report shall contain separate country chapters on the concrete implementation progress in each Member State.

Amendment 92

Proposal for a directive
Article 22 – paragraph 2

Text proposed by the Commission

The Commission shall periodically review the functioning of this Directive, and report to the European Parliament and to the Council. The report shall in particular assess the impact and added value of this Directive on ensuring the resilience of critical entities and whether the scope of the Directive should be extended to cover other sectors or subsectors. The first report shall be submitted by [six years after the entry into force of this Directive] and shall assess in particular whether the scope of the Directive should be extended to include the food production, processing and distribution sector.

Amendment

The Commission shall periodically review the functioning of this Directive, and report to the European Parliament and to the Council. The report shall in particular assess the impact and added value of this Directive on ensuring the resilience of critical entities and whether the scope of the Directive should be extended to cover other sectors or subsectors. The first report shall be submitted by [six years after the entry into force of this Directive] and shall assess in particular whether the scope of the Directive should be extended. For that purpose, the Commission shall take into account relevant documents of the Critical Entities Resilience Group.

Amendment 93

Proposal for a directive
Annex – table – point 2 – Transport – point e (new)

Text proposed by the Commission

2. Transport
   a) Air
      — Air carriers referred to in point (4) of Article 3 of Regulation (EC) No 300/2008
      — Airport managing bodies referred to in point (2) of Article 2 of Directive 2009/12/EC, airports referred to in point (1) of Article 2 of that Directive, including the core airports listed in Section 2 of Annex II to Regulation (EU) No 1315/2013, and entities operating ancillary installations contained within airports
      — Traffic management control operators providing air traffic control (ATC) services referred to in point (1) of Article 2 of Regulation (EC) No 549/2004
   (b) Rail
      — Infrastructure managers referred to in point (2) of Article 3 of Directive 2012/34/EU
      — Railway undertakings referred to in point (1) of Article 3 of Directive 2012/34/EU, including operators of service facilities referred to in point (12) of Article 3 of Directive 2012/34/EU
   (c) Water
      — Inland, sea and coastal passenger and freight water transport companies, referred to for maritime transport in Annex I to Regulation (EC) No 725/2004, not including the individual vessels operated by those companies
      — Managing bodies of ports referred to in point (1) of Article 3 of Directive 2005/65/EC, including their port facilities referred to in point (11) of Article 2 of Regulation (EC) No 725/2004, and entities operating works and equipment contained within ports
   (d) Road
      — Road authorities referred to in point (12) of Article 2 of Commission Delegated Regulation (EU) 2015/962 responsible for traffic management control
      — Operators of Intelligent Transport Systems referred to in point (1) of Article 4 of Directive 2010/40/EU

Amendment

2. Transport
   a) Air
      — Air carriers referred to in point (4) of Article 3 of Regulation (EC) No 300/2008
— Airport managing bodies referred to in point (2) of Article 2 of Directive 2009/12/EC\(^{57}\), airports referred to in point (1) of Article 2 of that Directive, including the core airports listed in Section 2 of Annex II to Regulation (EU) No 1315/2013\(^{58}\), and entities operating ancillary installations contained within airports

— Traffic management control operators providing air traffic control (ATC) services referred to in point (1) of Article 2 of Regulation (EC) No 549/2004\(^{59}\)

(b) Rail

— Infrastructure managers referred to in point (2) of Article 3 of Directive 2012/34/EU\(^{60}\)

— Railway undertakings referred to in point (1) of Article 3 of Directive 2012/34/EU, including operators of service facilities referred to in point (12) of Article 3 of Directive 2012/34/EU

c) Water

— Inland, sea and coastal passenger and freight water transport companies, referred to for maritime transport in Annex I to Regulation (EC) No 725/2004\(^{61}\), not including the individual vessels operated by those companies

— Managing bodies of ports referred to in point (1) of Article 3 of Directive 2005/65/EC\(^{62}\), including their port facilities referred to in point (11) of Article 2 of Regulation (EC) No 725/2004, and entities operating works and equipment contained within ports

— Operators of vessel traffic services referred to in point (o) of Article 3 of Directive 2002/59/EC\(^{63}\) of the European Parliament and of the Council

d) Road

Road authorities referred to in point (12) of Article 2 of Commission Delegated Regulation (EU) 2015/962\(^{64}\) responsible for traffic management control

— Operators of Intelligent Transport Systems referred to in point (1) of Article 4 of Directive 2010/40/EU\(^{65}\)

e) Public transport

—Public transport authorities and service operators as referred to in Article 2, points (b) and (d), of Regulation (EC) No 1370/2007 of the European Parliament and of the Council\(^{65a}\).

Amendment 94
Proposal for a directive
Annex – section 5 – subsection 6 (new)

Text proposed by the Commission

Sectors, subsectors and types of entities
5. Health
— Healthcare providers referred to in point (g) of Article 3 of Directive 2011/24/EU19
— EU reference laboratories referred to in Article 15 of Regulation [XX] on serious cross borders threats to health
— Entities carrying out research and development activities of medicinal products referred to in Article 1 point 2 of Directive 2001/83/EC
— Entities manufacturing basic pharmaceutical products and pharmaceutical preparations referred to in section C division 21 of NACE Rev. 2
— Entities manufacturing medical devices considered as critical during a public health emergency (‘the public health emergency critical devices list’) referred to in Article 20 of Regulation XXXX

Amendment

Sectors, subsectors and types of entities
5. Health
— Healthcare providers referred to in point (g) of Article 3 of Directive 2011/24/EU19
— EU reference laboratories referred to in Article 15 of Regulation [XX] on serious cross borders threats to health
— Entities carrying out research and development activities of medicinal products referred to in Article 1 point 2 of Directive 2001/83/EC
— Entities manufacturing basic pharmaceutical products and pharmaceutical preparations referred to in section C division 21 of NACE Rev. 2
— Entities manufacturing medical devices considered as critical during a public health emergency (‘the public health emergency critical devices list’) referred to in Article 20 of Regulation XXXX
— Entities holding a distribution authorisation as referred to in Article 79 of Directive 2001/83/EC

Amendment 95
Proposal for a directive
Annex – Sector 9 – Title

Text proposed by the Commission

9. Public administration

Amendment

9. Public administration and democratic institutions
Amendment 96
Proposal for a directive
Annex – Sector 9 – Type of entity – 3 a (new)

Text proposed by the Commission

Amendment
— Central, regional and local governments and assemblies

Amendment 97
Proposal for a directive
Annex – section 10 a (new)

Text proposed by the Commission

Amendment

10 a. Food production, processing and distribution
— Food businesses as referred to in Article 3, point (2), of Regulation (EC) No 178/2002 of the European Parliament and of the Council\(^a\)

2.7.2021

**OPINION OF THE COMMITTEE ON INDUSTRY, RESEARCH AND ENERGY**

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a directive of the European Parliament and of the Council on the resilience of critical entities


Rapporteur for opinion: Nils Torvalds

(*) Associated committees – Rule 57 of the Rules of Procedure

**AMENDMENTS**

The Committee on Industry, Research and Energy calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to take into account the following amendments:

**Amendment 1**

**Proposal for a directive**

**Recital 1**

**Text proposed by the Commission**

(1) Council Directive 2008/114/EC\(^{17}\) provides for a procedure for designating European critical infrastructures in the energy and transport sectors, the disruption or destruction of which would have significant cross-border impact on at least two Member States. That Directive focused exclusively on the protection of such infrastructures. However, the evaluation of Directive 2008/114/EC conducted in 2019\(^{18}\) found that due to the increasingly interconnected and cross-border nature of operations using critical infrastructure,

**Amendment**

(1) Council Directive 2008/114/EC\(^{17}\) provides for a procedure for designating European critical infrastructures in the energy and transport sectors, the disruption or destruction of which would have significant cross-border impact on at least two Member States. That Directive focused exclusively on the protection of such infrastructures. However, the evaluation of Directive 2008/114/EC conducted in 2019\(^{18}\) found that due to the increasingly interconnected and cross-border nature of operations using critical infrastructure,
protective measures relating to individual assets alone are insufficient to prevent all disruptions from taking place. Therefore, it is necessary to shift the approach towards ensuring the resilience of critical entities, that is, their ability to mitigate, absorb, accommodate to and recover from incidents that have the potential to disrupt the operations of the critical entity.

18 SWD(2019) 308.

Amendment 2
Proposal for a directive
Recital 3

Text proposed by the Commission

(3) Those growing interdependencies are the result of an increasingly cross-border and interdependent network of service provision using key infrastructures across the Union in the sectors of energy, transport, banking, financial market infrastructure, digital infrastructure, drinking and waste water, health, certain aspects of public administration, as well as space in as far as the provision of certain services depending on ground-based infrastructures that are owned, managed and operated either by Member States or by private parties is concerned, therefore not covering infrastructures owned, managed or operated by or on behalf of the Union as part of its space programmes. These interdependencies mean that any disruption, even one initially confined to

Amendment

(3) Those growing interdependencies are the result of an increasingly cross-border and interdependent network of service provision using key infrastructures across the Union in the sectors of energy, transport, banking, financial market infrastructure, digital infrastructure, drinking and waste water, health, food certain aspects of public administration, as well as space in as far as the provision of certain services depending on ground-based infrastructures that are owned, managed and operated either by Member States or by private parties is concerned, therefore not covering infrastructures owned, managed or operated by or on behalf of the Union as part of its space programmes. Innovation and technology advancements contribute to the creation
one entity or one sector, can have cascading effects more broadly, potentially resulting in far-reaching and long-lasting negative impacts in the delivery of services across the internal market. The COVID-19 pandemic has shown the vulnerability of our increasingly interdependent societies in the face of low-probability risks.

of new forms and types of infrastructure systems that use innovations aimed at reducing costs and increasing efficiency and may have implications on risk and resilience. These interdependencies mean that any disruption, even one initially confined to one entity or one sector, can have cascading effects more broadly, potentially resulting in far-reaching and long-lasting negative impacts in the delivery of services across the internal market. Resilience of energy infrastructures plays an important role in economic growth across the Union and contributes to ensuring a decent standard of living to vulnerable energy consumers. The COVID-19 pandemic has shown the vulnerability of our increasingly interdependent societies in the face of low-probability risks.

Amendment 3
Proposal for a directive
Recital 4

Text proposed by the Commission

(4) The entities involved in the provision of essential services are increasingly subject to diverging requirements imposed under the laws of the Member States. The fact that some Member States have less stringent security requirements on these entities not only risks impacting negatively on the maintenance of vital societal functions or economic activities across the Union, it also leads to obstacles to the proper functioning of the internal market. Similar types of entities are considered as critical in some Member States but not in others, and those which are identified as critical are subject to divergent requirements in different Member States. This results in additional and unnecessary administrative burdens for companies operating across borders, notably for companies active in

Amendment

(4) The entities involved in the provision of essential services are increasingly subject to diverging requirements imposed under the laws of the Member States. The fact that some Member States have less stringent security requirements on these entities not only risks impacting negatively on the maintenance of vital societal functions or economic activities across the Union, it also leads to obstacles to the proper functioning of the internal market. The resilience of critical entities is of great importance for the functioning of the internal market and the security of the Union and its citizens. Similar types of entities are considered as critical in some Member States but not in others, and those which are identified as critical are subject to divergent requirements in different
Member States with more stringent requirements. Member States. This results in additional and unnecessary administrative burdens for companies operating across borders, notably for companies active in Member States with more stringent requirements.

Amendment 4

Proposal for a directive
Recital 5

Text proposed by the Commission
(5) It is therefore necessary to lay down harmonised minimum rules to ensure the provision of essential services in the internal market and enhance the resilience of critical entities.

Amendment
(5) It is therefore necessary to lay down harmonised minimum rules to ensure the provision of essential services in the internal market and enhance the resilience of critical entities. As this Directive provides for minimum rules, Member States are free to adopt or maintain more stringent rules to ensure the provision of essential services in the internal market and enhance the resilience of critical entities where they deem them necessary to protect national security.

Amendment 5

Proposal for a directive
Recital 8

Text proposed by the Commission
(8) Given the importance of cybersecurity for the resilience of critical entities and in the interest of consistency, a coherent approach between this Directive and Directive (EU) XX/YY of the European Parliament and of the Council\(^20\) [Proposed Directive on measures for a high common level of cybersecurity across the Union; (hereafter “NIS 2 Directive”)] is necessary wherever possible. In view of the higher frequency and particular characteristics of cyber risks, the NIS 2 Directive imposes comprehensive

Amendment
(8) Given the importance of cybersecurity for the resilience of critical entities and in the interest of consistency, a coherent approach between this Directive and Directive (EU) XX/YY of the European Parliament and of the Council\(^20\) [Proposed Directive on measures for a high common level of cybersecurity across the Union; (hereafter “NIS 2 Directive”)] is necessary wherever possible, preventing any overlap that could hinder the effectiveness of those two directives. In view of the higher frequency and particular
requirements on a large set of entities to ensure their cybersecurity. Given that cybersecurity is addressed sufficiently in the NIS 2 Directive, the matters covered by it should be excluded from the scope of this Directive, without prejudice to the particular regime for entities in the digital infrastructure sector.

20 [Reference to NIS 2 Directive, once adopted.]

Amendment 6

Proposal for a directive
Recital 11

Text proposed by the Commission

(11) The actions of Member States to identify and help ensure the resilience of critical entities should follow a risk-based approach that targets efforts to the entities most relevant for the performance of vital societal functions or economic activities. In order to ensure such a targeted approach, each Member State should carry out, within a harmonised framework, an assessment of all relevant natural and man-made risks that may affect the provision of essential services, including accidents, natural disasters, public health emergencies such as pandemics, and antagonistic threats, including terrorist offences. When carrying out those risk assessments, Member States should take into account other general or sector-specific risk assessment carried out pursuant to other acts of Union law and should consider the dependencies between sectors, including from other Member States and third countries. The outcomes of the risk assessment should be used in the process of identification of critical entities and to assist those entities in meeting the characteristics of cyber risks, the NIS 2 Directive imposes comprehensive requirements on a large set of entities to ensure their cybersecurity. Given that cybersecurity is addressed sufficiently in the NIS 2 Directive, the matters covered by it should be excluded from the scope of this Directive, without prejudice to the particular regime for entities in the digital infrastructure sector.

20 [Reference to NIS 2 Directive, once adopted.]
In order to ensure that all relevant entities are subject to those requirements and to reduce divergences in this respect, it is important to lay down harmonised rules allowing for a consistent identification of critical entities across the Union, while also allowing Member States to reflect national specificities. Therefore, criteria to identify critical entities should be laid down. In the interest of effectiveness, efficiency, consistency and legal certainty, appropriate rules should also be set on notification and cooperation relating to, as well as the legal consequences of, such identification. In order to enable the Commission to assess the correct application of this Directive, Member States should submit to the Commission, in a manner that is as detailed and specific as possible, relevant information and, in any event, the list of essential services, the number of critical entities identified for each sector and subsector referred to in the Annex and the essential service or services that each entity provides and any thresholds applied.
(16) Member States should designate authorities competent to supervise the application of and, where necessary, enforce the rules of this Directive and ensure that those authorities are adequately empowered and resourced. In view of the differences in national governance structures and in order to safeguard already existing sectoral arrangements or Union supervisory and regulatory bodies, and to avoid duplication, Member States should be able to designate more than one competent authority. In that case, they should however clearly delineate the respective tasks of the authorities concerned and ensure that they cooperate smoothly and effectively. All competent authorities should also cooperate more generally with other relevant authorities, both at national and Union level.

Amendment 9

Proposal for a directive
Recital 18

(18) Given that under the NIS 2 Directive entities identified as critical entities, as well as identified entities in the digital infrastructure sector that are to be treated as equivalent under the present Directive are subject to the cybersecurity requirements of the NIS 2 Directive, the competent authorities designated under the two Directives should cooperate, particularly in relation to cybersecurity risks and incidents affecting those entities.

Amendment

(18) Entities identified as critical entities under this Directive as well as entities in the digital infrastructure sector that are to be treated as equivalent under the present Directive are subject to the cybersecurity requirements of the NIS 2 Directive. Consequently, the competent authorities designated under the two Directives should cooperate, particularly in relation to cybersecurity risks and incidents affecting those entities. Member States should take measures to avoid double reporting and control, to ensure that strategies and requirements provided for in this Directive and the NIS 2 Directive are complementary and that critical entities
are not subject to additional administrative burden.

Amendment 10
Proposal for a directive
Recital 19

Text proposed by the Commission

(19) Member States should support critical entities in strengthening their resilience, in compliance with their obligations under this Directive, without prejudice to the entities’ own legal responsibility to ensure such compliance. Member States could in particular develop guidance materials and methodologies, support the organisation of exercises to test their resilience and provide training to personnel of critical entities. Moreover, given the interdependencies between entities and sectors, Member States should establish information sharing tools to support voluntary information sharing between critical entities, without prejudice to the application of competition rules laid down in the Treaty on the Functioning of the European Union.

Amendment

(19) Member States should support critical entities in strengthening their resilience, in compliance with their obligations under this Directive, without prejudice to the entities’ own legal responsibility to ensure such compliance. Member States should in particular develop guidance materials and methodologies, support the organisation of exercises to test their resilience and provide training to personnel of critical entities. Moreover, given the interdependencies between entities and sectors, Member States should establish information sharing tools to support voluntary information sharing between critical entities, without prejudice to the application of competition rules laid down in the Treaty on the Functioning of the European Union.

Amendment 11
Proposal for a directive
Recital 25

Text proposed by the Commission

(25) Critical entities should notify, as soon as reasonably possible under the given circumstances, Member States’ competent authorities of incidents that significantly disrupt or have the potential to significantly disrupt their operations. The notification should allow the competent authorities to respond to the

Amendment

(25) Critical entities should notify, as soon as reasonably possible under the given circumstances, Member States’ competent authorities of incidents that significantly disrupt or have the potential to significantly disrupt their operations. The notification should allow the competent authorities to respond to the
incidents rapidly and adequately and to have a comprehensive overview of the overall risks that critical entities face. For that purpose, a procedure should be established for the notification of certain incidents and parameters should be provided for to determine when the actual or potential disruption is significant and the incidents should thus be notified. Given the potential cross-border impacts of such disruptions, a procedure should be established for Member States to inform other affected Member States via single points of contacts.

Amendment 12

Proposal for a directive
Recital 30

_text proposed by the Commission_

(30) Member States should ensure that their competent authorities have certain specific powers for the proper application and enforcement of this Directive in relation to critical entities, where those entities fall under their jurisdiction as specified in this Directive. Those powers should include, notably, the power to conduct inspections, supervision and audits, require critical entities to provide information and evidence relating to the measures they have taken to comply with their obligations and, where necessary, issue orders to remedy identified infringements. When issuing such orders, Member States should not require measures which go beyond what is necessary and proportionate to ensure compliance of the critical entity concerned, taking account of in particular the

_text proposed by the Commission_

(30) Member States should ensure that their competent authorities have certain specific powers for the proper application and enforcement of this Directive in relation to critical entities, where those entities fall under their jurisdiction as specified in this Directive. Those powers should include, notably, the power to conduct inspections, supervision and audits, require critical entities to provide information and evidence relating to the measures they have taken to comply with their obligations and, where necessary, issue orders to remedy identified infringements. When issuing such orders, Member States should not require measures which go beyond what is necessary and proportionate to ensure compliance of the critical entity concerned, taking account of in particular the
seriousness of the infringement and the economic capacity of the critical entity. More generally, those powers should be accompanied by appropriate and effective safeguards to be specified in national law, in accordance with the requirements resulting from Charter of Fundamental Rights of the European Union. When assessing the compliance of a critical entity with its obligations under this Directive, competent authorities designated under this Directive should be able to request the competent authorities designated under the NIS 2 Directive to assess the cybersecurity of those entities. Those competent authorities should cooperate and exchange information for that purpose.

Amendment 13

Proposal for a directive

Article 1 – paragraph 1 – point a

_text proposed by the Commission_

(a) lays down obligations for Member States to take certain measures aimed at ensuring the provision in the internal market of services essential for the maintenance of vital societal functions or economic activities, in particular to identify critical entities and entities to be treated as equivalent in certain respects, and to enable them to meet their obligations;

Amendment

(a) lays down obligations for Member States to take certain measures aimed at ensuring the continuous provision in the internal market of services essential for the maintenance of vital societal functions or economic activities, in particular to identify critical entities and entities to be treated as equivalent in certain respects, and to enable them to meet their obligations;

Amendment 14
Proposal for a directive
Article 1 – paragraph 2

Text proposed by the Commission

2. This Directive shall not apply to matters covered by Directive (EU) XX/YY [proposed Directive on measures for a high common level of cybersecurity across the Union; (‘NIS 2 Directive’)], without prejudice to Article 7.

Amendment

2. This Directive shall not apply to matters covered by Directive (EU) XX/YY [proposed Directive on measures for a high common level of cybersecurity across the Union; (‘NIS 2 Directive’)], without prejudice to Article 7. In view of the interlinkages between cybersecurity and the physical security of entities, Member States shall ensure a coherent implementation of both directives.

Amendment 15

Proposal for a directive
Article 1 – paragraph 3 a (new)

Text proposed by the Commission

3a. Member States shall ensure that their security strategies, including sector-specific security strategies, provide for a coordinated policy framework for enhanced coordination in the context of information sharing on incidents and threats and the exercise of supervisory tasks which avoids the duplication of requirements and reporting and monitoring activities.

Amendment

3a. Member States shall ensure that their security strategies, including sector-specific security strategies, provide for a coordinated policy framework for enhanced coordination in the context of information sharing on incidents and threats and the exercise of supervisory tasks which avoids the duplication of requirements and reporting and monitoring activities.

Amendment 16

Proposal for a directive
Article 2 – paragraph 1 – point 6

Text proposed by the Commission

(6) “risk” means any circumstance or event having a potential adverse effect on the resilience of critical entities;

(6) “risk” means any circumstance or event having a potential adverse effect on the operations of critical entities;
Amendment 17

Proposal for a directive
Article 3 – paragraph 2 – subparagraph 1 – point d a (new)

Text proposed by the Commission

(da) the relevant aspects from the national cybersecurity strategy as provided for in the NIS2 Directive and any other sectoral national strategy with a view to achieving coordination, complementarity and synergies.

Amendment 18

Proposal for a directive
Article 3 – paragraph 3 a (new)

Text proposed by the Commission

3a. When drafting their strategies, Member States may consult local and regional authorities and take into consideration local capacities.

Amendment 19

Proposal for a directive
Article 4 – paragraph 1 – subparagraph 2

Text proposed by the Commission

The risk assessment shall account for all relevant natural and man-made risks, including accidents, natural disasters, public health emergencies, antagonistic threats, including terrorist offences pursuant to Directive (EU) 2017/541 of the European Parliament and of the Council34.

The risk assessment shall account for all relevant natural and man-made risks, including accidents, natural disasters, public health emergencies, antagonistic threats, including terrorist offences pursuant to Directive (EU) 2017/541 of the European Parliament and of the Council34. Where relevant, the risk assessment shall consider the capacities of local and regional authorities.

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34 Directive (EU) 2017/541 of the European Parliament and of the Council of
Amendment 20

Proposal for a directive
Article 4 – paragraph 5

Text proposed by the Commission

5. The Commission may, in cooperation with the Member States, develop a voluntary common reporting template for the purposes of complying with paragraph 4.

Amendment

5. The Commission shall, in cooperation with the Member States, develop a voluntary common reporting template for the purposes of complying with paragraph 4.

Amendment 21

Proposal for a directive
Article 5 – paragraph 4 a (new)

Text proposed by the Commission

4a. Member States may identify those entities that they have identified as essential entities under the NIS 2 Directive as critical entities under this Directive. Where a Member State decides not to identify the essential entities under the NIS 2 Directive as critical entities under this Directive, it shall justify the reasons therefor.

Amendment

4a. Member States may identify those entities that they have identified as essential entities under the NIS 2 Directive as critical entities under this Directive. Where a Member State decides not to identify the essential entities under the NIS 2 Directive as critical entities under this Directive, it shall justify the reasons therefor.

Amendment 22

Proposal for a directive
Article 6 – paragraph 1 – point e

Text proposed by the Commission

(e) the geographic area that could be affected by an incident, including any

Amendment

(e) the geographic area that could be affected by an incident, including any
cross-border impacts, taking into account the vulnerability associated with the degree of isolation of certain types of geographic areas, such as insular regions, outermost regions or mountainous areas;

Amendment 23

Proposal for a directive
Article 8 – paragraph 2

Text proposed by the Commission

2. Each Member State shall, within the competent authority, designate a single point of contact to exercise a liaison function to ensure cross-border cooperation with competent authorities of other Member States and with the Critical Entities Resilience Group referred to in Article 16 (‘single point of contact’).

Amendment

2. Each Member State shall, within the competent authority, designate a single point of contact to exercise a liaison function to ensure cross-border cooperation with competent authorities of other Member States, with the Critical Entities Resilience Group referred to in Article 16 (‘single point of contact’) and with the critical entities. Each Member State shall ensure that the single point of contact designated under the NIS 2 Directive is the single point of contact under this Directive.

Amendment 24

Proposal for a directive
Article 8 – paragraph 3

Text proposed by the Commission

3. By [three years and six months after entry into force of this Directive], and every year thereafter, the single points of contact shall submit a summary report to the Commission and to the Critical Entities Resilience Group on the notifications received, including the number of notifications, the nature of notified incidents and the actions taken in accordance with Article 13(3).

Amendment

3. By [three years and six months after entry into force of this Directive], and in the first trimester every year thereafter, the single points of contact shall submit a summary report to the Commission and to the Critical Entities Resilience Group on the notifications received, including the number of notifications, the nature of notified incidents and the actions taken in accordance with Article 13(3).
Amendment 25

Proposal for a directive
Article 8 – paragraph 5

Text proposed by the Commission

5. Member States shall ensure that their competent authorities, whenever appropriate, and in accordance with Union and national law, consult and cooperate with other relevant national authorities, in particular those in charge of civil protection, law enforcement and protection of personal data, as well as with relevant interested parties, including critical entities.

Amendment

5. Member States shall ensure that their competent authorities, whenever appropriate, and in accordance with Union and national law, consult and cooperate with other relevant national authorities, including, where appropriate, local and regional authorities, in particular those in charge of civil protection, law enforcement and protection of personal data, as well as with relevant interested parties, including critical entities.

Amendment 26

Proposal for a directive
Article 9 – paragraph 1

Text proposed by the Commission

1. Member States shall support critical entities in enhancing their resilience. That support may include developing guidance materials and methodologies, supporting the organisation of exercises to test their resilience and providing training to personnel of critical entities.

Amendment

1. Member States shall support critical entities in enhancing their resilience, developing protocols, agreements and cooperation, and in exchanging of information and expertise between the public and private sectors. That support shall include among others, developing guidance materials and methodologies, supporting the organisation of exercises to test their resilience and providing periodic training to personnel of critical entities.

Amendment 27

Proposal for a directive
Article 9 – paragraph 1 a (new)

Text proposed by the Commission

1a. Where necessary, Member States
shall allocate sufficient resources to support critical entities to fulfil compliance requirements, in particular to cover additional costs associated with learning and training activities or employing additional staff for reporting, monitoring and reviewing.

Amendment 28

Proposal for a directive
Article 9 – paragraph 3

Text proposed by the Commission

3. Member States shall establish information sharing tools to support voluntary information sharing between critical entities in relation to matters covered by this Directive, in accordance with Union and national law on, in particular, competition and protection of personal data.

Amendment

3. Member States shall establish information sharing tools to support voluntary information sharing between critical entities, with the aim of increasing knowledge sharing and transparency within and between sectors, in relation to matters covered by this Directive, in accordance with Union and national law on, in particular, competition and protection of personal data.

Amendment 29

Proposal for a directive
Article 11 – paragraph 1 – point c a (new)

Text proposed by the Commission

(ca) prevent incidents which might threaten the security and continuation of the supply of goods and services;

Amendment

Amendment 30

Proposal for a directive
Article 11 – paragraph 1 – point d a (new)

Text proposed by the Commission

(da) make use of accepted European
standards and specifications relevant to the resilience of critical entities, without imposing the use of a particular type of service or technology or discriminating in favour of it;

Amendment 31
Proposal for a directive
Article 11 – paragraph 1 – point e

Text proposed by the Commission
(e) ensure adequate employee security management, including by setting out categories of personnel exercising critical functions, establishing access rights to sensitive areas, facilities and other infrastructure, and to sensitive information as well as identifying specific categories of personnel in view of Article 12;

Amendment
(e) ensure adequate employee and training security management, including by setting out categories of personnel exercising critical functions, establishing access rights to sensitive areas, facilities and other infrastructure, and to sensitive information as well as identifying specific categories of personnel in view of Article 12;

Amendment 32
Proposal for a directive
Article 11 – paragraph 1 – point f

Text proposed by the Commission
(f) raise awareness about the measures referred to in points (a) to (e) among relevant personnel.

Amendment
(f) raise awareness about the measures referred to in points (a) to (e) among relevant operators and their staff, through periodic training.

Amendment 33
Proposal for a directive
Article 12 – paragraph 1

Text proposed by the Commission
1. Member States shall ensure that critical entities may submit requests for background checks on persons who fall

Amendment
1. Member States shall ensure that critical entities may submit duly justified requests for background checks on persons
within certain specific categories of their personnel, including persons being considered for recruitment to positions falling within those categories, and that those requests are assessed expeditiously by the authorities competent to carry out such background checks.

who fall within certain specific categories of their personnel, identified based on common national criteria including persons being considered for recruitment to critical functions falling within those categories, and that those requests are assessed expeditiously by the authorities competent to carry out such background checks.

Amendment 34

Proposal for a directive
Article 12 – paragraph 2 – subparagraph 1 – introductory part

2. In accordance with applicable Union and national law, including Regulation (EU) 2016/679/EU of the European Parliament and of the Council38, a background check as referred to in paragraph 1 shall:

2. In accordance with applicable Union and national law, including Regulation (EU) 2016/679/EU of the European Parliament and of the Council38, Member States shall ensure that a background check as referred to in paragraph 1 is carried out for the sole purpose of evaluating a potential security risk to the critical entity and in respect of the fundamental rights of the person concerned. A background check shall:


Amendment 35

Proposal for a directive
Article 12 – paragraph 2 – subparagraph 1 – point c

(c) cover previous employments, education and any gaps in education or employment in the person’s resume during at least the preceding five years and for a maximum of ten years.

(c) in exceptional cases and based on national criteria, cover previous employments, education and any gaps in education or employment in the person’s resume during at least the preceding five years and for a maximum of ten years.
Amendment 36

Proposal for a directive
Article 13 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that critical entities notify without undue delay the competent authority of incidents that significantly disrupt or have the potential to significantly disrupt their operations. Notifications shall include any available information necessary to enable the competent authority to understand the nature, cause and possible consequences of the incident, including so as to determine any cross-border impact of the incident. Such notification shall not make the critical entities subject to increased liability.

Amendment

1. Member States shall ensure that critical entities only notify the competent authority of incidents that significantly disrupt their operations without undue delay, in order to avoid over-information and unnecessary data flow, and to guarantee the effective functioning of national authorities and private entities. Notifications shall include any available information necessary to enable the competent authority to understand the nature, cause and possible consequences of the incident, including so as to determine any cross-border impact of the incident. Such notification shall not make the critical entities subject to increased liability.

Amendment 37

Proposal for a directive
Article 13 – paragraph 2 – point -a (new)

Text proposed by the Commission

(-a) the impact on human life and the environmental consequences;

Amendment

Amendment 38

Proposal for a directive
Article 13 – paragraph 2 – point c

Text proposed by the Commission

(c) the geographical area affected by the disruption or potential disruption.

Amendment

(c) the geographical area affected by the disruption or potential disruption, taking into account whether that area is geographically isolated.
Amendment 39

Proposal for a directive
Article 16 – paragraph 2 – subparagraph 1

**Text proposed by the Commission**

2. The Critical Entities Resilience Group shall be composed of representatives of the Member States and the Commission. Where relevant for the performance of its tasks, the Critical Entities Resilience Group may invite representatives of interested parties to participate in its work.

**Amendment**

2. The Critical Entities Resilience Group shall be composed of representatives of the Member States and the Commission. Where relevant for the performance of its tasks, the Critical Entities Resilience Group may invite representatives of relevant parties to participate in its work, encouraging the involvement of SMEs, civil society and trade unions mainly in training related aspects.

Amendment 40

Proposal for a directive
Article 16 – paragraph 5

**Text proposed by the Commission**

5. The Critical Entities Resilience Group shall meet regularly and at least once a year with the Cooperation Group established under [the NIS 2 Directive] to promote strategic cooperation and exchange of information.

**Amendment**

5. The Critical Entities Resilience Group shall meet regularly and at least once a year with the Cooperation Group established under [the NIS 2 Directive] to facilitate strategic cooperation and information exchange.

Amendment 41

Proposal for a directive
Article 16 – paragraph 7 a (new)

**Text proposed by the Commission**

7a. Critical Entities Resilience Group, in spirit of security cooperation and open access, may give, upon request, access to its findings and source data for use in academia, security research and for other beneficial uses. The requests for access
should be reasoned and justified and the data provided shall respect the fundamental rights of persons and be proportionate to the influence on the entities in question.

Amendment 42
Proposal for a directive
Article 16 – paragraph 7 b (new)

Text proposed by the Commission

Amendment

7b. The Commission shall set up a common secretariat for the Critical Entities Resilience Group and the Cooperation Group established under [the NIS 2 Directive] in order to better accommodate communication between the two groups and, consequently, to minimise ambiguities between the different designated authorities under this Directive and [the NIS 2 Directive].

Amendment 43
Proposal for a directive
Article 17 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. In order to receive and properly use the information received under Article 8(3), the Commission shall keep a European registry of incidents with the aim of developing and sharing best practices and methodologies.

Amendment 44
Proposal for a directive
Article 22 – paragraph 2
The Commission shall periodically review the functioning of this Directive, and report to the European Parliament and to the Council. The report shall in particular assess the impact and added value of this Directive on ensuring the resilience of critical entities and whether the scope of the Directive should be extended to cover other sectors or subsectors. The first report shall be submitted by [six years after the entry into force of this Directive] and shall assess in particular whether the scope of the Directive should be extended to include the food production, processing and distribution sector.

Amendment 45
Proposal for a directive
Annex - Point 5. Health (new)

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Amendment 46
Proposal for a directive
Annex - Point 8 a (new)
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**PROCEDURE – COMMITTEE ASKED FOR OPINION**

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<th>Title</th>
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<td>LIBE 11.2.2021</td>
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<td>29.4.2021</td>
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<tr>
<td>Rapporteur for the opinion</td>
<td>Nils Torvalds 15.2.2021</td>
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<td>26.5.2021</td>
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| Result of final vote | +: 58  
-: 0  
0: 14 |
| Substitutes present for the final vote | Klemen Grošelj, Alicia Homs Ginel, Elena Lizzi, Jutta Paulus, Susana Solis Pérez, Nils Torvalds |
**FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION**

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<td>Nicola Beer, Nicola Danti, Valter Flego, Bart Groothuis, Klemen Grošelj, Christophe Grudler, Iskra Mihaylova, Mauri Pekkarinen, Morten Petersen, Susana Solís Pérez, Nils Torvalds</td>
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<td>Michael Bloss, Ignazio Corrao, Ciarán Cuffe, Henrihe Hahn, Ville Niinistö, Jutta Paulus, Manuela Ripa, Marie Toussaint</td>
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<td>Paolo Borchia, Markus Buchheit, Elena Lizzi, Thierry Mariani, Joëlle Mélin, Jérôme Rivière, Isabella Tovaglieri</td>
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<td>Marc Botenga</td>
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Key to symbols:
+ : in favour
- : against
0 : abstention
23.7.2021

OPINION OF THE COMMITTEE ON THE INTERNAL MARKET AND CONSUMER PROTECTION

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a directive of the European Parliament and of the Council on the resilience of critical entities

Rapporteur for opinion ‘(*)’: Alex Agius Saliba

‘(*) Associated committee – Rule 57 of the Rules of Procedure’

SHORT JUSTIFICATION

On 16 December 2020, the Commission presented a proposal for a directive on the resilience of critical entities (RCE) together with an accompanying impact assessment, based on the 2019 assessment of the implementation of the Directive 2008/114/EC on European critical infrastructure (ECI). In view of the importance of cybersecurity for the resilience of critical entities, the Commission submitted in parallel also a proposal for a revised NIS Directive ('NIS 2'). To ensure full coherence, cyber-resilience obligations under NIS 2 would apply also to critical entities identified under the new proposal.

The RCE proposal reflects a switch from the current approach from protection of individual assets towards strengthening the resilience of the critical entities that operate them. It would require Member States to adopt national strategies and undertake regular risk assessments and also establishes obligations on critical entities to enhance their resilience and ability to provide essential services. The procedure of identifying critical entities would be different to that set out in ECI Directive. The Commission would also have specific oversight over critical entities of particular European significance.

The rapporteur is broadly supportive of the RCE proposal and believes it is important for IMCO to acknowledge that the existing EU-level measures aimed at protecting key services and infrastructures from physical risks need to be updated. Strengthening the resilience of critical entities in the Member States and levelling the playing field for critical entities across the Union is of outstanding importance considering the increasing interlinkages between
sectors, entities and services in the internal market.

The IMCO Committee is associated pursuant to Rule 57 with shared competences as regards issues that raise questions under the remit of IMCO aimed at improving the functioning of the internal market.

Scope and definitions

The rapporteur welcomes the extension of the scope of the directive as it gives the possibility of encompassing new sectors that did not benefit from specific protection measures. However, the rapporteur believes that the general objective of ensuring a high level of resilience of critical entities and essential infrastructures and securing the delivery of essential services in order to improve the functioning of the internal market needs to be clearly spelt out.

Furthermore, he tries to ensure closer alignment and harmonisation of both RCE and NIS 2 Directives, where possible in particular in relation to scope and definitions. To this end, the rapporteur requires that physical non-cyber protection under the proposed RCE Directive are clearly separated from the requirements in NIS 2 through a clear distinction in the definition of “resilience” comprised in Article 2(2). Furthermore, he proposes a set of well-articulated definitions covering “critical entities”, “resilience”, “incident”, “essential infrastructure” among others.

Strategy and risk assessment by Member States

The rapporteur welcomes the strategy reinforcing the resilience of critical entities and the risk assessment that each Member State must adopt. However, he makes suggestions to improve the involvement and consultation with the critical entities and stakeholders, as these companies provide vital services for the smooth running of daily life and enhanced cooperation with them is key if we are to achieve the objectives of this Directive. He also acknowledges the importance of managing supply chain and supplier-related risks when used by critical entities to ensuring supply chains contribution to the resilience of the entities they supply to.

Identification of critical entities

The rapporteur supports that Member States will have to identify critical entities in key relevant sectors referred to in the Annex, however, he explains that Member States will be obliged to identify entities for those sectors and subsectors from the Annex that exist in the Member States and for which the entities are key providers of essential services for the maintenance of vital societal functions and economic activities. The rapporteur has therefore made suggestions in this area.

Competent authorities and single point of contact

The rapporteur acknowledges the importance of proper oversight and enhanced cooperation between competent authorities of the Member States. However, he notes that single points of contact should be established to exercise a liaison function and coordination with the critical entities with competent authorities and other single points of contact and with the Critical Entities Resilience Group. The single point of contact should also simplify and harmonise
reporting channels (one-stop-shop principle).

Notification of incidents

The rapporteur believes that incidents that significantly disrupt the operations of critical entities and are of public interest shall be reported not only to the competent authorities, via the single point of contact, but as well as to the public or when necessary to the affected users. The rapporteur also suggests clarifying some of the requirements to notify incidents that have not yet happened and provides additional guidance as to the reporting thresholds.
AMENDMENTS

The Committee on the Internal Market and Consumer Protection calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a directive
Recital 1

Text proposed by the Commission

(1) Council Directive 2008/114/EC\textsuperscript{17} provides for a procedure for designating European critical infrastructures in the energy and transport sectors, the disruption or destruction of which would have significant cross-border impact on at least two Member States. That Directive focused exclusively on the protection of such infrastructures. However, the evaluation of Directive 2008/114/EC conducted in 2019\textsuperscript{18} found that due to the increasingly interconnected and cross-border nature of operations using critical infrastructure, protective measures relating to individual assets alone are insufficient to prevent all disruptions from taking place. Therefore, it is necessary to shift the approach towards ensuring the resilience of critical entities, that is, their ability to mitigate, absorb, accommodate to and recover from incidents that have the potential to disrupt the operations of the critical entity.


\textsuperscript{18} SWD(2019) 308.

Amendment

(1) Council Directive 2008/114/EC\textsuperscript{17} provides for a procedure for designating European critical infrastructures in the energy and transport sectors, the disruption or destruction of which would have significant cross-border impact on at least two Member States. That Directive focused exclusively on the protection of such infrastructures. However, the evaluation of Directive 2008/114/EC conducted in 2019\textsuperscript{18} found that due to the increasingly interconnected and cross-border nature of operations using critical infrastructure, protective measures relating to individual assets alone are insufficient to prevent all disruptions from taking place. Therefore, it is necessary to shift the approach towards ensuring the resilience of critical entities, that is, their ability to mitigate, absorb, accommodate to and recover \textit{and protect from} incidents or threats that have the potential to disrupt the operations of the critical entity, \textit{the functioning of the internal market or the free movement of essential services}.


\textsuperscript{18} SWD(2019) 308.
Amendment 2

Proposal for a directive
Recital 2

Text proposed by the Commission

(2) Despite existing measures at Union\(^1\) and national level aimed at supporting the protection of critical infrastructures in the Union, the entities operating those infrastructures are not adequately equipped to address current and anticipated future risks to their operations that may result in disruptions of the provision of services that are essential for the performance of vital societal functions or economic activities. This is due to a dynamic threat landscape with an evolving terrorist threat and growing interdependencies between infrastructures and sectors, as well as an increased physical risk due to natural disasters and climate change, which increases the frequency and scale of extreme weather events and brings long-term changes in average climate that can reduce the capacity and efficiency of certain infrastructure types if resilience or climate adaptation measures are not in place. Moreover, relevant sectors and types of entities are not recognised consistently as critical in all Member States.

Amendment

(2) Despite existing measures at Union\(^1\) and national level aimed at supporting the protection of critical infrastructures in the Union, the entities operating those infrastructures are not adequately equipped to address current and anticipated future risks to their operations that may result in disruptions of the provision of services that are essential for the performance of vital societal functions or economic activities. This is due to a dynamic threat landscape with an evolving terrorist threat and growing interdependencies between infrastructures and sectors, as well as an increased physical risk due to natural disasters and climate change, which increases the frequency and scale of extreme weather events and brings long-term changes in average climate that can reduce the capacity and efficiency of certain infrastructure types if resilience or climate adaptation measures are not in place. Moreover, relevant sectors and types of entities are not recognised consistently as critical in all Member States. Due to the increased cross-sectoral and cross-border interdependencies between critical infrastructures, an incident in one Member State can seriously affect activities in another Member State. In order to achieve a high level of resilience of critical infrastructures across the Union, essential services and essential infrastructure should be protected and resilient in all Member States.

\(^1\) European Programme for Critical Infrastructure Protection (EPCIP).
Amendment 3
Proposal for a directive
Recital 3

Amendment

(3) Those growing interdependencies are the result of an increasingly cross-border and interdependent network of essential service provision using key infrastructures across the Union in the sectors of energy, transport, banking, financial market infrastructure, digital infrastructure, drinking and waste water, health, certain aspects of public administration, as well as space in as far as the provision of certain services depending on ground-based infrastructures that are owned, managed and operated either by Member States or by private parties is concerned, therefore not covering infrastructures owned, managed or operated by or on behalf of the Union as part of its space programmes. These interdependencies mean that any disruption, even one initially confined to one entity or one sector, can have cascading effects more broadly, potentially resulting in far-reaching and long-lasting negative impacts in the delivery of services across the internal market. The COVID-19 pandemic has shown the vulnerability of our increasingly interdependent societies in the face of low-probability risks.

Amendment 4
Proposal for a directive
Recital 4

Amendment

(4) The entities involved in the provision of essential services are increasingly subject to diverging essential infrastructure are increasingly...
requirements imposed under the laws of the Member States. The fact that some Member States have less stringent security requirements on these entities not only risks impacting negatively on the maintenance of vital societal functions or economic activities across the Union, it also leads to obstacles to the proper functioning of the internal market. Similar types of entities are considered as critical in some Member States but not in others, and those which are identified as critical are subject to divergent requirements in different Member States. This results in additional and unnecessary administrative burdens for companies operating across borders, notably for companies active in Member States with more stringent requirements.

subject to diverging requirements imposed under the laws of the Member States. The fact that some Member States have less stringent security requirements on these entities not only creates heterogeneous levels of resilience and differences between Member States relating to the designation and oversight of critical entities but also impacts negatively on the maintenance of vital societal functions or economic activities across the Union, and also leads to unfair competition and to obstacles to the proper functioning of the internal market. Similar types of entities are considered as critical in some Member States but not in others, and those which are identified as critical are subject to divergent requirements in different Member States. This results in additional and unnecessary administrative burdens for companies operating across borders, notably for companies active in Member States with more stringent requirements. A European framework should therefore also have the effect of levelling the playing field for critical entities across the Union.

Amendment 5

Proposal for a directive
Recital 5

Text proposed by the Commission

(5) It is therefore necessary to lay down harmonised minimum rules to ensure the provision of essential services in the internal market and enhance the resilience of critical entities.

Amendment

(5) It is therefore necessary to lay down harmonised minimum rules to ensure the provision and free movement of essential services in the internal market and enhance the resilience of critical entities and essential infrastructure necessary for vital societal or economic activities within the Union. To this end, the aim of this Directive should be to make critical infrastructures and critical entities resilient thereby furthering their capacity to ensure continuous provision of essential services or essential
infrastructure or at least to swiftly restore performance after an incident has taken place. Operators of critical infrastructures delivering essential services across the internal market in various sectors necessary for vital societal functions and economic activities, should become resilient against current and anticipated future risks.

Amendment 6
Proposal for a directive
Recital 6

Text proposed by the Commission

(6) In order to achieve that objective, Member States should identify critical entities that should be subject to specific requirements and oversight, but also particular support and guidance aimed at achieving a high level of resilience in the face of all relevant risks.

Amendment

(6) In order to achieve that objective, Member States should identify critical entities that provide essential services or essential infrastructure falling within existing sectors and subsectors at national level as referred to in the Annex which should be subject to specific requirements and oversight, but also particular support and guidance aimed at achieving a high level of resilience in the face of all relevant risks and possible crises.

Amendment 7
Proposal for a directive
Recital 8

Text proposed by the Commission

(8) Given the importance of cybersecurity for the resilience of critical entities and in the interest of consistency, a coherent approach between this Directive and Directive (EU) XX/YY of the European Parliament and of the Council\(^{20}\) (hereafter “NIS 2 Directive”) is necessary wherever possible. In view of the higher frequency and particular characteristics of cyber risks, the NIS 2 Directive imposes comprehensive requirements on a large set

Amendment

(8) Given the importance of cybersecurity for the resilience of critical entities and in the interest of consistency, a coherent approach between this Directive and Directive (EU) XX/YY of the European Parliament and of the Council\(^{20}\) (the “NIS 2 Directive”) is necessary wherever possible. In view of the higher frequency and particular characteristics of cyber risks, the NIS 2 Directive imposes comprehensive requirements on a large set
of entities to ensure their cybersecurity. Given that cybersecurity is addressed sufficiently in the NIS 2 Directive, the matters covered by it should be excluded from the scope of this Directive, without prejudice to the particular regime for entities in the digital infrastructure sector.

A coherent approach should be ensured between these acts, such as by ensuring that entities under NIS 2 susceptible to being subject to obligations under this Directive, where possible, benefit from a single point of contact and a common set of rules. As a result, the supervision of entities identified as critical or equivalent to critical under this Directive, in matters that fall under the scope of the NIS2 Directive, will be a responsibility of the competent authorities designated under the NIS 2 Directive. Furthermore, entities that are identified as essential entities under the NIS 2 Directive, but are not identified as critical entities under this Directive, should also enhance the resilience of their physical infrastructure, where appropriate.

20 [Reference to NIS 2 Directive, once adopted.]

Amendment 8
Proposal for a directive
Recital 10

Text proposed by the Commission

(10) In view of ensuring a comprehensive approach to the resilience of critical entities, each Member State should have a strategy setting out objectives and policy measures to be implemented. To achieve this, Member States should ensure that their

Amendment

In view of ensuring a comprehensive approach to the resilience of critical entities, and taking into account the objectives of the Union’s strategy on resilience prepared by the Critical Entities Resilience Group, each Member State should adopt a national strategy.
cybersecurity strategies provide for a policy framework for enhanced coordination between the competent authority under this Directive and the NIS 2 Directive in the context of information sharing on incidents and cyber threats and the exercise of supervisory tasks.

Amendment 9

Proposal for a directive
Recital 11

Text proposed by the Commission

(11) The actions of Member States to identify and help ensure the resilience of critical entities should follow a risk-based approach that targets efforts to the entities most relevant for the performance of vital societal functions or economic activities. In order to ensure such a targeted approach, each Member State should carry out, within a harmonised framework, an assessment of all relevant natural and man-made risks that may affect the provision of essential services, including accidents, natural disasters, public health emergencies such as pandemics, and antagonistic threats, including terrorist offences. When carrying out those risk assessments, Member States should take into account other general or sector-specific risk assessment carried out pursuant to other acts of Union law and should consider the dependencies between sectors, including from other Member States and third countries. The outcomes of the risk assessment should be used in the process of identification of critical entities and to assist those entities in meeting the resilience requirements of this Directive.

Amendment

(11) The actions of Member States to identify and help ensure the resilience of critical entities should follow a risk-based approach that targets efforts to the entities most relevant for the performance of essential services vital for societal functions or economic activities. In order to ensure such a targeted approach, each Member State should carry out, within a harmonised framework, an assessment of all relevant risks, including cross-sectoral, cross-border, natural and man-made risks that may affect the provision of essential services, including accidents, natural disasters, public health emergencies such as pandemics, and antagonistic threats, including terrorist offences. When carrying out those risk assessments, Member States should take into account other general or sector-specific risk assessment carried out pursuant to other acts of Union law and should consider the dependencies between sectors, including from other Member States and third countries, and risks arising for the general population or the internal market. Member States should not consider as a risk any regular business risk to operations derived from market conditions, or any risk derived from democratic decision-making. The
outcomes of the risk assessment should be used in the process of identification of critical entities and to assist those entities in meeting the resilience requirements of this Directive.

Amendment 10

Proposal for a directive
Recital 12

Text proposed by the Commission

(12) In order to ensure that all relevant entities are subject to those requirements and to reduce divergences in this respect, it is important to lay down harmonised rules allowing for a consistent identification of critical entities across the Union, while also allowing Member States to reflect national specificities. Therefore, criteria to identify critical entities should be laid down. In the interest of effectiveness, efficiency, consistency and legal certainty, appropriate rules should also be set on notification and cooperation relating to, as well as the legal consequences of, such identification. In order to enable the Commission to assess the correct application of this Directive, Member States should submit to the Commission, in a manner that is as detailed and specific as possible, relevant information and, in any event, the list of essential services, the number of critical entities identified for each sector and subsector referred to in the Annex and the essential service or services that each entity provides and any thresholds applied.

(12) In order to ensure that all relevant entities are subject to those requirements and to reduce divergences in this respect, it is important to lay down harmonised rules allowing for a consistent identification of critical entities across the Union, while also allowing Member States to reflect national specificities of the sectors and subsectors on their territory listed in the Annex. Therefore, common criteria and specifications based on minimum indicators and methodologies for each sector and sub-sector to identify critical entities should be laid down in close cooperation with the relevant authorities. In the interest of effectiveness, efficiency, consistency and legal certainty, appropriate rules should also be set on notification and cooperation relating to, as well as the legal consequences of, such identification. In order to enable the Commission to assess the correct application of this Directive, Member States should submit to the Commission, in a manner that is as detailed and specific as possible, relevant information and, in any event, the list of essential services, the number of critical entities identified for each sector and subsector referred to in the Annex and the essential service or services that each entity provides and any thresholds applied. In order to avoid divergent application of this Directive and improve the functioning of the internal market, the Commission in cooperation with the Member States...
should provide detailed guidelines and make recommendations to support Member States in identifying the list of essential services and infrastructure and the critical entities for each national sector and subsector referred to in the Annex.

Amendment 11
Proposal for a directive
Recital 15

*Text proposed by the Commission*

(15) The EU financial services acquis establishes comprehensive requirements on financial entities to manage all risks they face, including operational risks and ensure business continuity. This includes Regulation (EU) No 648/2012 of the European Parliament and of the Council\(^{22}\), Directive 2014/65/EU of the European Parliament and of the Council\(^{23}\) and Regulation (EU) No 600/2014 of the European Parliament and of the Council\(^{24}\) as well as Regulation (EU) No 575/2013 of the European Parliament and of the Council\(^{25}\) and Directive 2013/36/EU of the European Parliament and of the Council\(^{26}\). The Commission has recently proposed to complement this framework with Regulation XX/YYYY of the European Parliament and of the Council [proposed Regulation on digital operational resilience for the financial sector (hereafter “DORA Regulation”\(^{27}\)] , which lays down requirements for financial firms to manage ICT risks, including the protection of physical ICT infrastructures. Since the resilience of entities listed in points 3 and 4 of the Annex is comprehensively covered by the EU financial services acquis, those entities should also be treated as equivalent to critical entities for the purposes of Chapter II of this Directive only. To ensure a consistent application of the operational risk and digital resilience rules in the

*Amendment*

(15) The EU financial services acquis establishes comprehensive requirements on financial entities to manage all risks they face, including operational risks and ensure business continuity. This includes Regulation (EU) No 648/2012 of the European Parliament and of the Council\(^{22}\), Directive 2014/65/EU of the European Parliament and of the Council\(^{23}\) and Regulation (EU) No 600/2014 of the European Parliament and of the Council\(^{24}\) as well as Regulation (EU) No 575/2013 of the European Parliament and of the Council\(^{25}\) and Directive 2013/36/EU of the European Parliament and of the Council\(^{26}\). The Commission has recently proposed to complement this framework with Regulation XX/YYYY of the European Parliament and of the Council [proposed Regulation on digital operational resilience for the financial sector (hereafter “DORA Regulation”\(^{27}\)] , which lays down requirements for financial firms to manage ICT risks, including the protection of physical ICT infrastructures. Since the resilience of entities listed in points 3 and 4 of the Annex is comprehensively covered by the EU financial services acquis, those entities should also be treated as equivalent to critical entities for the purposes of Chapter II of this Directive only and consequently, such entities should not be subject to the obligations laid down in
financial sector, Member States’ support to enhancing the overall resilience of financial entities equivalent to critical entities should be ensured by the authorities designated pursuant to Article 41 of [DORA Regulation], and subject to the procedures set out in that legislation in a fully harmonised manner.

Chapters III to VI. To ensure a consistent application of the operational risk and digital resilience rules in the financial sector, Member States’ support to enhancing the overall resilience of financial entities equivalent to critical entities should be ensured by the authorities designated pursuant to Article 41 of [DORA Regulation], and subject to the procedures set out in that legislation in a fully harmonised manner.


27 Proposal for a Regulation of the European Parliament and of the Council on digital operational resilience for the financial sector and amending Regulations
Amendment 12

Proposal for a directive
Recital 16

**Text proposed by the Commission**

(16) Member States should designate authorities competent to supervise the application of and, where necessary, enforce the rules of this Directive and ensure that those authorities are adequately empowered and resourced. In view of the differences in national governance structures and in order to safeguard already existing sectoral arrangements or Union supervisory and regulatory bodies, and to avoid duplication, Member States should be able to designate more than one competent authority. In that case, they should however clearly delineate the respective tasks of the authorities concerned and ensure that they cooperate smoothly and effectively. All competent authorities should also cooperate more generally with other relevant authorities, both at national and Union level.

**Amendment**

(16) Member States should designate authorities competent to supervise the application of and enforce the rules of this Directive and ensure that those authorities are adequately empowered and resourced. In view of the differences in national governance structures and in order to safeguard already existing sectoral arrangements or Union supervisory and regulatory bodies, and to avoid duplication, Member States should be able to designate more than one competent authority. In that case, they should however clearly delineate the respective tasks of the authorities concerned and ensure that they cooperate smoothly and effectively. All competent authorities should also cooperate more generally with other relevant authorities, both at national and Union level.

Amendment 13

Proposal for a directive
Recital 17

**Text proposed by the Commission**

(17) In order to facilitate cross-border cooperation and communication and to enable the effective implementation of this Directive, each Member State should, without prejudice to sector-specific Union legal requirements, designate, within one of the authorities it designated as competent authority under this Directive, a

**Amendment**

(17) In order to facilitate cross-border cooperation and communication and to enable the effective implementation of this Directive, each Member State should, without prejudice to sector-specific Union legal requirements, designate, within one of the authorities it designated as competent authority under this Directive, a
single point of contact responsible for coordinating issues related to the resilience of critical entities and cross-border cooperation at Union level in this regard.

The single points of contact should also liaise, and coordinate all communication, with the competent authorities of its Member State, with the single points of contact of other Member States, with the Critical Entities Resilience Group established by this Directive and with entities identified as critical entities under this Directive. In order to facilitate the cooperation and communication with the Member States, entities identified as critical entities under this Directive should also designate a reference point of contact within the entity. The reference point of contact should be used by the critical entity to liaise, coordinate and communicate with the Member States, on measures related to the organisational and technical aspects related to the implementation of this Directive. To that end, the single points of contact should use efficient, secure, standardised and harmonised reporting channels.

Amendment 14
Proposal for a directive
Recital 18

Text proposed by the Commission

(18) Given that under the NIS 2 Directive entities identified as critical entities, as well as identified entities in the digital infrastructure sector that are to be treated as equivalent under the present Directive are subject to the cybersecurity requirements of the NIS 2 Directive, the competent authorities designated under the two Directives should cooperate, particularly in relation to cybersecurity risks and incidents affecting those entities.

Amendment

(18) Given that under the NIS 2 Directive entities identified as critical entities, as well as identified entities in the digital infrastructure sector that are to be treated as equivalent under the present Directive are subject to the cybersecurity requirements of the NIS 2 Directive, the competent authorities designated under the two Directives should cooperate in an effective and consistent manner, particularly in relation to cybersecurity risks and incidents affecting those entities.
Amendment 15
Proposal for a directive
Recital 19

Text proposed by the Commission

(19) Member States should support critical entities in strengthening their resilience, in compliance with their obligations under this Directive, without prejudice to the entities’ own legal responsibility to ensure such compliance. Member States could in particular develop guidance materials and methodologies, and should support the organisation of exercises to test their resilience, provide training to personnel of critical entities, provide financial resources without prejudice to existing competition law rules, in particular rules on state aid and assistance and protect sensitive areas, facilities and other infrastructure, where necessary and justified by public interest objectives. Moreover, given the interdependencies between entities and sectors, Member States should establish information sharing tools to support voluntary information sharing and good practices between critical entities, without prejudice to the application of competition rules laid down in the Treaty on the Functioning of the European Union.

Amendment 16
Proposal for a directive
Recital 25

Text proposed by the Commission

(25) Critical entities should notify, as soon as reasonably possible under the given circumstances, Member States’ competent authorities of incidents that significantly disrupt or have the potential to disrupt, where no later than 24 hours after becoming aware of a particular incident, Member States'
to significantly disrupt their operations. The notification should allow the competent authorities to respond to the incidents rapidly and adequately and to have a comprehensive overview of the overall risks that critical entities face. For that purpose, a procedure should be established for the notification of certain incidents and parameters should be provided for to determine when the actual or potential disruption is significant and the incidents should thus be notified. Given the potential cross-border impacts of such disruptions, a procedure should be established for Member States to inform other affected Member States via single points of contacts. Critical entities and competent authorities of incidents that significantly disrupt or have the potential to significantly disrupt their operations. Critical entities and competent authorities should also inform the public of such incidents where they determine that the disclosure of such incidents would be in the public interest. Critical entities should also notify potentially affected users of their services of the incident, its consequences and, where relevant, any possible safety measures or remedies to be taken by users. The notification should allow the competent authorities and users to respond to the incidents rapidly and adequately and to have a comprehensive overview of the overall risks that critical entities face. For that purpose, a procedure should be established for the notification of certain incidents and parameters should be provided for to determine when the actual or potential disruption is significant and the incidents should thus be notified. Given the potential cross-border impacts of such disruptions, procedures should be established for Member States to inform other affected Member States and other critical entities through single points of contact. The information on the incidents should be treated in a way that respects confidentiality and protects the security and commercial interest of the critical entity concerned.

Amendment 17

Proposal for a directive
Recital 26

Text proposed by the Commission

(26) While critical entities generally operate as part of an increasingly interconnected network of service provision and infrastructures and often provide essential services in more than one Member State, some of those entities are of particular significance for the Union

Amendment

(26) While critical entities generally operate as part of an increasingly interconnected network of service provision and infrastructures and often provide essential services in more than one Member State, some of those entities are of particular significance for the Union and
because they provide essential services to a large number of Member States, and therefore require specific oversight at Union level. Rules on the specific oversight in respect of such critical entities of particular European significance should therefore be established. Those rules are without prejudice to the rules on supervision and enforcement set out in this Directive.

**Amendment 18**

**Proposal for a directive**

**Recital 27**

*Text proposed by the Commission*

(27) Where any Member State considers that additional information is necessary to be able to advise a critical entity in meeting its obligations under Chapter III or to assess the compliance of a critical entity of particular European significance with those obligations, in agreement with the Member State **where** the infrastructure of that entity is located, the Commission should organise an advisory mission to assess the measures put in place by that entity. In order to ensure that such advisory missions are carried out properly, complementary rules should be established, notably on their organisation and conduct, the follow-up to be given and the obligations for the critical entities of particular European significance concerned. The advisory missions should,

**Amendment**

(27) Where any Member State considers that additional information is necessary to be able to advise a critical entity in meeting its obligations under Chapter III or to assess the compliance of a critical entity of particular European significance with those obligations, in agreement with the Member State **of establishment and the Member States in which** the infrastructure of that entity is located, the Commission should organise an advisory mission to assess the measures put in place by that entity. In order to ensure that such advisory missions are carried out properly, complementary rules should be established, notably on their organisation and conduct, the follow-up to be given and the obligations for the critical entities of particular European
without prejudice to the need for the Member State where the advisory mission is conducted and the entity concerned to comply with the rules of this Directive, be conducted subject to the detailed rules of the law of that Member State, for instance on the precise conditions to be fulfilled to obtain access to relevant premises or documents and on judicial redress. Specific expertise required for such missions could, where relevant, be requested through the Emergency Response Coordination Centre.

Amendment 19

Proposal for a directive
Recital 27a

Text proposed by the Commission

(27a) Standardisation should remain primarily a market-driven process. However, there may still be situations where it is appropriate to require compliance with specified standards at Union level. The Commission and the Member States should also support and promote the development and implementation of standards and specifications relevant to the resilience of critical entities as set by the European Standardisation Organisations for the undertaking of technical and organisational measures aimed at ensuring critical entities’ resilience under Article 11(1) of this Directive. Member States should also encourage the use of internationally accepted standards and specifications relevant to resilience measures applicable to critical entities.
Amendment 20
Proposal for a directive
Article 1 – paragraph 1 – introductory part

Text proposed by the Commission

1. This Directive:

Amendment

1. This Directive lays down measures with a view to achieving a high level of resilience of critical entities and essential infrastructure within the Union in order to ensure an effective provision of essential services, including in crisis situations, and to improve the functioning of the internal market.

Amendment 21
Proposal for a directive
Article 1 – paragraph 1 – introductory part – subparagraph 1 a (new)

Text proposed by the Commission

To that end, this Directive:

Amendment

Amendment 22
Proposal for a directive
Article 1 – paragraph 1 – point a

Text proposed by the Commission

(a) lays down obligations for Member States to take certain measures aimed at ensuring the provision in the internal market of services essential for the maintenance of vital societal functions or economic activities, in particular to identify critical entities and entities to be treated as equivalent in certain respects, and to enable them to meet their obligations;

Amendment

(a) lays down obligations for Member States to take certain measures aimed at ensuring the provision in the internal market of services essential for the maintenance of vital societal functions or economic activities, in particular to identify identifying critical entities and entities to be treated as equivalent in certain respects, in sectors and subsectors set out in the Annex and to enable and support those entities to meet their obligations under this Directive and to enhance their ability to provide essential services in the internal market;
Amendment 23
Proposal for a directive
Article 1 – paragraph 1 – point b

Text proposed by the Commission
(b) establishes obligations for critical entities aimed at enhancing their resilience and improving their ability to provide those services in the internal market;

Amendment
(b) establishes obligations for critical entities aimed at enhancing the resilience of their infrastructures and improving the ability of those entities to provide essential services in the internal market;

Amendment 24
Proposal for a directive
Article 1 – paragraph 2

Text proposed by the Commission
2. This Directive shall not apply to matters covered by Directive (EU) XX/YY [proposed Directive on measures for a high common level of cybersecurity across the Union; (‘NIS 2 Directive’)], without prejudice to Article 7.

Amendment

Amendment 25
Proposal for a directive
Article 1 – paragraph 4

Text proposed by the Commission
4. Without prejudice to Article 346 TFEU, information that is confidential pursuant to Union and national rules, such as rules on business confidentiality, shall be exchanged with the Commission and other relevant authorities only where that exchange is necessary for the application of this Directive. The information exchanged shall be limited to that which is relevant and proportionate to the purpose of that exchange. The exchange of

Amendment
4. Without prejudice to Article 346 TFEU, information that is confidential pursuant to Union and national rules, such as rules on business confidentiality, shall be exchanged with the Commission and other relevant authorities only where that exchange is necessary for the application of this Directive. The information exchanged shall be limited to that which is relevant and proportionate to the purpose of that exchange. The exchange of
information shall preserve the confidentiality of that information and protect the security and commercial interests of critical entities.

Amendment 26
Proposal for a directive
Article 2 – paragraph 1 – point 1

Text proposed by the Commission

(1) “critical entity” means a public or private entity of a type referred to in the Annex, which has been identified as such by a Member State in accordance with Article 5;

Amendment

(1) “critical entity” means a public or private entity of a type which provides essential services or essential infrastructure necessary for the proper functioning of vital societal or economic activities within one or more Member States, which falls within sectors and subsectors set out in the Annex and which has been identified as such by a Member State in accordance with Article 5;

Amendment 27
Proposal for a directive
Article 2 – paragraph 1 – point 1 a (new)

Text proposed by the Commission

(1a) “entity equivalent to a critical entity” means an entity identified by a Member State as belonging to the digital infrastructure, banking and financial infrastructure sectors referred to in points 3, 4 or 8 of the Annex;

Amendment

(1a) “entity equivalent to a critical entity” means an entity identified by a Member State as belonging to the digital infrastructure, banking and financial infrastructure sectors referred to in points 3, 4 or 8 of the Annex;

Amendment 28
Proposal for a directive
Article 2 – paragraph 1 – point 2
(2) “resilience” means the ability to prevent, resist, mitigate, absorb, accommodate to and recover from an incident that disrupts or has the potential to disrupt the operations of a critical entity;

(2) “resilience” means the ability to prevent, resist, mitigate, manage, absorb, accommodate, and recover and protect from, an incident or threat that disrupts or has the potential to disrupt the operations of a critical entity;

Amendment 29

Proposal for a directive
Article 2 – paragraph 1 – point 3

(3) “incident” means any event having the potential to disrupt, or that disrupts, the operations of the critical entity;

(3) “incident” means any event which results in a disruption of essential services or the destruction of essential infrastructure and has a significant effect on the delivery of those services in one or more Member States as a result of the failure to maintain the operations of that critical entity;

Amendment 30

Proposal for a directive
Article 2 – paragraph 1 – point 4

(4) “infrastructure” means an asset, system or part thereof, which is necessary for the delivery of an essential service;

(4) “essential infrastructure” means an asset, system or part thereof, which is necessary for the delivery of an essential service;

Amendment 31

Proposal for a directive
Article 2 – paragraph 1 – point 5

(5) “essential service” means a service

(5) “essential service” means a service
which is essential for the maintenance of vital societal functions or economic activities;

which is essential for the maintenance of vital societal functions or economic activities and proper functioning of the internal market and the disruption of which would have a significant effect on the provision of that service or of other essential or cross-sectoral services, in one or more Member States;

Amendment 32
Proposal for a directive
Article 2 – paragraph 1 – point 7

Text proposed by the Commission

Amendment

(7) “risk assessment” means a methodology to determine the nature and extent of a risk by assessing the extent of potential threats and hazards to the resilience of the critical entity, analysing existing conditions of vulnerability that could facilitate the disruption of operations of the critical entity and evaluating the potential adverse effect the disruption of operations could have on the provision of essential services;

Amendment 33
Proposal for a directive
Article 2 – paragraph 1 – point 7 a (new)

Text proposed by the Commission

Amendment

(7a) "national strategy on the resilience of critical entities" means a coherent framework of a Member State setting out strategic objectives and priorities on the security and resilience of critical entities;
Amendment 34

Proposal for a directive
Article 2 – paragraph 1 – point 7 b (new)

Text proposed by the Commission

(7b) ‘standard’ means standard as defined in point (1) of Article 2 of Regulation (EU) No 1025/2012 of the European Parliament and of the Council\(^1\);\n

Amendment 35

Proposal for a directive
Article 2 – paragraph 1 – point 7 c (new)

Text proposed by the Commission

(7c) ‘technical specification’ means technical specification as defined in point (4) of Article 2 of Regulation (EU) No 1025/2012;

Amendment 36

Proposal for a directive
Article 3 – paragraph 1
1. Each Member State shall adopt by [three years after entry into force of this Directive] a strategy for reinforcing the resilience of critical entities. This strategy shall set out strategic objectives and policy measures with a view to achieving and maintaining a high level of resilience on the part of those critical entities and covering at least the sectors referred to in the Annex.

Amendment 37

**Proposal for a directive**
**Article 3 – paragraph 2 – subparagraph 1 – point a**

**Text proposed by the Commission**

(a) strategic objectives and priorities for the purposes of enhancing the overall resilience of critical entities taking into account cross-border and cross-sectoral interdependencies;

**Amendment**

(a) strategic objectives and priorities for the purposes of enhancing the overall resilience of critical entities taking into account cross-border and cross-sectoral interdependencies and the connections in the supply chain;

Amendment 38

**Proposal for a directive**
**Article 3 – paragraph 2 – subparagraph 1 – point c**

**Text proposed by the Commission**

(c) a description of measures necessary to enhance the overall resilience of critical entities, including a national risk assessment, the identification of critical entities and of entities equivalent to critical entities, and the measures to support critical entities taken in accordance with

**Amendment**

(c) a description of measures necessary to enhance the overall resilience of critical entities, including a national risk assessment, the identification of critical entities and of entities equivalent to critical entities, and the measures to support critical entities taken in accordance with this Chapter, including measures to
this Chapter;  

enhance cooperation between the public and private sectors and public and private entities;

Amendment 39
Proposal for a directive
Article 3 – paragraph 2 – subparagraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) a list of the authorities and actors involved in the implementation of the national strategy on the resilience of critical entities;

Amendment 40
Proposal for a directive
Article 3 – paragraph 2 – subparagraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) a policy framework addressing resilience in the supply chain of critical entities used by those entities for the provision of their essential services;

Amendment 41
Proposal for a directive
Article 3 – paragraph 2 – subparagraph 1 – point d b (new)

Text proposed by the Commission

Amendment

(db) a policy framework addressing the specific needs of small and medium-sized enterprises and providing guidance and support for the compliance with the obligations set out by this Directive;
Amendment 42
Proposal for a directive
Article 3 – paragraph 2 – subparagraph 2

*Text proposed by the Commission*

The strategy shall be updated where necessary and at least every four years.

*Amendment*

The strategy shall be updated where necessary and at least every four years after consultation with the identified critical entities.

Amendment 43
Proposal for a directive
Article 3 – paragraph 3

*Text proposed by the Commission*

3. Member States shall communicate their strategies, and any updates of their strategies, to the Commission within three months from their adoption.

*Amendment*

3. Member States shall communicate their strategies, and any updates thereto, to the Commission and to the identified critical entities through the single point of contact, within three months from their adoption.

Amendment 44
Proposal for a directive
Article 4 – paragraph 1 – subparagraph 1

*Text proposed by the Commission*

Competent authorities designated pursuant to Article 8 shall establish a list of essential services in the sectors referred to in the Annex. They shall carry out by [three years after entry into force of this Directive], and subsequently where necessary, and at least every four years, an assessment of all relevant risks that may affect the provision of those essential services, with a view to identifying critical entities in accordance with Article 5(1), and assisting those critical entities to take measures pursuant to Article 11.

*Amendment*

Competent authorities designated pursuant to Article 8 shall establish a list of essential services, which fall within the relevant sectors referred to in the Annex. They shall, after consulting critical entities, carry out by [three years after entry into force of this Directive], and subsequently where necessary, and at least every four years, an assessment of all relevant risks that may affect and disrupt the provision of those essential services. The risk assessment shall be used on a continuous basis by competent authorities of the Member State with a view to identifying
essential services, and the corresponding critical entities in accordance with Article 5(1), and assisting those critical entities to take measures pursuant to Article 11.

Amendment 45

Proposal for a directive
Article 4 – paragraph 1 – subparagraph 2

Text proposed by the Commission

The risk assessment shall account for all relevant natural and man-made risks, including accidents, natural disasters, public health emergencies, antagonistic threats, including terrorist offences pursuant to Directive (EU) 2017/541 of the European Parliament and of the Council\textsuperscript{34}.

Amendment

The risk assessment shall account for all relevant natural and man-made risks, including \textit{those of a cross-sectoral or cross-border nature}, accidents, natural disasters, public health emergencies, antagonistic threats, including terrorist offences pursuant to Directive (EU) 2017/541 of the European Parliament and of the Council\textsuperscript{34}.


Amendment 46

Proposal for a directive
Article 4 – paragraph 2 – subparagraph 1 – point c

Text proposed by the Commission

(c) any risks arising from the dependencies between the sectors referred to in the Annex, including from other Member States and third countries, and the impact that a disruption in one sector may have on other sectors;

Amendment

(c) any risks arising from the dependencies between the sectors referred to in the Annex, including from other Member States and third countries, and the impact that a disruption in one sector may have on other sectors, \textit{including any risks to citizens and the internal market};

Amendment 47
Proposal for a directive
Article 4 – paragraph 2 – subparagraph 2

**Text proposed by the Commission**

For the purposes of point (c) of the first subparagraph, Member States shall cooperate with the competent authorities of other Member States and third countries, as appropriate.

**Amendment**

For the purposes of point (c) of the first subparagraph, Member States shall closely cooperate with the Commission and the competent authorities of other Member States and third countries.

Amendment 48
Proposal for a directive
Article 4 – paragraph 3

**Text proposed by the Commission**

3. Member States shall make the relevant elements of the risk assessment referred to in paragraph 1 available to the critical entities that they identified in accordance with Article 5 in order to assist those critical entities in carrying out their risk assessment, pursuant to Article 10, and in taking measures to ensure their resilience pursuant to Article 11.

**Amendment**

3. Member States shall make the relevant elements of the risk assessment referred to in paragraph 1 available, through their single point of contact, to the critical entities that they identified in accordance with Article 5 in order to assist those critical entities in carrying out their risk assessment, pursuant to Article 10, and in taking measures to ensure their resilience pursuant to Article 11.

Amendment 49
Proposal for a directive
Article 4 – paragraph 4

**Text proposed by the Commission**

4. Each Member State shall provide the Commission with data on the types of risks identified and the outcomes of the risk assessments, per sector and sub-sector referred to in the Annex, by [three years after entry into force of this Directive] and subsequently where necessary and at least every four years.

**Amendment**

4. Each Member State shall provide the Commission with data on the types of risks identified and the outcomes of the risk assessments, per sector and sub-sector referred to in the Annex, by [three years after entry into force of this Directive] and subsequently where necessary and at least every five years.
Amendment 50
Proposal for a directive
Article 4 – paragraph 5

Text proposed by the Commission

5. The Commission may, in cooperation with the Member States, develop a voluntary common reporting template for the purposes of complying with paragraph 4.

Amendment

5. The Commission shall, in cooperation with the Member States, and after consultation with the Critical Entities Resilience Group, develop a voluntary common reporting template for the purposes of complying with paragraph 4, taking into consideration the differences between sectors and subsectors and existing practices in the Member States.

Amendment 51
Proposal for a directive
Article 5 – paragraph 1

Text proposed by the Commission

1. By [three years and three months after entry into force of this Directive] Member States shall identify for each sector and subsector referred to in the Annex, other than points 3, 4 and 8 thereof, the critical entities.

Amendment

1. By [three years and three months after entry into force of this Directive] Member States shall, where infrastructure exists, identify for each sector and subsector referred to in the Annex, other than points 3, 4 and 8 thereof, the critical entities.

Amendment 52
Proposal for a directive
Article 5 – paragraph 2 – introductory part

Text proposed by the Commission

2. When identifying critical entities pursuant to paragraph 1, Member States shall take into account the outcomes of the risk assessment pursuant to Article 4 and apply the following criteria:

Amendment

2. When identifying critical entities pursuant to paragraph 1, Member States shall take into account the outcomes of the risk assessment pursuant to Article 4 and the strategy on the resilience of critical
entities referred to in Article 3 and apply the following criteria:

Amendment 53
Proposal for a directive
Article 5 – paragraph 3 – subparagraph 1

Text proposed by the Commission
Each Member State shall establish a list of the critical entities identified and ensure that those critical entities are notified of their identification as critical entities within one month of that identification, informing them of their obligations pursuant to Chapters II and III and the date from which the provisions of those Chapters apply to them.

Amendment
Each Member State shall establish a list of the critical entities identified and ensure that those critical entities are notified through the Member State’s single point of contact, of their identification as critical entities within three months month of that identification, informing them of their obligations pursuant to Chapters II and III and the date from which the provisions of those Chapters apply to them.

Amendment 54
Proposal for a directive
Article 5 – paragraph 3 - subparagraph 3 a (new)

Text proposed by the Commission
When establishing the list of critical entities under this Directive, Member States shall develop a coherent approach in relation to the NIS 2 Directive, taking into account its scope. Member States shall ensure that essential entities falling within Annex I of the NIS 2 Directive, but that are not identified as critical entities under this Directive, enhance, where appropriate, the resilience of their essential services to physical non-cybersecurity incidents or threats and hybrid incidents or threats.
Amendment 55

Proposal for a directive
Article 5 – paragraph 5

Text proposed by the Commission

5. Following the notification referred in paragraph 3, Member States shall ensure that critical entities provide information to their competent authorities designated pursuant to Article 8 of this Directive on whether they have been identified as a critical entity in one or more other Member States. Where an entity has been identified as critical by two or more Member States, these Member States shall engage in consultation with each other with a view to reduce the burden on the critical entity in regard to the obligations pursuant to Chapter III.

Amendment

5. Following the notification referred in paragraph 3, Member States shall ensure that critical entities provide information to their competent authorities designated pursuant to Article 8 of this Directive on whether they have been identified as a critical entity in one or more other Member States. Where an entity has been identified as critical by two or more Member States for the provision of the same or similar essential services, these Member States shall engage in consultation with each other with a view to reduce the burden on the critical entity in regard to the obligations pursuant to Chapter III.

Amendment 56

Proposal for a directive
Article 5 – paragraph 6

Text proposed by the Commission

6. For the purposes of Chapter IV, Member States shall ensure that critical entities, following the notification referred in paragraph 3, provide information to their competent authorities designated pursuant to Article 8 of this Directive on whether they provide essential services to or in more than one third of Member States. Where that is so, the Member State concerned shall notify, without undue delay, to the Commission the identity of those critical entities.

Amendment

6. For the purposes of Chapter IV, Member States shall ensure that critical entities, following the notification referred in paragraph 3, provide information to their competent authorities designated pursuant to Article 8 of this Directive on whether they have been identified as critical entity for the provision of the same or similar essential services to or in more than one fifth of Member States. Where that is so, the Member State concerned shall notify, without undue delay, to the Commission the identity of those critical entities.
Amendment 57
Proposal for a directive
Article 5 – paragraph 7

Text proposed by the Commission

Amendment

7a. The Commission shall, in cooperation with the Member States, develop recommendations and guidelines to support Member States in identifying specific essential services, infrastructures and the entities providing them and include them in their list of critical entities.

Amendment 58
Proposal for a directive
Article 6 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) the dependency of other sectors referred to in the Annex on that service;

(b) the dependency of other sectors or subsectors as referred to in the Annex or the supply chain on that service;

Amendment 59
Proposal for a directive
Article 6 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) the impacts that incidents could have, in terms of degree and duration, on economic and societal activities, the environment and public safety;

(c) the impact that incidents could have, in terms of degree and duration, on economic and societal activities, the environment, consumer protection and public safety;

Amendment 60
Proposal for a directive
Article 6 – paragraph 1 – point d
(d) the market share of the entity in the market for such services; 

Amendment

Proposal for a directive
Article 6 – paragraph 1 – point e

Text proposed by the Commission
(e) the geographic area that could be affected by an incident, including any cross-border impacts;

Amendment

(e) the geographic area that could be affected by an incident, including any cross-border and cross-sector impact and interdependencies between infrastructure and sectors and between Member States and third countries;

Amendment 62

Proposal for a directive
Article 6 – paragraph 1 – point e a (new)

Text proposed by the Commission
(ea) the vulnerability associated with the degree of isolation of certain types of geographic areas, such as insular regions, outermost regions or mountainous areas;

Amendment

(ba) the geographical coverage of the services provided by the critical entities in each sector, including information on any
cross-border impacts;

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<th>Amendment 64</th>
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| **Proposal for a directive**  
**Article 6 – paragraph 2 – subparagraph 1 – point c** |
| **Text proposed by the Commission** |
| (c) any thresholds applied to specify one or more of the criteria in paragraph 1. |
| **Amendment** |
| (c) any thresholds applied to specify one or more of the criteria in paragraph 1 and any methodology used for the application of those thresholds. |

<table>
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<tr>
<th>Amendment 65</th>
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| **Proposal for a directive**  
**Article 6 – paragraph 3** |
| **Text proposed by the Commission** |
| 3. The Commission may, after consultation of the Critical Entities Resilience Group, adopt guidelines to facilitate the application of the criteria referred to in paragraph 1, taking into account the information referred to in paragraph 2. |
| **Amendment** |
| 3. The Commission may, after consultation of the Critical Entities Resilience Group, adopt guidelines to facilitate the application of the criteria referred to in paragraph 1, taking into account the information referred to in paragraph 2 and the differences between sectors and subsectors and existing practices in the Member States. |

<table>
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<th>Amendment 66</th>
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| **Proposal for a directive**  
**Article 7 – paragraph 1** |
| **Text proposed by the Commission** |
| 1. As regards the sectors referred to in points 3, 4 and 8 of the Annex, Member States shall, by [three years and three months after entry into force of this Directive], identify the entities that shall be treated as equivalent to critical entities for the purposes of this Chapter. They shall apply the provisions of Articles 3, 4, 5(1) |
| **Amendment** |
| 1. As regards the sectors referred to in points 3, 4 and 8 of the Annex, Member States shall, by [three years and three months after entry into force of this Directive], identify the entities that shall be treated as equivalent to critical entities for the purposes of this Chapter. They shall apply the provisions of Articles 3, 4, 5(1) |
to (4) and (7), and 9 in respect of those entities.

Amendment 67

Proposal for a directive
Article 7 – paragraph 3

Text proposed by the Commission

3. Member States shall ensure that the entities referred to in paragraph 1 are, without undue delay, notified of their identification as entities referred to in this Article.

Amendment

3. Member States shall ensure that the entities referred to in paragraph 1 are, without undue delay, notified, through the Member States’ single points of contact, of their identification as entities as referred to in this Article.

Amendment 68

Proposal for a directive
Article 8 – paragraph 2

Text proposed by the Commission

1. Each Member State shall designate one or more competent authorities responsible for the correct application, and where necessary enforcement, of the rules of this Directive at national level (‘competent authority’). Member States may designate an existing authority or authorities.

Amendment

1. Each Member State shall designate a single point of contact. The designated single point of contact shall exercise a liaison function with the identified critical entities and ensure cross-border cooperation with competent authorities and the single points of contact of other Member States and with the Critical Entities Resilience Group referred to in Article 16 and where relevant ensure cooperation with third countries.

Amendment 69

Proposal for a directive
Article 8 – paragraph 5
5. Member States shall ensure that their competent authorities, whenever appropriate, and in accordance with Union and national law, consult and cooperate with other relevant national authorities, in particular those in charge of civil protection, law enforcement and protection of personal data, as well as with relevant interested parties, including critical entities.

Amendment 70

Proposal for a directive
Article 8 – paragraph 7

Text proposed by the Commission

7. Each Member State shall notify the Commission of the designation of the competent authority and single point of contact within three months from that designation, including their precise tasks and responsibilities under this Directive, their contact details and any subsequent change thereto. Each Member State shall make public its designation of the competent authority and single point of contact.

Amendment

7. Each Member State shall notify the Commission, the Critical Entities Resilience Group and the identified critical entities in its territory of the designation of the competent authority and single point of contact within three months from that designation, including their precise tasks and responsibilities under this Directive, their contact details and any subsequent change thereto. Each Member State shall make public its designation of the competent authority and single point of contact.

Amendment 71

Proposal for a directive
Article 9 – paragraph 1

Text proposed by the Commission

1. Member States shall support critical entities in enhancing their resilience. That support may include developing guidance materials and methodologies, supporting

Amendment

1. Member States shall support critical entities in enhancing their resilience. That support may include financial resources for the development of guidelines and
the organisation of exercises to test their resilience and providing training to personnel of critical entities.

guidance materials, methodologies, certificates, research and exercises to test the resilience of critical entities and the preparedness of their employees and the provision of periodic training to the personnel of critical entities, the provision of shared infrastructure and assistance and the protection of sensitive areas, facilities and other infrastructure, where necessary.

Amendment 72
Proposal for a directive
Article 9 – paragraph 2

Text proposed by the Commission
2. Member States shall ensure that the competent authorities cooperate and exchange information and good practices with critical entities of the sectors referred to in the Annex.

Amendment
2. Member States shall ensure that the competent authorities cooperate and exchange information and good practices, through their single point of contact, with critical entities of the sectors referred to in the Annex.

Amendment 73
Proposal for a directive
Article 10 – paragraph 2

Text proposed by the Commission
The risk assessment shall account for all relevant risks referred to in Article 4(1) which could lead to the disruption of the provision of essential services. It shall take into account any dependency of other sectors referred to in the Annex on the essential service provided by the critical entity, including in neighbouring Member States and third countries where relevant, and the impact that a disruption of the provision of essential services in one or more of those sectors may have on the essential service provided by the critical entity.

Amendment
The risk assessment shall account for all relevant risks referred to in Article 4(1) which could lead to the disruption of the provision of essential services or hinder the proper functioning of the internal market. It shall take into account any dependency of other sectors referred to in the Annex on the essential service provided by the critical entity, including in other Member States, on European level, and in third countries where relevant, and the impact that a disruption of the provision of essential services in one or more of those sectors may have on the essential service provided by the critical entity or on the
supply chain, including aspects concerning the relationships between each entity and its suppliers or service providers.

Amendment 74
Proposal for a directive
Article 11 – paragraph 1 – point a

Text proposed by the Commission

(a) prevent incidents from occurring, including through disaster risk reduction and climate adaptation measures;

Amendment

(a) carry out risk analysis and manage incidents and prevent them from occurring, including through disaster risk reduction and climate adaptation measures;

Amendment 75
Proposal for a directive
Article 11 – paragraph 1 – point a a (new)

Text proposed by the Commission

(aa) evaluate possible safety risks for the beneficiaries of the essential service;

Amendment

Amendment 76
Proposal for a directive
Article 11 – paragraph 1 – point b

Text proposed by the Commission

(b) ensure adequate physical protection of sensitive areas, facilities and other infrastructure, including fencing, barriers, perimeter monitoring tools and routines, as well as detection equipment and access controls;

Amendment

(b) ensure adequate physical protection of sensitive and key areas, facilities and other infrastructure, including fencing, barriers, perimeter monitoring tools and routines, as well as detection equipment and access controls;
Amendment 77
Proposal for a directive
Article 11 – paragraph 1 – point e

Text proposed by the Commission

(e) ensure adequate employee security management, including by setting out categories of personnel exercising critical functions, establishing access rights to sensitive areas, facilities and other infrastructure, and to sensitive information as well as identifying specific categories of personnel in view of Article 12;

Amendment

(e) ensure adequate employee security management, training requirements and qualifications including by setting out categories of personnel exercising critical functions, safety and security tasks, establishing access rights to sensitive areas, facilities and other infrastructure, and to sensitive information as well as identifying specific categories of personnel in view of Article 12 as laid out in Union and national law.

Amendment 78
Proposal for a directive
Article 11 – paragraph 1 – point e a (new)

Text proposed by the Commission

(ea) ensure supply chain security, including security-related aspects concerning the relationships between each entity and its service providers such as security services;

Amendment

Amendment 79
Proposal for a directive
Article 11 – paragraph 1 – point f

Text proposed by the Commission

(f) raise awareness about the measures referred to in points (a) to (e) among relevant personnel.

Amendment

(f) raise awareness about the measures referred to in points (a) to (e) among relevant personnel also through training.
Amendment 80

Proposal for a directive
Article 11 – paragraph 2

Text proposed by the Commission

2. Member States shall ensure that critical entities have in place and apply a resilience plan or equivalent document or documents, *describing in detail* the measures *pursuant to* paragraph 1. Where critical entities *have taken* measures pursuant to obligations *contained in* other acts of Union law that are also relevant for the measures referred to in paragraph 1, they shall also describe those measures in the resilience plan or equivalent document or documents.

Amendment

2. Member States shall ensure that critical entities have in place and apply a resilience plan or equivalent document or documents *detailing the measures in accordance with* paragraph 1. Where critical entities have put in place measures pursuant to obligations laid down in other Union legislation that are also relevant to the measures referred to in paragraph 1, they shall also describe those measures in the resilience plan or equivalent document or documents.

Amendment 81

Proposal for a directive
Article 11 – paragraph 2 a (new)

Text proposed by the Commission

2a. Member States shall ensure that critical entities designate within three months after receiving the notification referred to in Article 5(3), a single point of contact to exercise a liaison function with the Member States on issues related to the technical and organisational measures referred to in paragraph 1 of this Article.

Amendment

2a. Member States shall ensure that critical entities designate within three months after receiving the notification referred to in Article 5(3), a single point of contact to exercise a liaison function with the Member States on issues related to the technical and organisational measures referred to in paragraph 1 of this Article.

Amendment 82

Proposal for a directive
Article 11 – paragraph 4

Text proposed by the Commission

4. The Commission is empowered to adopt delegated acts in accordance with Article 21 *supplementing paragraph 1 by*

Amendment

4. The Commission is empowered to adopt delegated acts in accordance with Article 21 *to supplement* some or all of the
establishing detailed rules specifying some or all of the measures to be taken pursuant to that paragraph. It shall adopt those delegated acts in as far as necessary for the effective and consistent application of that paragraph in accordance with the objectives of this Directive, having regard to any relevant developments in risks, technology or the provision of the services concerned as well as to any specificities relating to particular sectors and types of entities.

Amendment 83

Proposal for a directive
Article 12 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that critical entities may submit requests for background checks on persons who fall within certain specific categories of their personnel, including persons being considered for recruitment to positions falling within those categories, and that those requests are assessed expeditiously by the authorities competent to carry out such background checks.

Amendment

1. Member States shall ensure that critical entities may submit requests for background checks on persons who fall within certain specific categories of their personnel, including persons being considered for recruitment to positions falling within those categories, and that those requests are assessed expeditiously by the authorities competent to carry out such background checks. Those persons shall be informed in advance about the checks, including general information about how, when and by whom the checks will be carried out.

Amendment 84

Proposal for a directive
Article 12 – paragraph 2 – subparagraph 1 – point c

Text proposed by the Commission

(c) cover previous employments, education and any gaps in education or

Amendment

(c) in exceptional cases, when deemed necessary by Member States, cover
employment in the person’s resume during at least the preceding five years and for a maximum of ten years.

Amendment 85

Proposal for a directive
Article 12 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The background checks referred to in paragraph 1 of this Article shall fully respect the requirements under Union and national law. The results communicated to the entity shall be limited to what is strictly necessary to achieve the aims of the background check.

Amendment 86

Proposal for a directive
Article 13 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall ensure that critical entities notify without undue delay the competent authority of incidents that significantly disrupt or have the potential to significantly disrupt their operations. Notifications shall include any available information necessary to enable the competent authority to understand the nature, cause and possible consequences of the incident, including so as to determine any cross-border impact of the incident. Such notification shall not make the critical entities subject to increased liability.

1. Member States shall ensure that critical entities notify the competent authority, through their single point of contact, without undue delay and, in any case, no later than 24 hours after becoming aware of a particular incident, of incidents that have had a significant impact on, or significantly disrupt or have the potential to significantly disrupt, the operations of the critical entity. Notifications shall include any available information necessary to enable the competent authority to understand the nature, cause and possible consequences of the incident, including so as to determine any cross-border impact of the incident. Such notification shall not make the critical entities subject to increased liability. The information provided has to be treated
swiftly by the competent authorities in a way that respects its confidentiality and protects the security and commercial interest of the critical entity concerned.

If the incident has, or may have, a significant impact on critical entities or the continuity of the provision of essential services critical entities of particular European significance shall additionally notify such incidents to the Commission. The Commission shall inform the Critical Entities Resilience Group of any such notifications without undue delay. The Commission and the Critical Entities Resilience Group shall, in accordance with Union law, treat the information in a way that respects its confidentiality and protects the security and commercial interest of the critical entity concerned.

Amendment 87
Proposal for a directive
Article 13 – paragraph 2 – introductory part

Text proposed by the Commission

2. In order to determine the significance of the disruption or the potential disruption to the critical entity’s operations resulting from an incident, the following parameters shall, in particular, be taken into account:

Amendment

2. In order to determine the significance of the impact, disruption or the potential disruption to the critical entity’s operations resulting from an incident, at least the following parameters shall, in particular, be taken into account:

Amendment 88
Proposal for a directive
Article 13 – paragraph 2 – point a

Text proposed by the Commission

(a) the number of users affected by the disruption or potential disruption;

Amendment

(a) the number of users affected by the incident;
Amendment 89
Proposal for a directive
Article 13 – paragraph 2 – point b

Text proposed by the Commission

(b) the duration of the disruption or anticipated duration of a potential disruption;

Amendment

(b) the duration of the incident and of the disruption or the anticipated duration of potential disruption;

Amendment 90
Proposal for a directive
Article 13 – paragraph 2 – point c

Text proposed by the Commission

(c) the geographical area affected by the disruption or potential disruption.

Amendment

(c) the geographical spread of the area affected by the incident and the disruption.

Amendment 91
Proposal for a directive
Article 13 – paragraph 2 – point c a (new)

Text proposed by the Commission

(ca) the extent to which the functioning of the essential services or essential infrastructure is affected;

Amendment

Amendment 92
Proposal for a directive
Article 13 – paragraph 2 – point c b (new)

Text proposed by the Commission

(cb) the degree of isolation of the areas affected by the incident, and in particular if it affects insular and outermost regions or mountainous areas;
Amendment 93
Proposal for a directive
Article 13 – paragraph 2 – point c c (new)

Text proposed by the Commission

(cc) any impact on human life or the environment.

Amendment 94
Proposal for a directive
Article 13 – paragraph 2 – point c d (new)

Text proposed by the Commission

(cd) the impact on economic and societal activities and on the internal market.

Amendment 95
Proposal for a directive
Article 13 – paragraph 3

Text proposed by the Commission

On the basis of the information provided in the notification by the critical entity, the competent authority, via its single point of contact, shall inform the single point of contact of other affected Member States if the incident has, or may have, a significant impact on critical entities and the continuity of the provision of essential services in one or more other Member States.

In so doing, the single points of contact shall, in accordance with Union law or national legislation that complies with Union law, treat the information in a way

On the basis of the information provided in the notification by the critical entity, the competent authority shall, through its single point of contact, inform, without undue delay, the single point of contact of other affected Member States if the incident has, or may have, a significant impact on critical entities and the continuity of the provision of essential services in one or more other Member States. The single points of contact of the Member States affected by the incident shall inform the relevant critical entities on their territories.

In so doing, the competent authorities and single points of contact shall, in accordance with Union law or national legislation that complies with Union law, treat the
that respects its confidentiality and protects the security and commercial interest of the critical entity concerned.

Amendment 96

Proposal for a directive
Article 13 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The competent authority concerned shall, through its single point of contact, inform the public of the incident, or require the critical entity to inform the public through its single point of contact, where it determines that it would be in the public interest to disclose the incident.

Amendment 97

Proposal for a directive
Article 13 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3b. The competent authority shall ensure that, in the event of a particular and significant threat of an incident concerning critical entities or critical infrastructure, the critical entities shall inform users of their services that could be affected by the incident or by the disruption of the services and of its consequences and, where relevant, of any possible safety measures or remedies.

Amendment 98

Proposal for a directive
Article 13 – paragraph 3 c (new)
3c. Once a year, the competent authority concerned shall submit, through its single point of contact, a summary report to the Commission and to the Critical Entities Resilience Group on the notifications received and the action taken in accordance with this Article.

Amendment 99

Proposal for a directive
Article 13 – paragraph 4

Text proposed by the Commission

4. As soon as possible upon having been notified in accordance with paragraph 1, the competent authority shall provide the critical entity that notified it with relevant information regarding the follow-up of its notification, including information that could support the critical entity’s effective response to the incident.

Amendment

4. As soon as possible upon having been notified in accordance with paragraph 1, the competent authority shall provide the critical entity that notified it, through the Member State’s single point of contact, with relevant information regarding the follow-up of its notification, including information that could support the critical entity’s effective response to the incident.

Amendment 100

Proposal for a directive
Article 14 – paragraph 2

Text proposed by the Commission

2. An entity shall be considered a critical entity of particular European significance when it has been identified as a critical entity and it provides essential services to or in more than one third of Member States and has been notified as such to the Commission pursuant to Article 5(1) and (6), respectively.

Amendment

2. An entity shall be considered a critical entity of particular European significance where it has been identified as a critical entity and it provides the same or similar essential services to or in more than one fifth of Member States and has been notified as such to the Commission by one of those Member States pursuant to Article 5(1) and (6), respectively.
Amendment 101

Proposal for a directive
Article 14 – paragraph 3 – subparagraph 1

Text proposed by the Commission

The Commission shall, without undue delay upon receiving the notification pursuant to Article 5(6), notify the entity concerned that it is considered a critical entity of particular European significance, informing that entity of its obligations pursuant to this Chapter and the date from which those obligations apply to it.

Amendment

The Commission shall, without undue delay upon receiving the notification pursuant to Article 5(6), notify the Member State of establishment, the Member States in which the infrastructure is located and the entity concerned that it is considered a critical entity of particular European significance, informing the relevant Member States and that entity of their obligations pursuant to this Chapter and the date from which those obligations apply to them.

Amendment 102

Proposal for a directive
Article 15 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Upon request of one or more Member States or of the Commission, the Member State where the infrastructure of the critical entity of particular European significance is located shall, together with that entity, inform the Commission and the Critical Entities Resilience Group of the outcome of the risk assessment carried out pursuant to Article 10 and the measures taken in accordance with Article 11.

Amendment

Upon request of one or more Member States or of the Commission, the Member State of establishment and the Member States in which the infrastructure of the critical entity of particular European significance is located shall, together with that entity, inform the Commission and the Critical Entities Resilience Group of the outcome of the risk assessment carried out pursuant to Article 10 and the measures taken in accordance with Article 11.

Amendment 103

Proposal for a directive
Article 15 – paragraph 2

Text proposed by the Commission

2. Upon request of one or more

Amendment

2. Upon request of one or more
Member States, and in agreement with the Member State *where* the infrastructure of the critical entity of particular European significance is located, the Commission shall organise an advisory mission to assess the measures that that entity put in place to meet its obligations pursuant to Chapter III. Where needed, the advisory missions may request specific expertise in the area of disaster risk management through the Emergency Response Coordination Centre.

Member States, and in agreement with the Member State *in which the entity is established or* the infrastructure of the critical entity of particular European significance is located, the Commission shall organise an advisory mission to assess the measures that that entity put in place to meet its obligations pursuant to Chapter III. Where needed, the advisory missions may request specific expertise in the area of disaster risk management through the Emergency Response Coordination Centre.

**Amendment 104**

Proposal for a directive  
**Article 15 – paragraph 3 – subparagraph 1**

*Text proposed by the Commission*

The advisory mission shall report its findings to the Commission, the Critical Entities Resilience Group and the critical entity of particular European significance concerned within a period of three months after the conclusion of the advisory mission.

*Amendment*

The advisory mission shall report its findings to the *Member State of establishment or the Member State in which the infrastructure is located*, the Commission, the Critical Entities Resilience Group and the critical entity of particular European significance concerned within a period of three months after the conclusion of the advisory mission.

**Amendment 105**

Proposal for a directive  
**Article 15 – paragraph 3 – subparagraph 2**

*Text proposed by the Commission*

The Critical Entities Resilience Group shall analyse the report and, where necessary, shall advise the Commission on whether the critical entity of particular European significance concerned complies with its obligations pursuant to Chapter III and, where appropriate, which measures could be taken to improve the resilience of that

*Amendment*

The Critical Entities Resilience Group shall analyse the report and, where necessary, shall advise the *Member States and* the Commission on whether the critical entity of particular European significance concerned complies with its obligations pursuant to Chapter III and, where appropriate, which measures could be taken to improve the resilience of that
Amendment 106

Proposal for a directive
Article 15 – paragraph 3 – subparagraph 3

Text proposed by the Commission

The Commission shall, based on that advice, communicate its views to the Member State where the infrastructure of that entity is located, the Critical Entities Resilience Group and that entity on whether that entity complies with its obligations pursuant to Chapter III and, where appropriate, which measures could be taken to improve the resilience of that entity.

Amendment

The Commission shall, based on that advice, communicate its views to the Member State of establishment or the Member State in which the infrastructure of that entity is located, the Critical Entities Resilience Group and that entity on whether that entity complies with its obligations pursuant to Chapter III and, where appropriate, which measures could be taken to improve the resilience of that entity.

Amendment 107

Proposal for a directive
Article 15 – paragraph 3 – subparagraph 4

Text proposed by the Commission

That Member State shall take due account of those views and provide information to the Commission and the Critical Entities Resilience Group on any measures it has taken pursuant to the communication.

Amendment

That Member State concerned shall take due account of those views and provide information to the Commission and the Critical Entities Resilience Group on any measures it has taken pursuant to the communication.

Amendment 108

Proposal for a directive
Article 15 – paragraph 4 – subparagraph 1

Text proposed by the Commission

Each advisory mission shall consist of experts from Member States and of Commission representatives. Member States may propose candidates to be part of

Amendment

Each advisory mission shall consist of experts from the relevant Member States and of Commission representatives. Member States may propose candidates to
an advisory mission. The Commission shall select and appoint the members of each advisory mission according to their professional capacity and ensuring a geographically balanced representation among Member States. The Commission shall bear the costs related to the participation in the advisory mission.

**Amendment 109**

Proposal for a directive
Article 15 – paragraph 4 – subparagraph 2

*Text proposed by the Commission*

The Commission shall organise the programme of an advisory mission, in consultation with the members of the specific advisory mission and in agreement with the Member State where the infrastructure of the critical entity or the critical entity of European significance concerned is located.

*Amendment*

The Commission shall organise the programme of an advisory mission, in consultation with the members of the specific advisory mission and in agreement with the Member State of establishment and the Member State in which the infrastructure of the critical entity or the critical entity of European significance concerned is located.

**Amendment 110**

Proposal for a directive
Article 15 – paragraph 6

*Text proposed by the Commission*

6. Member States shall ensure that the critical entity of particular European significance concerned provides the advisory mission with access to all information, systems and facilities relating to the provision of its essential services necessary for the performance of its tasks.

*Amendment*

6. Member States shall ensure that critical entity of particular European significance concerned provides the advisory mission with access to all information, documents, systems, locations and facilities relating to the provision of its essential services necessary for the performance of its tasks and for the fulfilment of the advisory mission. Any information exchanged shall be limited to that which is relevant and necessary for,
and proportionate to, the purpose of that exchange. The exchange of information shall preserve the confidentiality of that information and protect the security and commercial interests of critical entities.

Amendment 111

Proposal for a directive
Article 15 – paragraph 7

Text proposed by the Commission

7. The advisory mission shall be carried out in compliance with the applicable national law of the Member State where that infrastructure is located.

Amendment

7. The advisory mission shall be carried out in compliance with the applicable national law of the Member State in which the advisory mission takes place.

Amendment 112

Proposal for a directive
Article 15 – paragraph 8 a (new)

Text proposed by the Commission

8a. The Commission shall, after consulting with the Critical Entities Resilience Group, identify the specific critical services, systems or products that may be subject to the risk assessment referred to in Article 10.

Amendment

Amendment 113

Proposal for a directive
Article 16 – paragraph 2 – subparagraph 1

Text proposed by the Commission

The Critical Entities Resilience Group shall be composed of representatives of the Member States and the Commission. Where relevant for the performance of its tasks, the Critical Entities Resilience Group may invite representatives of

Amendment

The Critical Entities Resilience Group shall be composed of representatives of the Member States and the Commission. Where relevant for the performance of its tasks, the Critical Entities Resilience Group may invite representatives of
interested parties to participate in its work. interested parties or stakeholders, such as representatives of European professional associations, associations of critical entities, critical entities of particular European significance, industry and research centres relevant for each focused economic sector to participate in its work.

Amendment 114
Proposal for a directive
Article 16 – paragraph 3 – point a

*Text proposed by the Commission*

(a) supporting the Commission in assisting Member States in reinforcing their capacity to contribute to ensuring the resilience of critical entities in accordance with this Directive;

*Amendment*

(a) supporting the Commission in assisting Member States in reinforcing their capacity to contribute to ensuring the resilience of critical entities in accordance with this Directive and promoting its uniform implementation in the Member States;

Amendment 115
Proposal for a directive
Article 16 – paragraph 3 – point b

*Text proposed by the Commission*

(b) evaluating the strategies on the resilience of critical entities referred to in Article 3 and identifying best practices in respect of those strategies;

*Amendment*

(b) evaluating the national strategies on the resilience of critical entities referred to in Article 3, Member States preparedness and identifying best practices in respect of those strategies;

Amendment 116
Proposal for a directive
Article 16 – paragraph 3 – point b a (new)

*Text proposed by the Commission*

(ba) exchanging information on priorities and key challenges relating to
the resilience of critical entities;

Amendment 117
Proposal for a directive
Article 16 – paragraph 3 – point c

Text proposed by the Commission

Amendment

c
facilitating the exchange of information and best practices with regard to the identification of critical entities by the Member States in accordance with Article 5, including in relation to cross-border dependencies and regarding risks and incidents;

Amendment 118
Proposal for a directive
Article 16 – paragraph 3 – point c a (new)

Text proposed by the Commission

Amendment

ca
preparing a European strategy on resilience in compliance with the objectives set out by this Directive;

Amendment 119
Proposal for a directive
Article 16 – paragraph 3 – point h a (new)

Text proposed by the Commission

Amendment

ha
promoting and supporting coordinated risk assessments and joint actions among critical entities;

Amendment 120
Proposal for a directive
Article 16 – paragraph 3 – point h b (new)
Amendment 121
Proposal for a directive
Article 16 – paragraph 3 – point h c (new)

Text proposed by the Commission
(hb) publishing relevant findings from its work, to facilitate academic and security research;

Amendment

Amendment 122
Proposal for a directive
Article 16 – paragraph 3 – point i a (new)

Text proposed by the Commission
(hc) exchanging best practices and information on all other matters in relation to the implementation of this Directive, including the application and development of standards and technical specifications;

Amendment

Amendment 123
Proposal for a directive
Article 16 – paragraph 3 – point i b (new)

Text proposed by the Commission
(ib) carrying out coordinated security risk assessments of specific critical services, systems or product supply chains, taking into account technical and,
where relevant, non-technical risk factors.

Amendment 124

Proposal for a directive
Article 16 – paragraph 3 – subparagraph 1 a (new)

Text proposed by the Commission

In carrying its tasks, the Critical Entities Resilience Group shall preserve the confidentiality of the information that has been exchanged and protect the security and commercial interests of the Member States and of the critical entities concerned.

Amendment 125

Proposal for a directive
Article 16 – paragraph 4

Text proposed by the Commission

4. By [24 months after entry into force of this Directive] and every two years thereafter, the Critical Entities Resilience Group shall establish a work programme in respect of actions to be undertaken to implement its objectives and tasks, which shall be consistent with the requirements and objectives of this Directive.

Amendment 126

Proposal for a directive
Article 16 – paragraph 7

Text proposed by the Commission

7. The Commission shall provide to the Critical Entities Resilience Group a summary report of the information provided by the Member States pursuant to Articles 3(3) and 4(4) by [three years and six months after entry into force of this
Directive] and subsequently where necessary and at least every four years. The Commission shall regularly publish a summary report of the activities of the Critical Entities Resilience Group.

Amendment 127
Proposal for a directive
Article 16 a (new)

Text proposed by the Commission

Amendment

Article 16 a

Standardisation

The Commission and the Member States shall support and promote the development and implementation of standards set by relevant European standardisation bodies in order to promote the convergent implementation of Articles 11 and 12.

Amendment 128
Proposal for a directive
Article 21 – paragraph 6

Text proposed by the Commission

6. A delegated act adopted pursuant to Article 11(4) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Amendment

6. A delegated act adopted pursuant to Article 11(4) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.
### PROCEDURE – COMMITTEE ASKED FOR OPINION

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<tr>
<td><strong>References</strong></td>
<td>COM(2020)0829 – C9-0421/2020 – 2020/0365(COD)</td>
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<td><strong>Committee responsible</strong></td>
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<td><strong>Rapporteur for the opinion</strong></td>
<td>Alex Agius Saliba</td>
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<td>Date appointed</td>
<td>18.2.2021</td>
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<td><strong>Discussed in committee</strong></td>
<td>26.5.2021, 22.6.2021</td>
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<td><strong>Date adopted</strong></td>
<td>12.7.2021</td>
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<td><strong>Result of final vote</strong></td>
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<td><strong>Substitutes present for the final vote</strong></td>
<td>Clara Aguilera, Maria da Graça Carvalho, Christian Doleschal, Claude Gruffat, Jiří Pospíšil, Kosma Złotowski</td>
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### FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

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**Key to symbols:**
- **+**: in favour
- **-**: against
- **0**: abstention
28.9.2021

OPINION OF THE COMMITTEE ON FOREIGN AFFAIRS

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a directive of the European Parliament and of the Council on the resilience of critical entities

Rapporteur for opinion: Lukas Mandl
AMENDMENTS

The Committee on Foreign Affairs calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a directive
Recital 1

Text proposed by the Commission

(1) Council Directive 2008/114/EC\(^{17}\) provides for a procedure for designating European critical infrastructures in the energy and transport sectors, the disruption or destruction of which would have significant cross-border impact on at least two Member States. That Directive focused exclusively on the protection of such infrastructures. However, the evaluation of Directive 2008/114/EC conducted in 2019\(^{18}\) found that due to the increasingly interconnected and cross-border nature of operations using critical infrastructure, protective measures relating to individual assets alone are insufficient to prevent all disruptions from taking place. Therefore, it is necessary to shift the approach towards ensuring the resilience of critical entities, that is, their ability to mitigate, absorb, accommodate to and recover from incidents that have the potential to disrupt the operations of the critical entity.

Amendment

(1) Council Directive 2008/114/EC\(^{17}\) provides for a procedure for designating European critical infrastructures in the energy and transport sectors, the disruption or destruction of which would have significant cross-border impact on at least two Member States. That Directive focused exclusively on the protection of such infrastructures. However, the evaluation of Directive 2008/114/EC conducted in 2019\(^{18}\) found that due to the increasingly interconnected and cross-border nature of operations using critical infrastructure, protective measures relating to individual assets alone are insufficient to prevent all disruptions from taking place. Therefore, it is necessary to shift the approach towards ensuring the resilience of critical entities, that is, their ability to mitigate, absorb, accommodate to and recover from incidents that have the potential to disrupt the operations of the critical entity, thereby endangering the democratic, social, and economic life in one or more Member States.


\(^{18}\) SWD(2019) 308.
Amendment 2

Proposal for a directive
Recital 2

Text proposed by the Commission

(2) Despite existing measures at Union and national level aimed at supporting the protection of critical infrastructures in the Union, the entities operating those infrastructures are not adequately equipped to address current and anticipated future risks to their operations that may result in disruptions of the provision of services that are essential for the performance of vital societal functions or economic activities. This is due to a dynamic threat landscape with an evolving terrorist threat and growing interdependencies between infrastructures and sectors, as well as an increased physical risk due to natural disasters and climate change, which increases the frequency and scale of extreme weather events and brings long-term changes in average climate that can reduce the capacity and efficiency of certain infrastructure types if resilience or climate adaptation measures are not in place. Moreover, relevant sectors and types of entities are not recognised consistently as critical in all Member States.

Amendment

(2) Despite existing measures at Union and national level aimed at supporting the protection of critical infrastructures in the Union, the entities operating those infrastructures are not adequately equipped to address current potential and anticipated future risks to their operations that may result in disruptions of the provision of services that are essential for the performance of vital societal functions or economic activities. This is due to an increasingly challenging security environment, with multi-faceted threats the Union is facing in a highly multipolar world, including hybrid threats and emerging technologies, in particular artificial intelligence, with unreliable behaviour by certain global actors, a dynamic threat landscape with an evolving threat by hostile states and non-state actors and growing global interdependencies between infrastructures and sectors, as well as an increased physical risk due to natural disasters and climate change, which increases the frequency and scale of extreme weather events and brings long-term changes in average climate that can reduce the capacity and efficiency of certain infrastructure types if resilience or climate adaptation measures are not in place. Moreover, relevant sectors and types of entities are not recognised consistently as critical in all Member States.

19 European Programme for Critical Infrastructure Protection (EPCIP).
Amendment 3

Proposal for a directive
Recital 3

**Text proposed by the Commission**

(3) Those growing interdependencies are the result of an increasingly cross-border and interdependent network of service provision using key infrastructures across the Union in the sectors of energy, transport, banking, financial market infrastructure, digital infrastructure, drinking and waste water, health, certain aspects of public administration, as well as space in as far as the provision of certain services depending on ground-based infrastructures that are owned, managed and operated either by Member States or by private parties is concerned, therefore not covering infrastructures owned, managed or operated by or on behalf of the Union as part of its space programmes. These interdependencies mean that any disruption, even one initially confined to one entity or one sector, can have cascading effects more broadly, potentially resulting in far-reaching and long-lasting negative impacts in the delivery of services across the internal market. The COVID-19 pandemic has shown the vulnerability of our increasingly interdependent societies in the face of low-probability risks.

**Amendment**

(3) Those growing interdependencies are the result of an increasingly cross-border and interdependent network of service provision using key infrastructures across the Union in the sectors of energy, transport, banking, financial market infrastructure, digital infrastructure, telecommunication services (including hardware, software, firmware and networks), drinking and waste water, health, certain aspects of public administration, as well as space in as far as the provision of certain services depending on ground-based infrastructures that are owned, managed and operated either by Member States or by private parties is concerned, therefore not covering infrastructures owned, managed or operated by or on behalf of the Union as part of its space programmes but which are also of relevance for the Common Security and Defence Policy. Infrastructure owned, managed or operated by or on behalf of the Union as part of its space programmes is particularly important for the security of the Union and its Member States and the proper functioning of the missions and operations of the Common Security and Defence Policy. Pursuant to Regulation (EU) 2021/696 of the European Parliament and of the Council, such infrastructure is to be adequately protected. These interdependencies mean that any disruption, even one initially confined to one entity or one sector, can have cascading effects more broadly, potentially resulting in far-reaching and long-lasting negative impacts in the delivery of services across the internal market and can put at risk the security and safety of Union citizens and the
economic, social and democratic life and financial interests of the Union. The COVID-19 pandemic has shown the vulnerability of our increasingly interdependent societies in the face of low-probability - high impact risks and the crucial importance to secure our supply chain of, inter alia, raw materials, chemicals and pharmaceutical products that are essential to many critical infrastructure sectors.


Amendment 4
Proposal for a directive
Recital 3 a (new)

Text proposed by the Commission

(3a) The Union understands hybrid campaigns to be ‘multidimensional, combining coercive and subversive measures, using both conventional and unconventional tools and tactics, such as diplomatic, military, economic, and technological tools and tactics, to destabilise the adversary. Hybrid campaigns are designed to be difficult to detect or attribute, and can be used by state and non-state actors. The internet and online networks allow state and non-state actors to conduct aggressive action in new ways. They can be used to hack critical infrastructure, entities and democratic processes, launch persuasive disinformation and propaganda campaigns, steal information and unload
sensitive data into the public domain. Large-scale cyber-attacks on critical entities and infrastructure across borders have the potential to invoke Article 222 TFEU.

Amendment 5

Proposal for a directive
Recital 3 b (new)

Text proposed by the Commission

Amendment

(3b) Large-scale cyber security incidents and crises at Union level, the high degree of interdependence between sectors and countries require a coordinated action to ensure a rapid and effective response, as well as better prevention and preparedness for similar situations in the future. The availability of cyber-resilient critical networks and entities, and information systems and the availability, confidentiality and integrity of data are vital for the security of the Union within as well as beyond its borders. Given the blurring of lines between the realms of civilian and military matters and the dual-use nature of cyber tools and technologies, there is a need for a comprehensive and holistic approach.

Amendment 6

Proposal for a directive
Recital 7

Text proposed by the Commission

Amendment

(7) Certain sectors of the economy such as energy and transport are already regulated or may be regulated in the future by sector-specific acts of Union law that contain rules related to certain aspects of resilience of entities operating in those sectors. In order to address in a
comprehensive manner the resilience of those entities that are critical for the proper functioning of the internal market, those sector-specific measures should be complemented by the ones provided for in this Directive, which creates an overarching framework that addresses critical entities’ resilience in respect of all hazards, that is, natural and man-made, accidental and intentional.

Amendment 7
Proposal for a directive
Recital 8

_text proposed by the Commission_

(8) Given the importance of cybersecurity for the resilience of critical entities and in the interest of consistency, a coherent approach between this Directive and Directive (EU) XX/YY of the European Parliament and of the Council[20] [Proposed Directive on measures for a high common level of cybersecurity across the Union; (hereafter “NIS 2 Directive”)] is necessary _wherever possible_. In view of the higher frequency and particular characteristics of cyber risks, the NIS 2 Directive imposes comprehensive requirements on a large set of entities to ensure their cybersecurity. Given that cybersecurity is addressed sufficiently in the NIS 2 Directive, the matters covered by it should _be excluded from the scope of this Directive, without prejudice to the particular regime for entities in the digital infrastructure sector._

20 [Reference to NIS 2 Directive, once

 Amendement

(8) Given the importance of cybersecurity for the resilience of critical entities and in the interest of consistency, a coherent approach between this Directive and Directive (EU) XX/YY of the European Parliament and of the Council[20] [Proposed Directive on measures for a high common level of cybersecurity across the Union; (hereafter “NIS 2 Directive”)] is necessary. In view of the higher frequency and particular characteristics of cyber risks _and the growing number of cyber attacks and cyber enabled incidents led by hostile state and non state actors_, the NIS 2 Directive imposes comprehensive requirements on a large set of entities to ensure their cybersecurity. Given that cybersecurity is addressed sufficiently in the NIS 2 Directive, the matters covered by it should _apply coherently and consistently with this Directive, wherever possible and necessary._

20 [Reference to NIS 2 Directive, once
Amendment 8

Proposal for a directive
Recital 8 a (new)

Text proposed by the Commission

(8a) As climate change is leading to an increase in the frequency, intensity and complexity of natural disasters which can result in a disruption of essential services or the destruction of essential infrastructure with a significant cross-sectoral or transboundary effects, a coherent approach between this Directive and Decision No 1313/2013/EU of the European Parliament and the Council 1a, as amended, is necessary especially on issues covering preparedness and response actions.


Amendment 9

Proposal for a directive
Recital 11

Text proposed by the Commission

(11) The actions of Member States to identify and help ensure the resilience of critical entities should follow a risk-based approach that targets efforts to the entities most relevant for the performance of vital societal functions or economic activities. In order to ensure such a targeted approach, each Member State should carry out, within a harmonised framework, an assessment of all relevant natural and man-
made risks that may affect the provision of essential services, including accidents, natural disasters, public health emergencies such as pandemics, and antagonistic threats, including terrorist offences. When carrying out those risk assessments, Member States should take into account other general or sector-specific risk assessment carried out pursuant to other acts of Union law and should consider the dependencies between sectors, including from other Member States and third countries. The outcomes of the risk assessment should be used in the process of identification of critical entities and to assist those entities in meeting the resilience requirements of this Directive.

made risks that may affect the provision of essential services, including accidents, natural disasters, the negative consequences of climate change, public health emergencies such as pandemics, and antagonistic threats, including terrorist offences and hybrid threats such as foreign interferences and malicious disinformation campaigns, as well as CBRN threats. When carrying out those risk assessments, Member States should take into account other general or sector-specific risk assessment carried out pursuant to other acts of Union law, especially under Decision No1313/2013/EU of the European Parliament and the Council\(^{1a}\) and should consider the dependencies between sectors, including from other Member States and third countries. Synergy with NATO in the area of civil preparedness can be important, notably with the NATO Civil Emergency Planning Committee, which outlined seven key resilience preparedness factors taken into account when measuring resilience. Furthermore, the threat analysis process within the framework of the CSDP should also be taken into account. The outcomes of the risk assessment should be used in the process of identification of critical entities and to assist those entities in meeting the resilience requirements of this Directive.

(12) In order to ensure that all relevant entities are subject to those requirements and to reduce divergences in this respect, it is important to lay down harmonised rules allowing for a consistent identification of critical entities across the Union, while also allowing Member States to reflect national specificities. Therefore, criteria to identify critical entities should be laid down. In the interest of effectiveness, efficiency, consistency and legal certainty, appropriate rules should also be set on notification and cooperation relating to, as well as the legal consequences of, such identification. In order to enable the Commission to assess the correct application of this Directive, Member States should submit to the Commission, in a manner that is as detailed and specific as possible, relevant information and, in any event, the list of essential services, the number of critical entities identified for each sector and subsector referred to in the Annex and the essential service or services that each entity provides and any thresholds applied.

Amendment 11

Proposal for a directive

Recital 19

_text proposed by the Commission_

(19) Member States should support critical entities in strengthening their resilience, in compliance with their obligations under this Directive, without prejudice to the entities’ own legal responsibility to ensure such compliance. Member States could in particular develop guidance materials and methodologies, support the organisation of exercises to test their resilience and provide training to personnel of critical entities. Moreover, given the interdependencies between

Amendment

(19) Member States should support critical entities in strengthening their resilience, in compliance with their obligations under this Directive, without prejudice to the entities’ own legal responsibility to ensure such compliance. Member States could in particular develop guidance materials and methodologies, support the organisation of exercises, including cross-sectoral and cross-border exercises, where appropriate, to test their resilience and provide training to personnel
entities and sectors, Member States should establish information sharing tools to support voluntary information sharing between critical entities, without prejudice to the application of competition rules laid down in the Treaty on the Functioning of the European Union.

**Amendment 12**

**Proposal for a directive**

**Recital 20**

*Text proposed by the Commission*

(20) In order to be able to ensure their resilience, critical entities should have a comprehensive understanding of all relevant risks to which they are exposed and analyse those risks. To that aim, they should carry out risks assessments, whenever necessary in view of their particular circumstances and the evolution of those risks, yet in any event every four years. The risk assessments by critical entities should be based on the risk assessment carried out by Member States.

*Amendment*

(20) In order to be able to ensure their resilience, critical entities should have a comprehensive understanding of all relevant risks to which they are exposed and analyse those risks. To that aim, they should carry out risks assessments, whenever necessary in view of their particular circumstances and the evolution of those risks, yet in any event every four years. The risk assessments by critical entities should be based on the risk assessment carried out by Member States, using a common methodology established for each sector covered.

**Amendment 13**

**Proposal for a directive**

**Recital 24**

*Text proposed by the Commission*

**Amendment**

PE691.097v02-00 152/199 RR\1241337EN.docx
(24) The risk of employees of critical entities misusing for instance their access rights within the entity’s organisation to harm and cause damage is of increasing concern. That risk is exacerbated by the growing phenomenon of radicalisation leading to violent extremism and terrorism. It is therefore necessary to enable critical entities to request background checks on persons falling within specific categories of its personnel and to ensure that those requests are assessed expeditiously by the relevant authorities, in accordance with the applicable rules of Union and national law, including on the protection of personal data.

(24) The risk of misuse of the access rights within the critical entity’s organisation to harm and cause damage is of increasing concern, especially in the context of growing foreign interference, malicious disinformation and radicalisation which could lead to violent extremism and terrorism. It is therefore necessary to enable critical entities to request background checks on persons falling within specific categories of its personnel, while fully respecting their fundamental rights, labour law and data protection and privacy, ruling out any discrimination of biased recruitment procedures, and to ensure that those requests are assessed expeditiously by the relevant authorities, in accordance with the applicable rules of Union and national law, including on the protection of personal data.

Amendment 14
Proposal for a directive
Recital 25

Text proposed by the Commission

(25) Critical entities should notify, as soon as reasonably possible under the given circumstances, Member States’ competent authorities of incidents that significantly disrupt or have the potential to significantly disrupt their operations. The notification should allow the competent authorities to respond to the incidents rapidly and adequately and to have a comprehensive overview of the overall risks that critical entities face. For that purpose, a procedure should be established for the notification of certain incidents and parameters should be provided for to determine when the actual or potential disruption is significant and the incidents should thus be notified. Given the potential cross-border impacts of such disruptions, a procedure should be

Amendment

(25) Critical entities should notify, as soon as reasonably possible under the given circumstances, Member States’ competent authorities of incidents that significantly disrupt or have the potential to significantly disrupt their operations. The notification should allow the competent authorities to respond to the incidents rapidly and adequately and to have a comprehensive overview of the overall risks that critical entities face. The notification should also trigger, where appropriate, an information to users or citizens potentially affected, with clear safety and security guidance. For that purpose, a procedure should be established for the notification of certain incidents and parameters should be provided for to determine when the actual or potential
established for Member States to inform other affected Member States via single points of contacts.

disruption is significant and the incidents should thus be notified. Given the potential cross-border impacts of such disruptions, a procedure should be established for Member States to inform other affected Member States via single points of contacts.

Amendment 15
Proposal for a directive
Recital 29

Text proposed by the Commission

(29) In order to achieve the objectives of this Directive, and without prejudice to the legal responsibility of Member States and critical entities to ensure compliance with their respective obligations set out therein, the Commission should, where it considers it appropriate, undertake certain supporting activities aimed at facilitating compliance with these obligations. When providing support to Member States and critical entities in the implementation of obligations under this Directive, the Commission should build on existing structures and tools, such as those under the Union Civil Protection mechanism and the European Reference Network for Critical Infrastructure Protection.

Amendment

(29) In order to achieve the objectives of this Directive, and without prejudice to the legal responsibility of Member States and critical entities to ensure compliance with their respective obligations set out therein, the Commission should, where it considers it appropriate, undertake certain supporting activities aimed at facilitating compliance with those obligations. Such activities should also include training courses on different aspects of the resilience of critical entities. Special focus of those courses should be dedicated, among other things, to emerging disruptive technologies. When providing support and training to Member States and critical entities in the implementation of obligations under this Directive, the Commission should build on existing structures and tools, such as those under the Union Civil Protection mechanism and the European Reference Network for Critical Infrastructure Protection, or the European Security and Defence College, which can contribute to the development of a common European security culture. The Commission and the Member States should also ensure that research opportunities in the field of critical entity resilience under Horizon Europe, and the European Defence Fund are fully exploited.
Amendment 16

Proposal for a directive
Article 1 – paragraph 1 – introductory part

Text proposed by the Commission

1. This Directive:

Amendment

1. This Directive lays down measures with a view to achieve a high level of resilience of critical entities in order to ensure the provision of essential services within the Union, and by doing so, ensuring the functioning of the internal market and the provisioning of essential social services.

To that end, this Directive:

Amendment 17

Proposal for a directive
Article 2 – paragraph 1 – point 3

Text proposed by the Commission

(3) “incident” means any event having the potential to disrupt, or that disrupts, the operations of the critical entity;

Amendment

(3) “incident” means any natural or man-made event which has the potential to jeopardize the safety and security, to disrupt the delivery of essential services or the destruction of essential infrastructure in one or more Member States as the results of failure to maintain the operations of that critical entity;

Amendment 18

Proposal for a directive
Article 2 – paragraph 1 – point 5

Text proposed by the Commission

(5) “essential service” means a service which is essential for the maintenance of vital societal functions or economic activities;

Amendment

(5) “essential service” means a service which is essential for the maintenance of vital societal or democratic functions or economic activities, public safety and the
Amendment 19
Proposal for a directive
Article 3 – paragraph 2 – point a

Text proposed by the Commission
(a) strategic objectives and priorities for the purposes of enhancing the overall resilience of critical entities taking into account cross-border and cross-sectoral interdependencies;

Amendment
(a) strategic objectives and priorities for the purposes of enhancing the overall resilience of critical entities taking into account cross-border and cross-sectoral interdependencies, also in the event of a hybrid threat;

Amendment 20
Proposal for a directive
Article 3 – paragraph 2 a (new)

Text proposed by the Commission

Amendment
2a. Each Member State shall establish national procedures and arrangements between relevant national authorities and bodies to ensure that the Member State effectively participates in and supports the coordinated management of large-scale incidents that impact critical entities and crises at Union level, including responses to relevant requests under the solidarity and mutual defence clauses pursuant to Article 222 TFEU and Article 42(7) TEU, respectively.

Amendment 21
Proposal for a directive
Article 4 – paragraph 1 – subparagraph 1

Text proposed by the Commission
Competent authorities designated pursuant to Article 8 shall establish a list of essential services in the sectors referred to in the

Amendment
Competent authorities designated pursuant to Article 8 shall establish a list of essential services in the sectors referred to in the
Annex. They shall carry out by [three years after entry into force of this Directive], and subsequently where necessary, and at least every four years, an assessment of all relevant risks that may affect the provision of those essential services, with a view to identifying critical entities in accordance with Article 5(1), and assisting those critical entities to take measures pursuant to Article 11.

Amendment 22

Proposal for a directive
Article 4 – paragraph 1 – subparagraph 2

Text proposed by the Commission

The risk assessment shall account for all relevant natural and man-made risks, including accidents, natural disasters, public health emergencies, antagonistic threats, including terrorist offences pursuant to Directive (EU) 2017/541 of the European Parliament and of the Council.

Amendment

The risk assessment shall account for all relevant natural and man-made risks, including accidents, natural disasters, public health emergencies, antagonistic threats, hybrid threats and large-scale incidents, terrorist offences involving conventional and non-conventional weapons such as CBRN agents pursuant to Directive (EU) 2017/541 of the European Parliament and of the Council.

Risk assessment should take into account inter alia maintaining the continuity of government, energy supply, population movement, water and food resources, emergency response, civil transportation and communications systems.


Amendment 23

RR\1241337EN.docx 157/199 PE691.097v02-00
Proposal for a directive
Article 5 – paragraph 1

*Text proposed by the Commission*

1. By [three years and three months after entry into force of this Directive] Member States shall identify for each sector and subsector referred to in the Annex, other than points 3, 4 and 8 thereof, the critical entities.

*Amendment*

1. By [three years and three months after entry into force of this Directive] Member States, based on common guidelines issued by the Commission, shall identify for each sector and subsector referred to in the Annex, other than points 3, 4 and 8 thereof, the critical entities.

Amendment 24

Proposal for a directive
Article 6 – paragraph 1 – point c

*Text proposed by the Commission*

(c) the impacts that incidents could have, in terms of degree and duration, on economic and societal activities, the environment and public safety;

*Amendment*

(c) the impacts that incidents could have, in terms of degree and duration, on economic and societal activities, the environment and public safety, the rule of law and fundamental rights;

Amendment 25

Proposal for a directive
Article 8 – paragraph 5

*Text proposed by the Commission*

5. Member States shall ensure that their competent authorities, whenever appropriate, and in accordance with Union and national law, consult and cooperate with other relevant national authorities, in particular those in charge of civil protection, law enforcement and protection of personal data, as well as with relevant interested parties, including critical entities.

*Amendment*

5. Member States shall ensure that their competent authorities, whenever appropriate, and in accordance with Union and national law, consult and cooperate with other relevant national authorities, in particular those in charge of civil protection law enforcement, security and defence and protection of personal data, as well as with relevant interested parties, including critical entities. At the same time, considering the fact that some critical entities might be private, Member States should find ways to allow a timely
effective and thorough cooperation between those entities, private emergency operators potentially operating in those entities and certified by national bodies, and national authorities.

Amendment 26

Proposal for a directive
Article 9 – paragraph 1

Text proposed by the Commission

1. Member States shall support critical entities in enhancing their resilience. That support may include developing guidance materials and methodologies, supporting the organisation of exercises to test their resilience and providing training to personnel of critical entities.

Amendment

1. Member States and when necessary the Commission, shall support critical entities, including where appropriate and feasible financially, in enhancing their resilience. That support may include developing guidance materials and methodologies, supporting the organisation of exercises, including cross-sectoral and cross-border exercises, where appropriate, to test their resilience and providing awareness programs and training to personnel of national competent authorities and critical entities.

Amendment 27

Proposal for a directive
Article 11 – paragraph 1 – point a

Text proposed by the Commission

(a) prevent incidents from occurring, including through disaster risk reduction and climate adaptation measures;

Amendment

(a) prevent incidents from occurring, including through disaster risk reduction and climate adaptation measures and measures contributing to the fight against climate change;

Amendment 28

Proposal for a directive
Article 11 – paragraph 1 – point b
(b) ensure adequate physical protection of sensitive areas, facilities and other infrastructure, including fencing, barriers, perimeter monitoring tools and routines, as well as detection equipment and access controls; while fully respecting data protection and privacy regulations and complying with sectoral and labour law;

Amendment 29

Proposal for a directive
Article 11 – paragraph 1 – point e

Text proposed by the Commission

(e) ensure adequate employee security management, including by setting out categories of personnel exercising critical functions, establishing access rights to sensitive areas, facilities and other infrastructure, and to sensitive information as well as identifying specific categories of personnel in view of Article 12;

Amendment

(e) ensure adequate staff security management, including by setting out categories of personnel exercising critical functions, establishing access rights to sensitive areas, facilities and other infrastructure, and to sensitive information as well as identifying specific categories of personnel in view of Article 12, while fully complying with sectoral and labour law;

Amendment 30

Proposal for a directive
Article 11 – paragraph 1 – point f

Text proposed by the Commission

(f) raise awareness about the measures referred to in points (a) to (e) among relevant personnel.

Amendment

(f) raise awareness about the measures referred to in points (a) to (e) among relevant personnel and include them through social dialogue into the definition, set up and follow up of those measures.

Amendment 31

Proposal for a directive
Article 12 – paragraph 1
1. Member States shall ensure that critical entities may submit requests for background checks on persons who fall within certain specific categories of their personnel, including persons being considered for recruitment to positions falling within those categories, and that those requests are assessed expeditiously by the authorities competent to carry out such background checks.

Amendment

1. Member States shall ensure that critical entities may submit requests for proportionate background checks on persons who fall within certain specific categories of their personnel, including persons being considered for recruitment to positions falling within those categories, and that those requests are assessed expeditiously by the public authorities competent to carry out such background checks. *Those checks shall be proportionate and strictly limited to what is necessary and relevant for the fulfilment of the duties of the concerned personnel, while fully respecting sectoral and labour law.*

Amendment 32

Proposal for a directive
Article 13 – paragraph 2 – point a a (new)

Amendment

(aa) the impact on human life and the environmental consequences;

Amendment 33

Proposal for a directive
Article 15 – paragraph 4 – subparagraph 1

Amendment

Each advisory mission shall consist of experts from Member States and of Commission representatives. Member States may propose candidates to be part of an advisory mission. The Commission shall select and appoint the members of each advisory mission according to their professional capacity and ensuring a geographically balanced representation among Member States. The Commission

Each advisory mission shall consist of experts from Member States and of Commission representatives. Member States may propose candidates to be part of an advisory mission. The Commission shall select and appoint the members of each advisory mission according to their professional capacity, diverse background and ensuring a geographically and gender balanced representation among
shall bear the costs related to the participation in the advisory mission.

Member States. The Commission shall bear the costs related to the participation in the advisory mission.

Amendment 34

Proposal for a directive
Article 16 – paragraph 2 – subparagraph 1

Text proposed by the Commission

The Critical Entities Resilience Group shall be composed of representatives of the Member States and the Commission. Where relevant for the performance of its tasks, the Critical Entities Resilience Group may invite representatives of interested parties to participate in its work.

Amendment

The Critical Entities Resilience Group shall be composed of representatives of the Member States and the Commission. Where relevant for the performance of its tasks, the Critical Entities Resilience Group may invite representatives of interested parties to participate in its work, ensuring a diverse participation of stakeholders, and notably trade unions.

Amendment 35

Proposal for a directive
Article 16 – paragraph 7 a (new)

Text proposed by the Commission

7a. The Critical Entities Resilience Group, in the spirit of security cooperation and open access, shall regularly publish its findings and appropriately anonymised source data for the general public for use in academia, security research and for other beneficial uses.

Amendment

2a. In order to receive and properly use the information received according to
article 13 the Commission shall keep a European registry of incidents and develop a common European reporting centre, with the aim of developing and sharing best practices and methodologies.

Amendment 37
Proposal for a directive
Article 17 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. The Commission shall increase the cooperation with relevant international fora and like-minded third countries especially Western Balkan and Neighbourhood countries, inter alia under the European Programme for Critical Infrastructure Protection and potential successor programmes and through common training activities and exercises as well as the sharing of best practices.

Amendment 38
Proposal for a directive
Annex – Sector 9 – Title

Text proposed by the Commission

Amendment

9. Public administration
9. Public administration and democratic institutions

Amendment 39
Proposal for a directive
Annex – Sector 9 – Type of entity – 3 a (new)

Text proposed by the Commission

Amendment

— Central, regional and local governments and assemblies
## PROCEDURE – COMMITTEE ASKED FOR OPINION

<table>
<thead>
<tr>
<th>Title</th>
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<tr>
<td>Date announced in plenary</td>
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<td>Opinion by</td>
<td>Lukas Mandl</td>
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<td>Date appointed</td>
<td>22.2.2021</td>
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<tr>
<td>Discussed in committee</td>
<td>16.6.2021 12.7.2021</td>
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<td>Date adopted</td>
<td>27.9.2021</td>
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| Result of final vote | +: 58  
-=: 8  
0: 0 |
| Substitutes present for the final vote | Vladimir Bilčík, Ioan-Rareș Bogdan, Özlem Demirel, Angel Dzhambazki, Markéta Gregorová, Evin Incir, Assita Kanko, Pierfrancesco Majorino, Mick Wallace |
# FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

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<td>ECR</td>
<td>Angel Dzhambazki, Anna Fotyga, Assita Kanko, Jacek Saryusz-Wolski, Hermann Tertsch</td>
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<td>ID</td>
<td>Anna Bonfrisco, Susanna Ceccardi</td>
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<td>Fabio Massimo Castaldo, Kinga Gál</td>
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<td>Renew</td>
<td>Petras Aušrevičius, Katalin Cseh, Klemen Groselj, Bernard Guetta, Nathalie Loiseau, Javier Nart, Urmas Paet, Maria Soraya Rodríguez Ramos, Hilde Vautmans</td>
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<td>S&amp;D</td>
<td>Maria Arena, Włodzimierz Cimoszewicz, Tanja Fajon, Raphaël Glucksmann, Evin Incir, Pierfrancesco Majorino, Claudiu Manda, Sven Mikser, Demetris Papadakis, Tonino Picula, Thijs Reuten, Nacho Sánchez Amor, Isabel Santos, Andreas Schieder, Sergei Stanishev</td>
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<td>Alviina Alametsä, Markéta Gregorová, Jordi Solé, Tineke Strik, Viola Von Cramon-Taubadel, Thomas Waitz, Salina Yenbou</td>
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<td>Özlem Demirel, Manu Pineda, Idoia Villanueva Ruiz, Mick Wallace</td>
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| 0 | 0 |

Key to symbols:
+ : in favour
- : against
0 : abstention
12.7.2021

OPINION OF THE COMMITTEE ON TRANSPORT AND TOURISM

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a directive of the European Parliament and of the Council on the resilience of critical entities

Rapporteur for opinion: Angel Dzhambazki

SHORT JUSTIFICATION

The changing nature of the threat landscape requires better protection and more investment in the EU’s resilience capacities to reduce vulnerabilities, including for the critical infrastructures that are essential for the functioning of our societies and economy.

The proposal for a Directive on the resilience of critical entities (RCE Directive) expands both the scope and depth of the 2008 European Critical Infrastructure (ECI) Directive. It covers ten sectors, namely energy, transport, banking, financial market infrastructures, health, drinking water, wastewater, digital infrastructure, public administration and space. Noteworthy provisions include to obligation for Member States to have a strategy for ensuring the resilience of critical entities, carry out a national risk assessment and, on this basis, identify critical entities. Critical entities would be required to carry out risk assessments of their own, take appropriate technical and organisational measures in order to boost resilience and report disruptive incidents to national authorities. Furthermore, critical entities providing services to or in at least one-third of Member States would be subject to specific oversight, including advisory missions organised by the Commission.

The rapporteur welcomes this proposal, as Transport is a corner stone sector in the ECI directive. It is also the lifeline of our economies and the last year marked by the spread of the Chinese coronavirus has unequivocally been a proof. Rapid action on resilience of critical infrastructure and supply chains were vital to the mitigation of the negative effects of the pandemic on our societies. The proposal for a Directive on the resilience of critical entities gives us the chance to comprehensively assess the condition of critical infrastructure and emergency procedures across all crucial sectors. Given the growing cross-sectoral interdependencies across borders as well as the introduction of smart technologies and rapid digitisation, this appraisal process will be of utmost importance. However, this could also lead
to the emergence of novel threats which raises the need for building a resilient and future-proof RCE Directive. While the Rapporteur believes that the principle of subsidiarity and a decision-making process close to European citizens' needs are important, it is equally important to ensure mutual reliance on the projects, processes and infrastructure of common interest.
AMENDMENTS

The Committee on Transport and Tourism calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a directive
Recital 1

(1) Council Directive 2008/114/EC\(^\text{17}\) provides for a procedure for designating European critical infrastructures in the energy and transport sectors, the disruption or destruction of which would have significant cross-border impact on at least two Member States. That Directive focused exclusively on the protection of such infrastructures. However, the evaluation of Directive 2008/114/EC conducted in 2019\(^\text{18}\) found that due to the increasingly interconnected and cross-border nature of operations using critical infrastructure, protective measures relating to individual assets alone are insufficient to prevent all disruptions from taking place. Therefore, it is necessary to shift the approach towards ensuring the resilience of critical entities, that is, their ability to mitigate, absorb, accommodate to and recover from incidents that have the potential to disrupt the operations of the critical entity.


\(^\text{18}\) SWD(2019) 308.
Amendment 2

Proposal for a directive
Recital 2

Text proposed by the Commission

(2) Despite existing measures at Union\textsuperscript{19} and national level aimed at supporting the protection of critical infrastructures in the Union, the entities operating those infrastructures are not adequately equipped to address current and anticipated future risks to their operations that may result in disruptions of the provision of services that are essential for the performance of vital societal functions or economic activities. This is due to a dynamic threat landscape with an evolving terrorist threat and growing interdependencies between infrastructures and sectors, as well as an increased physical risk due to natural disasters and climate change, which increases the frequency and scale of extreme weather events and brings long-term changes in average climate that can reduce the capacity and efficiency of certain infrastructure types if resilience or climate adaptation measures are not in place. Moreover, relevant sectors and types of entities are not recognised consistently as critical in all Member States.

Amendment

(2) Despite existing measures at Union\textsuperscript{19} and national level aimed at supporting the protection of critical infrastructures in the Union, the entities operating those infrastructures are not adequately equipped to address current and anticipated future risks to their operations that may result in disruptions of the provision of services that are essential for the performance of vital societal functions or economic activities, as well as the free movement and safety of citizens. This is due to a dynamic threat landscape with evolving manmade threats such as terrorism, criminal infiltration, foreign interference and cyberattacks and growing interdependencies between infrastructures and sectors, as well as an increased physical risk due to natural disasters and climate change, which increases the frequency and scale of extreme weather events and brings long-term changes in average climate that can reduce the capacity, efficiency and lifespan of certain infrastructure types if resilience or climate adaptation measures are not in place. Moreover, relevant sectors and types of entities are not recognised consistently as critical in all Member States, which necessitates a higher level of coordination and a more integrated approach in the protection of important cross-border and horizontal critical infrastructures such as those in the transport and energy sectors.

\textsuperscript{19} European Programme for Critical Infrastructure Protection (EPCIP).
Amendment 3

Proposal for a directive
Recital 2 a (new)

Text proposed by the Commission

(2a) The growing problem of criminal infiltration in critical transport infrastructure, in particular logistic nodes such as ports and airports, is undermining the operations of critical entities in that sector and, therefore, the effective provision of essential services throughout the Union.

Amendment 4

Proposal for a directive
Recital 2 b (new)

Text proposed by the Commission

(2b) Increasing threats to the Union’s critical infrastructure and economic safety arise from foreign interference, by both state and non-state actors, due to the growing influence of non-European entities, or the control they have, over critical transport infrastructure, such as rail connections, ports or airports, which has come about as a result of their acquisition of or substantial investments in strategic companies and the transfer of strategic knowledge.

Amendment 5

Proposal for a directive
Recital 2 c (new)

Text proposed by the Commission

(2c) The transport sector encompasses critical entities in the subsectors of road, rail, air, inland waterways, and maritime...
transport, including ports and terminals.

Amendment 6
Proposal for a directive
Recital 2 d (new)

Text proposed by the Commission

(2d) Certain critical infrastructures have a pan-European dimension, such as the European Organisation for the Safety of Air Navigation, Eurocontrol, and the European Union’s Global Satellite Navigation System, Galileo.

Amendment 7
Proposal for a directive
Recital 3

Text proposed by the Commission

(3) Those growing interdependencies are the result of an increasingly cross-border and interdependent network of service provision using key infrastructures across the Union in the sectors of energy, transport, banking, financial market infrastructure, digital infrastructure, drinking and waste water, health, certain aspects of public administration, as well as space in as far as the provision of certain services depending on ground-based infrastructures that are owned, managed and operated either by Member States or by private parties is concerned, therefore not covering infrastructures owned, managed or operated by or on behalf of the Union as part of its space programmes. These interdependencies mean that any disruption, even one initially confined to one entity or one sector, can have cascading effects more broadly, potentially resulting in far-reaching and long-lasting negative impacts in the delivery of services
across the internal market. The COVID-19 pandemic has shown the vulnerability of our increasingly interdependent societies in the face of low-probability risks. particularly the transport and tourism sectors, in the face of low-probability risks and has demonstrated the importance of strategic sectors, such as the transport sector, through the implementation of green lanes, which has provided secure supply chains for healthcare and emergency services and ensured an essential food supply and the supply of medical and pharmaceutical products, underlining the need to ensure the resilience of critical transport infrastructure across the Union.

Amendment 8
Proposal for a directive
Recital 4

Text proposed by the Commission
(4) The entities involved in the provision of essential services are increasingly subject to diverging requirements imposed under the laws of the Member States. The fact that some Member States have less stringent security requirements on these entities not only risks impacting negatively on the maintenance of vital societal functions or economic activities across the Union, it also leads to obstacles to the proper functioning of the internal market. Similar types of entities are considered as critical in some Member States but not in others, and those which are identified as critical are subject to divergent requirements in different Member States. This results in additional and unnecessary administrative burdens for companies operating across borders, notably for companies active in Member States with more stringent requirements.

Amendment
(4) The entities involved in the provision of essential services are increasingly subject to diverging requirements imposed under the laws of the Member States. The fact that some Member States have less stringent security requirements on these entities not only risks impacting negatively on the maintenance of vital societal functions or economic activities across the Union, it also leads to obstacles to the proper functioning of the internal market and in some cases even poses a threat to Union citizens. The resilience of critical entities gives investors and companies reliability and trust, which are cornerstones to a well-functioning internal market. Similar types of entities are considered as critical in some Member States but not in others, and those which are identified as critical are subject to divergent requirements in different Member States. This results in additional and unnecessary administrative burdens for companies operating across
borders, notably for companies active in Member States with more stringent requirements.

Amendment 9
Proposal for a directive
Recital 5

Text proposed by the Commission

(5) It is therefore necessary to lay down harmonised minimum rules to ensure the provision of essential services in the internal market and enhance the resilience of critical entities.

Amendment

(5) It is therefore necessary to lay down a harmonised minimum set of rules to ensure the provision of essential services in the internal market and enhance the resilience of critical entities, which would prevent divergences between Member States. Such an approach would facilitate the deployment of common specifications and methodologies for future risk assessments that include minimum common indicators for each sector and for both public and private entities. In that regard, the future framework should also take into account innovation and new smart technologies, such as digitalisation, automation, data management, cooperative intelligent transport systems, connected and automated mobility and artificial intelligence, particularly in sectors such as the transport sector, which is currently undergoing a comprehensive transformation. In the context of the Trans-European Network (TEN-T), more resilient infrastructure will require improved management schemes that include an integrated vision that is able to identify threats in the design and operational phases (prevention, monitoring, maintenance), while minimising any impact during emergency events and ensuring a prompt social and economic recovery. Special focus should also be given to cross-border links.
Amendment 10
Proposal for a directive
Recital 6

*Text proposed by the Commission*

(6) In order to achieve that objective, Member States should identify critical entities that should be subject to specific requirements and oversight, but also particular support and guidance aimed at achieving a high level of resilience in the face of all relevant risks.

*Amendment*

(6) In order to achieve that objective, Member States should identify critical entities that should be subject to specific requirements and oversight, but also particular support, protection and guidance, including to SMEs, and awareness raising aimed at achieving a high level of resilience in the face of all relevant risks.

Amendment 11
Proposal for a directive
Recital 8 a (new)

*Text proposed by the Commission*

(8a) The swift technological development in and digitalisation of the transport sector, via the growing use of smart mobility systems such as cooperative intelligent transport systems, connected and automated mobility and mobility as a service, underlines the interconnectedness between the physical and digital world in that sector and calls for an effective approach to allow for resilient digital transport infrastructure in Europe.

*Amendment*

(8a) The swift technological development in and digitalisation of the transport sector, via the growing use of smart mobility systems such as cooperative intelligent transport systems, connected and automated mobility and mobility as a service, underlines the interconnectedness between the physical and digital world in that sector and calls for an effective approach to allow for resilient digital transport infrastructure in Europe.

Amendment 12
Proposal for a directive
Recital 10

*Text proposed by the Commission*

(10) In view of ensuring a comprehensive approach to the resilience

*Amendment*

(10) In view of ensuring a comprehensive approach to the resilience
of critical entities, each Member State should have a strategy setting out objectives and policy measures to be implemented. To achieve this, Member States should ensure that their cybersecurity strategies provide for a policy framework for enhanced coordination between the competent authority under this Directive and the NIS 2 Directive in the context of information sharing on incidents and cyber threats and the exercise of supervisory tasks.

Amendment 13
Proposal for a directive
Recital 11

Text proposed by the Commission

(11) The actions of Member States to identify and help ensure the resilience of critical entities should follow a risk-based approach that targets efforts to the entities most relevant for the performance of vital societal functions or economic activities. In order to ensure such a targeted approach, each Member State should carry out, within a harmonised framework, an assessment of all relevant natural and man-made risks that may affect the provision of essential services, including accidents, natural disasters, public health emergencies such as pandemics, and antagonistic threats, including terrorist offences. When carrying out those risk assessments, Member States should take into account other general or sector-specific risk assessment carried out pursuant to other acts of Union law and should consider the dependencies between sectors, including from other Member States and third countries. The outcomes of the risk assessment should be used in the process of identification of critical entities and to assist those entities in meeting the challenges of a rapidly evolving threat landscape.

Amendment

(11) The actions of Member States to identify and help ensure the resilience of critical entities should follow a risk-based approach that targets efforts to the entities most relevant for the performance of vital societal functions or economic activities, for example multi-modal hubs for transport, such as ports, rail infrastructure or air traffic management. In order to ensure such a targeted approach, each Member State should carry out, within a harmonised framework, an assessment of all relevant natural and man-made risks that may affect the provision of essential services, including accidents, natural disasters, climate change, public health emergencies such as pandemics, criminal infiltration, and antagonistic threats, including foreign interference and terrorist offences. Such assessments should be based on and regularly updated with the latest scientific knowledge on evolving threats in order to ensure timely adaption to an evolving threat landscape. When carrying out those risk assessments, Member States should take into account other general or sector-specific risk
The outcomes of the risk assessment should be used in the process of identification of critical entities and to assist those entities in meeting the resilience requirements of this Directive.

Amendment 14
Proposal for a directive
Recital 13 a (new)

Text proposed by the Commission

(13a) In order to fully ensure that an adequate approach is being taken to reduce vulnerabilities and increase the resilience of Member States in view of the threats to critical entities, it is important to preserve the resilience, where applicable, of local and regional communities to the potential consequences of a significant disruption to critical entities.

Amendment 15
Proposal for a directive
Recital 13 b (new)

Text proposed by the Commission

(13b) In accordance with applicable Union and national law, including Regulation (EU) 2019/452 of the European Parliament and of the Council, which establishes a framework for the screening of foreign direct investments into the Union, the potential threat posed by foreign ownership of critical infrastructures within the Union is to be acknowledged because services, the economy and the free movement and safety of Union citizens depend on the
proper functioning of critical infrastructure. Member States and the Commission should be vigilant with regard to financial investments that foreign countries make in the operation of critical entities within the Union and the consequences that such investments could have on the ability to prevent significant disruptions.

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Amendment 16

Proposal for a directive
Recital 19

Text proposed by the Commission

(19) Member States should support critical entities in strengthening their resilience, in compliance with their obligations under this Directive, without prejudice to the entities’ own legal responsibility to ensure such compliance. Member States could in particular develop guidance materials and methodologies, support the organisation of exercises to test their resilience and provide training to personnel of critical entities. Moreover, given the interdependencies between entities and sectors, Member States should establish information sharing tools to support voluntary information sharing between critical entities, without prejudice to the application of competition rules laid down in the Treaty on the Functioning of the European Union.

Amendment

(19) Member States should support critical entities in strengthening their resilience, in compliance with their obligations under this Directive, without prejudice to the entities’ own legal responsibility to ensure such compliance. Member States could in particular develop guidance materials and methodologies, raise awareness, support the organisation of exercises to test their resilience and provide training to personnel of critical entities. Moreover, given the interdependencies between entities and sectors, Member States should establish information sharing tools to support voluntary information sharing between critical entities, without prejudice to the application of competition rules laid down in the Treaty on the Functioning of the European Union. Such training and tools should facilitate the implementation of this Directive, in particular in relation to rapidly evolving risks such as those
related to cyber security and climate change. Such training and tools should be extended to other involved stakeholders where necessary.

Amendment 17
Proposal for a directive
Recital 19 a (new)

Text proposed by the Commission

(19a) In their implementation of this Directive, Member States should take all the necessary actions to prevent any excessive administrative burdens, particularly on SMEs, and avoid duplications or unnecessary obligations. Member States should assist with and facilitate the provision of adequate support to SMEs, when requested, by taking the technical and organisational measures required under this Directive.

Amendment 18
Proposal for a directive
Recital 20

(20) In order to be able to ensure their resilience, critical entities should have a comprehensive understanding of all relevant risks to which they are exposed and analyse those risks. To that aim, they should carry out risks assessments, whenever necessary in view of their particular circumstances and the evolution of those risks, yet in any event every four years. The risk assessments by critical entities should be based on the risk assessment carried out by Member States. They should also be based on common specifications and methodologies for each
sector. In order to avoid divergences between Member States, they should include minimum indicators. They should also include contingency protocols. Further harmonisation of security and safety standards and certification requirements is urgently necessary for critical infrastructure sectors and, in addition, for safe parking areas and rest areas, where divergent interpretations persist.

Amendment 19

Proposal for a directive

Recital 23

Text proposed by the Commission

(23) Regulation (EC) No 300/2008 of the European Parliament and of the Council\(^\text{28}\), Regulation (EC) No 725/2004 of the European Parliament and of the Council\(^\text{29}\) and Directive 2005/65/EC of the European Parliament and of the Council\(^\text{30}\) establish requirements applicable to entities in the aviation and maritime transport sectors to prevent incidents caused by unlawful acts and to resist and mitigate the consequences of such incidents. While the measures required in this Directive are broader in terms of risks addressed and types of measures to be taken, critical entities in those sectors should reflect in their resilience plan or equivalent documents the measures taken pursuant to those other Union acts. Moreover, when implementing resilience measures under this Directive, critical entities may consider referring to non-binding guidelines and good practices documents developed under sectorial workstreams, such as the EU Rail Passenger Security Platform\(^\text{31}\).

Amendment

(23) Regulation (EC) No 300/2008 of the European Parliament and of the Council\(^\text{28}\), Regulation (EC) No 725/2004 of the European Parliament and of the Council\(^\text{29}\) and Directive 2005/65/EC of the European Parliament and of the Council\(^\text{30}\) establish requirements applicable to entities in the aviation and maritime transport sectors to prevent incidents caused by unlawful acts and to resist and mitigate the consequences of such incidents. While the measures required in this Directive are broader in terms of risks addressed and types of measures to be taken, critical entities in those sectors should reflect in their resilience plan or equivalent documents the measures taken pursuant to those other Union acts. Moreover, critical entities should also take into consideration Directive 2008/96/EC of the European Parliament and of the Council\(^\text{30a}\), which introduces a network-wide road assessment to map the risks of accidents and a targeted road safety inspection to identify hazardous conditions, defects and problems that increase the risk of accidents and injuries, based on a site visit of an existing road or section of road. Ensuring the protection
The risk of employees of critical entities misusing for instance their access rights within the entity’s organisation to harm and cause damage is of increasing importance for the railway sector and, when implementing resilience measures under this Directive, critical entities are encouraged to refer to non-binding guidelines and good practices documents developed under sectorial workstreams, such as the EU Rail Passenger Security Platform.  

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concern. That risk is exacerbated by the growing phenomenon of radicalisation leading to violent extremism and terrorism. It is therefore necessary to enable critical entities to request background checks on persons falling within specific categories of its personnel and to ensure that those requests are assessed expeditiously by the relevant authorities, in accordance with the applicable rules of Union and national law, including on the protection of personal data.

Amendment 21
Proposal for a directive
Recital 25

Text proposed by the Commission

(25) Critical entities should notify, as soon as reasonably possible under the given circumstances, Member States’ competent authorities of incidents that significantly disrupt or have the potential to significantly disrupt their operations. The notification should allow the competent authorities to respond to the incidents rapidly and adequately and to have a comprehensive overview of the overall risks that critical entities face. For that purpose, a procedure should be established for the notification of certain incidents and parameters should be provided for to determine when the actual or potential disruption is significant and the incidents should thus be notified. Given the potential cross-border impacts of such disruptions, a procedure should be established for Member States to inform other affected Member States via single

Amendment

(25) Critical entities should notify, as soon as reasonably possible under the given circumstances, Member States’ competent authorities, as well as other entities on a voluntary basis, of incidents that significantly disrupt or have the potential to significantly disrupt their operations. The notification should allow the competent authorities to respond to the incidents rapidly and adequately and to have a comprehensive overview of the overall risks that critical entities face. For that purpose, a procedure should be established for the notification of certain incidents and parameters should be provided for to determine when the actual or potential disruption is significant and the incidents should thus be notified. Given the potential cross-border impacts of such disruptions, a procedure should be established for Member States to inform other affected Member States via single
Amendment 22

Proposal for a directive
Article 1 – paragraph -1 (new)

Text proposed by the Commission

Amendment

-1. This Directive lays down measures with a view to achieving a high level of resilience of critical entities in order to ensure the provision of essential services within the Union and improve the functioning of the internal market.

Amendment 23

Proposal for a directive
Article 1 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. This Directive: 1. To that end, this Directive:

Amendment 24

Proposal for a directive
Article 3 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) strategic objectives and priorities for the purposes of enhancing the overall resilience of critical entities taking into account cross-border and cross-sectoral interdependencies;

(a) strategic objectives and priorities for the purposes of enhancing the overall resilience of critical entities taking into account cross-border and cross-sectoral interdependencies and the need for the exchange of information between entities;

Amendment 25

Proposal for a directive
Article 3 – paragraph 2 – point c
(c) a description of measures necessary to enhance the overall resilience of critical entities, including a national risk assessment, the identification of critical entities and of entities equivalent to critical entities, the maintenance requirements associated with critical entities, and the measures to support critical entities taken in accordance with this Chapter;

Justification

The adequate maintenance of critical entities plays an essential role in their upkeep and therefore resilience to risks. This is particularly important in the transport sector for modes such as rail that demand high maintenance requirements.

Amendment 26

Proposal for a directive
Article 3 – paragraph 2 – point d a (new)

Text proposed by the Commission

(da) strategies or other initiatives designed to increase the resilience of local and regional communities in view of the potential consequences of a significant disruption or disruptions to critical entities, where applicable;

Amendment

(db) a roadmap that details the necessary measures to be taken by the critical entities in order for them to increase their resilience to the impact of climate change by way of achieving climate neutral operations by 2050, and to meet national and Union objectives for
Amendment 28

Proposal for a directive
Article 4 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Competent authorities designated pursuant to Article 8 shall establish a list of essential services in the sectors referred to in the Annex. They shall carry out by [three years after entry into force of this Directive], and subsequently where necessary, and at least every four years, an assessment of all relevant risks that may affect the provision of those essential services, with a view to identifying critical entities in accordance with Article 5(1), and assisting those critical entities to take measures pursuant to Article 11.

Amendment

Competent authorities designated pursuant to Article 8 shall establish a list of essential services in the sectors referred to in the Annex. They shall carry out by [three years after entry into force of this Directive], and subsequently where necessary, and at least every four years, an assessment of all relevant risks that may affect the provision of those essential services by using harmonised specifications or methodologies with detailed indicators depending on the specificities of each sector, with a view to identifying critical entities in accordance with Article 5(1), and assisting those critical entities to take measures pursuant to Article 11 in order to ensure minimum levels of service and resilience of the critical infrastructure.

Amendment 29

Proposal for a directive
Article 4 – paragraph 1 – subparagraph 2

Text proposed by the Commission

The risk assessment shall account for all relevant natural and man-made risks, including accidents, natural disasters, public health emergencies, antagonistic threats, including terrorist offences pursuant to Directive (EU) 2017/541 of the European Parliament and of the Council.

Amendment

The risk assessment shall account for all relevant natural and man-made risks, including accidents, natural disasters, public health emergencies, criminal infiltration, antagonistic threats, including cyber-attacks, foreign interference and terrorist offences pursuant to Directive (EU) 2017/541 of the European Parliament and of the Council.

Amendment 30

Proposal for a directive Article 4 – paragraph 5

Text proposed by the Commission

5. The Commission may, in cooperation with the Member States, develop a voluntary common reporting template for the purposes of complying with paragraph 4.

Amendment

5. The Commission, in cooperation with the Member States, shall develop a common reporting template for the purposes of complying with paragraph 4.

Amendment 31

Proposal for a directive Article 5 – paragraph 6

Text proposed by the Commission

6. For the purposes of Chapter IV, Member States shall ensure that critical entities, following the notification referred in paragraph 3, provide information to their competent authorities designated pursuant to Article 8 of this Directive on whether they provide essential services to or in more than one third of Member States. Where that is so, the Member State concerned shall notify, without undue delay, to the Commission the identity of those critical entities.

Amendment

6. For the purposes of Chapter IV, Member States shall ensure that critical entities, following the notification referred in paragraph 3, provide information to their competent authorities designated pursuant to Article 8 of this Directive on whether they provide essential services to or in more than two Member States. Where that is so, the Member State concerned shall notify, without undue delay, to the Commission the identity of those critical entities.

Amendment 32

Proposal for a directive Article 6 – paragraph 1 – point c
(c) the impacts that incidents could have, in terms of degree and duration, on economic and societal activities, the environment and public safety;

Amendment 33

Proposal for a directive
Article 9 – paragraph 1

Text proposed by the Commission

1. Member States shall support critical entities in enhancing their resilience. That support may include developing guidance materials and methodologies, supporting the organisation of exercises to test their resilience and providing training to personnel of critical entities.

Amendment

1. Member States shall support critical entities in enhancing their resilience. That support may include developing guidance materials and methodologies, awareness raising, supporting the organisation of exercises to test their resilience and providing training to personnel of critical entities.

Amendment 34

Proposal for a directive
Article 10 – paragraph 2

Text proposed by the Commission

The risk assessment shall account for all relevant risks referred to in Article 4(1) which could lead to the disruption of the provision of essential services. It shall take into account any dependency of other sectors referred to in the Annex on the essential service provided by the critical entity, including in neighbouring Member States and third countries where relevant, and the impact that a disruption of the provision of essential services in one or more of those sectors may have on the essential service provided by the critical entity.

Amendment

The risk assessment shall account for all relevant risks referred to in Article 4(1) which could lead to the disruption of the provision of essential services, which would hinder the proper functioning of the internal market. It shall take into account any dependency of other sectors referred to in the Annex on the essential service provided by the critical entity, including in neighbouring Member States and third countries where relevant, and the impact that a disruption of the provision of essential services in one or more of those sectors may have on the essential service provided by the critical entity.
provided by the critical entity.

Amendment 35
Proposal for a directive
Article 11 – paragraph 1 – point b

Text proposed by the Commission
(b) ensure adequate physical protection of sensitive areas, facilities and other infrastructure, including fencing, barriers, perimeter monitoring tools and routines, as well as detection equipment and access controls;

Amendment
(b) ensure adequate maintenance and physical protection of sensitive areas, facilities and other infrastructure in order to increase the lifespan of such existing infrastructures. Protection measure may include fencing, barriers, perimeter monitoring tools and routines, as well as detection equipment, emergency call systems for the notification of competent authorities, and access controls;

Amendment 36
Proposal for a directive
Article 11 – paragraph 1 – point f

Text proposed by the Commission
(f) raise awareness about the measures referred to in points (a) to (e) among relevant personnel.

Amendment
(f) raise awareness about the incidents and disruptions that could occur, including criminal infiltration, as well as the measures referred to in points (a) to (e) among relevant personnel.

Amendment 37
Proposal for a directive
Article 11 – paragraph 3

Text proposed by the Commission
3. Upon request of the Member State that identified the critical entity and with the agreement of the critical entity concerned, the Commission shall organise advisory missions, in accordance with the

Amendment
3. Upon request of the Member State that identified the critical entity, the Commission shall organise advisory missions, in accordance with the arrangements set out in Article 15(4), (5),
arrangements set out in Article 15(4), (5), (7) and (8), to provide advice to the critical entity concerned in meeting its obligations pursuant to Chapter III. The advisory mission shall report its findings to the Commission, that Member State and the critical entity concerned.

Amendment 38

Proposal for a directive
Article 13 – paragraph 4

*Text proposed by the Commission*

4. As soon as possible upon having been notified in accordance with paragraph 1, the competent authority shall provide the critical entity that notified it with relevant information regarding the follow-up of its notification, including information that could support the critical entity’s effective response to the incident.

*Amendment*

4. As soon as possible upon having been notified in accordance with paragraph 1, the competent authority shall provide the critical entity that notified it with relevant information regarding the follow-up of its notification, including information that could support the critical entity’s effective response to the incident. *Where the notification relates to the direct risk to human life, the competent authority shall ensure that relevant public security and safety services are mobilised and, where relevant, sent to the place of incident within a minimum amount of time.*

Amendment 39

Proposal for a directive
Article 14 – paragraph 2

*Text proposed by the Commission*

2. An entity shall be considered a critical entity of particular European significance when it has been identified as a critical entity and it provides essential services to or in more than one third of Member States and has been notified as such to the Commission pursuant to Article 5(1) and (6), respectively.

*Amendment*

2. An entity shall be considered a critical entity of particular European significance when it has been identified as a critical entity and it provides essential services to or in more than two Member States and has been notified as such to the Commission pursuant to Article 5(1) and (6), respectively.
Amendment 40

Proposal for a directive
Article 16 – paragraph 3 – point c

Text proposed by the Commission
(c) facilitating the exchange of best practices with regard to the identification of critical entities by the Member States in accordance with Article 5, including in relation to cross-border dependencies and regarding risks and incidents;

Amendment
(c) facilitating the exchange of best practices with regard to the identification of critical entities by the Member States in accordance with Article 5, including in relation to cross-border and cross-sectoral dependencies and regarding risks and incidents;

Amendment 41

Proposal for a directive
Article 16 – paragraph 3 – point h

Text proposed by the Commission
(h) exchanging information and best practices on research and development relating to the resilience of critical entities in accordance with this Directive;

Amendment
(h) exchanging information and best practices on innovation, research and development relating to the resilience of critical entities in accordance with this Directive;

Amendment 42

Proposal for a directive
Article 18 – paragraph 1 – introductory part

Text proposed by the Commission
1. In order to assess the compliance of the entities that the Member States identified as critical entities pursuant to Article 5 with the obligations pursuant to this Directive, they shall ensure that the competent authorities shall have the powers and means to:

Amendment
1. In order to assess the compliance of the entities that the Member States identified as critical entities pursuant to Article 5 with the obligations pursuant to this Directive, they shall ensure that the competent authorities shall have the powers, means and human and financial resources to:
Amendment 43

Proposal for a directive
Article 18 – paragraph 2 – introductory part

*Text proposed by the Commission*

2. Member States shall ensure that the competent authorities have the powers and means to require, where necessary for the performance of their tasks under this Directive, that the entities that they identified as critical entities pursuant to paragraph 5 provide, within a reasonable time period set by those authorities:

*Amendment*

2. Member States shall ensure that the competent authorities have the powers, means and human and financial resources to require, where necessary for the performance of their tasks under this Directive, that the entities that they identified as critical entities pursuant to paragraph 5 provide, within a reasonable time period set by those authorities:

Amendment 44

Proposal for a directive
Article 22 – paragraph 2

*Text proposed by the Commission*

The Commission shall periodically review the functioning of this Directive, and report to the European Parliament and to the Council. The report shall in particular assess the impact and added value of this Directive on ensuring the resilience of critical entities and whether the scope of the Directive should be extended to cover other sectors or subsectors. The first report shall be submitted by [six years after the entry into force of this Directive] and shall assess in particular whether the scope of the Directive should be extended to include the food production, processing and distribution sector.

*Amendment*

The Commission shall periodically review the functioning of this Directive, and report to the European Parliament and to the Council. The report shall in particular assess the impact and added value of this Directive on ensuring the resilience of critical entities and whether the scope of the Directive should be extended to cover other sectors or subsectors. The first report shall be submitted by [four years after the entry into force of this Directive] and shall assess in particular whether the scope of the Directive should be extended to include the food production, processing and distribution sector.

Amendment 45

Proposal for a directive
Article 22 – paragraph 2 a (new)
The Commission shall, by ... [6 years after the date of entry into force of this Directive], carry out a review of the application of this Directive and sector-specific legal acts. The review shall focus on identifying duplications in the legal acts, regulatory requirements or procedures concerned, and any overlap between them, with a view to improving coherence between this Directive and the relevant sector-specific legislation and legal certainty. To that end, the Commission shall prepare a report, which it shall transmit to the European Parliament and to the Council, accompanied, where necessary, by a legislative proposal.

Amendment 46

Proposal for a directive
Article 24 – paragraph 1 – subparagraph 2

They shall apply those provisions from [two years after entry into force of this Directive + one day].

They shall apply those provisions from [30 months after entry into force of this Directive + one day].

Amendment 47

Proposal for a directive
Annex - table - point 2. Transport - point e new

— Air carriers referred to in point (4) of Article 3 of Regulation (EC) No 300/2008

— Airport managing bodies referred to in point (2) of Article 2 of Directive 2009/12/EC, airports referred to in point (1) of Article 2 of that Directive, including the core airports listed in Section 2 of Annex II to Regulation (EU) No 1315/2013, and entities operating ancillary installations contained within
2. Transport  

a) Air  

— Air carriers referred to in point (4) of Article 3 of Regulation (EC) No 300/2008  

— Airport managing bodies referred to in point (2) of Article 2 of Directive 2009/12/EC, airports referred to in point (1) of Article 2 of that Directive, including the core airports listed in Section 2 of Annex II to Regulation (EU) No 1315/2013, and entities operating ancillary installations contained within airports  

— Traffic management control operators providing air traffic control (ATC) services referred to in point (1) of Article 2 of Regulation (EC) No 549/2004
(b) Rail
— Infrastructure managers referred to in point (2) of Article 3 of Directive 2012/34/EU\(^60\)
— Railway undertakings referred to in point (1) of Article 3 of Directive 2012/34/EU, including operators of service facilities referred to in point (12) of Article 3 of Directive 2012/34/EU

(c) Water
— Inland, sea and coastal passenger and freight water transport companies, referred to for maritime transport in Annex I to Regulation (EC) No 725/2004\(^61\), not including the individual vessels operated by those companies
— Managing bodies of ports referred to in point (1) of Article 3 of Directive 2005/65/EC\(^62\), including their port facilities referred to in point (11) of Article 2 of Regulation (EC) No 725/2004, and entities operating works and equipment contained within ports
— Operators of vessel traffic services referred to in point (o) of Article 3 of Directive 2002/59/EC\(^63\) of the European Parliament and of the Council

(d) Road
Road authorities referred to in point (12) of Article 2 of Commission Delegated Regulation (EU) 2015/962\(^64\) responsible for traffic management control
— Operators of Intelligent Transport Systems referred to in point (1) of Article 4 of Directive 2010/40/EU\(^65\)

(e) public transport
— Public transport authorities and service operators referred to in points (b) and (d) of Article 2 of Regulation (EC) No 1370/2007 of the European Parliament and of the Council\(^65a\).

# PROCEDURE – COMMITTEE ASKED FOR OPINION

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<thead>
<tr>
<th>Title</th>
<th>Resilience of critical entities</th>
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<tbody>
<tr>
<td>Committee responsible</td>
<td>LIBE</td>
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<td>Date announced in plenary</td>
<td>11.2.2021</td>
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<td>Date announced in plenary</td>
<td>11.2.2021</td>
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<tr>
<td>Rapporteur for the opinion</td>
<td>Angel Dzhambazki</td>
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<tr>
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<td>25.1.2021</td>
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<td>12.7.2021</td>
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<td>Substitutes present for the final vote</td>
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## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

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Key to symbols:
+ : in favour
- : against
0 : abstention
## PROCEDURE – COMMITTEE RESPONSIBLE

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<th>Title</th>
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<td>Date submitted to Parliament</td>
<td>16.12.2020</td>
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### Final Vote by Roll Call in Committee Responsible

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- - : against
- 0 : abstention