



2020/0365(COD)

26.7.2021

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
(COM(2020)0829 – C9-0421/2020 – 2020/0365(COD))

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

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

PA_Legam

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/EC¹⁷ 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 2019¹⁸ 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.

¹⁷ Council Directive 2008/114/EC of 8 December 2008 on the identification and designation of European critical infrastructures and the assessment of the need to improve their protection (OJ L 345, 23.12.2008, p.75).

¹⁸ SWD(2019) 308.

Amendment

(1) Council Directive 2008/114/EC¹⁷ 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 2019¹⁸ 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 *and protect from* incidents *or threats* that have the potential to disrupt the operations of the critical entity, *the functioning of the internal market or the free movement of essential services*.

¹⁷ Council Directive 2008/114/EC of 8 December 2008 on the identification and designation of European critical infrastructures and the assessment of the need to improve their protection (OJ L 345, 23.12.2008, p.75).

¹⁸ SWD(2019) 308.

Amendment 2

Proposal for a directive Recital 2

Text proposed by the Commission

(2) Despite existing measures at Union¹ 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 Union¹⁹ 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

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 4

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

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 **of essential services**, even one initially confined to one entity or one sector, can have cascading effects more broadly, potentially resulting in **a** far-reaching and long-lasting negative **impact on** the delivery of **those** services across the internal market, **including on individuals, consumers and business**. The COVID-19 pandemic has shown the vulnerability of our increasingly interdependent societies in the face of low-probability risks.

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 Council²⁰ (***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 Council²⁰ (***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.

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.]

²⁰ ***Directive of the European Parliament and of the Council on measures for a high common level of cybersecurity across the Union, repealing Directive (EU) 2016/1148 (OJ L ..., ..., p. ..).***

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.

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 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.

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 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 Council²², Directive 2014/65/EU of the European Parliament and of the Council²³ and Regulation (EU) No 600/2014 of the European Parliament and of the Council²⁴ as well as Regulation (EU) No 575/2013 of the European Parliament and of the Council²⁵ and Directive 2013/36/EU of the European Parliament and of the Council²⁶. 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 Council²², Directive 2014/65/EU of the European Parliament and of the Council²³ and Regulation (EU) No 600/2014 of the European Parliament and of the Council²⁴ as well as Regulation (EU) No 575/2013 of the European Parliament and of the Council²⁵ and Directive 2013/36/EU of the European Parliament and of the Council²⁶. 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.

²² Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).

²³ Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).

²⁴ Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173, 12.6.2014, p. 84).

²⁵ Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

²⁶ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

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

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.

²² Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).

²³ Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).

²⁴ Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173, 12.6.2014, p. 84).

²⁵ Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

²⁶ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

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

(EC) No 1060/2009, (EU) No 648/2012, (EU) No 600/2014 and (EU) No 909/2014, COM(2020) 595.

(EC) No 1060/2009, (EU) No 648/2012, (EU) No 600/2014 and (EU) No 909/2014, COM(2020) 595.

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.

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, 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, **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

Amendment

(25) Critical entities should notify, as soon as reasonably possible under the given circumstances **and 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**.

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 **infrastructure** 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.

the internal market 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.

While Union institutions, bodies or agencies and the services they provide are not covered under this Directive, the Commission should nevertheless provide guidance and strategies, to identify which of those institutions, bodies or agencies and which of their services could potentially be considered as entities equivalent to critical entities providing essential services for the functioning of the internal market and should ensure their enhanced resilience.

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.

significance concerned. The advisory missions should, 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

Amendment

(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

Amendment

1. This Directive:

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

Amendment

To that end, this Directive:

Amendment 22

Proposal for a directive

Article 1 – paragraph 1 – point a

Text proposed by the Commission

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*** critical entities and entities to be treated as equivalent in certain respects, and to enable ***them*** to meet their obligations;

(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

2. This Directive shall not apply to matters covered by Directive (EU) XX/YY (**the** 'NIS 2 Directive'), without prejudice to Article 7.

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.

information shall preserve the confidentiality of that information and protect the security and commercial interests of *the* entities *concerned*.

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

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

Text proposed by the Commission

(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;

Amendment

(2) “resilience” means the ability to prevent, resist, mitigate, **manage**, absorb, accommodate, **and** recover **and protect** from, a 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

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 **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

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) “**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

Text proposed by the Commission

(5) “essential service” means a service

Amendment

(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

Amendment

(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^{1a};

^{1a} **Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council (OJ L 316, 14.11.2012, p. 12)**

Amendment 35

Proposal for a directive

Article 2 – paragraph 1 – point 7 c (new)

Text proposed by the Commission

Amendment

(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

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. Each Member State shall, **after consultation with critical entities**, adopt by [**two** years after entry into force of this Directive] a strategy for reinforcing the resilience of critical entities. **That** strategy shall **take into account the European strategy on resilience prepared by the Critical Entities Resilience Group 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 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 Council³⁴.

³⁴ Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA (OJ L 88, 31.3.2017, p. 6).

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.

³⁴ Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA (OJ L 88, 31.3.2017, p. 6).

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 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

Amendment

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 a new

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

Text proposed by the Commission

(d) the market share of the entity in the market for such services;

Amendment

(d) the market share of the entity in the market for such services, ***the type of entity and the impact it has on the functioning of the internal market and the delivery of one or more essential services;***

Amendment 61

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

Amendment

(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 63

Proposal for a directive

Article 6 – paragraph 2 – subparagraph 1 – point b a (new)

Text proposed by the Commission

Amendment

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

cross-border impacts;

Amendment 64

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.**

Amendment 65

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.**

Amendment 66

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.

to (4) and (7), and 9 in respect of those entities ***and the concerned entities shall not be subject to the obligations laid down in Chapters II or the relevant provisions related to the application of Chapters III and IV.***

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

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 and protection of personal data, **consumer protection and market surveillance**, 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

Amendment

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

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

Amendment

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

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

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.

measures to be taken pursuant to paragraph **1 of this Article in order to ensure coherence with existing requirements under Union and national law and to take account of new threats, technological developments or sectorial specificities**. 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.***

previous employments, education and any gaps in education or employment in the person's resume during the preceding five years and when justifiable for ***a maximum of the ten preceding 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

Amendment

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

Amendment 92

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

Text proposed by the Commission

Amendment

(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

Amendment

(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

Amendment

(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

Amendment

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.

information in a way 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)

Text proposed by the Commission

Amendment

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

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.

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

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 one **third** of Member States and has been notified as such to the Commission pursuant to Article 5(1) and (6), respectively.

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

entity.

entity.

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.

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, ***including at least one from the Member State in which the critical entity is established.*** 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

Amendment

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 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

Amendment

(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)**

Text proposed by the Commission

Amendment

(hb) publishing relevant findings from its work, to facilitate academic and security research;

Amendment 121

Proposal for a directive

Article 16 – paragraph 3 – point h c (new)

Text proposed by the Commission

Amendment

(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 122

Proposal for a directive

Article 16 – paragraph 3 – point i a (new)

Text proposed by the Commission

Amendment

(ia) supporting Member States and critical entities in meeting the obligations set out in Chapter III by means of best practices, information exchange and non-binding guidance documents.

Amendment 123

Proposal for a directive

Article 16 – paragraph 3 – point i b (new)

Text proposed by the Commission

Amendment

(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

Amendment

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

Amendment

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.

4. By [**12** 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

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

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.

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 16a

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

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 ***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.

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

Title	Resilience of critical entities	
References	COM(2020)0829 – C9-0421/2020 – 2020/0365(COD)	
Committee responsible Date announced in plenary	LIBE 11.2.2021	
Opinion by Date announced in plenary	IMCO 11.2.2021	
Associated committees - date announced in plenary	29.4.2021	
Rapporteur for the opinion Date appointed	Alex Agius Saliba 18.2.2021	
Discussed in committee	26.5.2021	22.6.2021
Date adopted	12.7.2021	
Result of final vote	+: 41	–: 1
	0: 3	
Members present for the final vote	Alex Agius Saliba, Andrus Ansip, Pablo Arias Echeverría, Alessandra Basso, Brando Benifei, Adam Bielan, Hynek Blaško, Biljana Borzan, Vlad-Marius Botoș, Markus Buchheit, Andrea Caroppo, Anna Cavazzini, Dita Charanzová, Deirdre Clune, David Cormand, Carlo Fidanza, Evelyne Gebhardt, Alexandra Geese, Sandro Gozi, Maria Grapini, Svenja Hahn, Virginie Joron, Eugen Jurzyca, Marcel Kolaja, Kateřina Konečná, Andrey Kovatchev, Jean-Lin Lacapelle, Maria-Manuel Leitão-Marques, Morten Løkkegaard, Antonius Manders, Leszek Miller, Anne-Sophie Pelletier, Miroslav Radačovský, Christel Schaldemose, Andreas Schwab, Tomislav Sokol, Ivan Štefanec, Róza Thun und Hohenstein, Marco Zullo	
Substitutes present for the final vote	Clara Aguilera, Maria da Graça Carvalho, Christian Doleschal, Claude Gruffat, Jiří Pospíšil, Kosma Złotowski	

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

41	+
ECR	Adam Bielan, Carlo Fidanza, Kosma Zlotowski
ID	Alessandra Basso, Hynek Blaško, Markus Buchheit, Virginie Joron, Jean-Lin Lacapelle
PPE	Pablo Arias Echeverría, Andrea Caroppo, Maria da Graça Carvalho, Deirdre Clune, Christian Doleschal, Andrey Kovatchev, Antonius Manders, Jiří Pospíšil, Andreas Schwab, Tomislav Sokol, Ivan Štefanec, Róza Thun und Hohenstein
Renew	Andrus Ansip, Vlad-Marius Botoș, Dita Charanzová, Sandro Gozi, Svenja Hahn, Morten Løkkegaard, Marco Zullo
S&D	Alex Agius Saliba, Clara Aguilera, Brando Benifei, Biljana Borzan, Evelyne Gebhardt, Maria Grapini, Maria-Manuel Leitão-Marques, Leszek Miller, Christel Schaldemose
Verts/ALE	Anna Cavazzini, David Cormand, Alexandra Geese, Claude Gruffat, Marcel Kolaja

1	-
ECR	Eugen Jurzyca

3	0
ID	Miroslav Radačovský
The Left	Kateřina Konečná, Anne-Sophie Pelletier

Key to symbols:

+ : in favour

- : against

0 : abstention