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Committee on Civil Liberties, Justice and Home Affairs

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DRAFT REPORT

on the proposal for a Council decision on a Critical Infrastructure Warning
Information Network (CIWIN)
(COM(2008)0676 – C6-0399/2008 – 2008/0200(CNS))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Luca Romagnoli

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

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

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. In the case of amending acts, passages in an existing provision that the Commission has left unchanged, but that Parliament wishes to amend, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...]. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). Suggested corrections of this kind are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a Council decision on a Critical Infrastructure Warning Information Network (CIWIN)
(COM(2008)0676 – C6-0399/2008 – 2008/0200(CNS))**

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2008)0676),
 - having regard to Article 308 of the EC Treaty and Article 203 of the Euratom Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0399/2008),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and to the opinion of the Committee on Economic and Monetary Affairs (A6-0000/2009),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
 5. Calls upon the Commission, following the entry into force of the Lisbon Treaty, when the Council has not taken any decision in this respect to consider the possibilities of Article 196 (Civil Protection) as regards the legal basis of this proposal and to reconsider, when appropriate, submitting a proposal to Parliament;
 6. Instructs its President to forward its position to the Council and Commission.

Amendment 1

Proposal for a decision

Recital 1

Text proposed by the Commission

(1) The Council conclusions on “Prevention, Preparedness and Response to Terrorist Attacks” and the “EU Solidarity

Amendment

(1) The Council conclusions on “Prevention, Preparedness and Response to Terrorist Attacks” and the “EU Solidarity

Programme on the Consequences of Terrorist Threats and Attacks” adopted by Council in December 2004 endorsed the Commission's intention to propose a European Programme for Critical Infrastructure Protection and agreed to the Commission setting up CIWIN¹.

14894/04.

Programme on the Consequences of Terrorist Threats and Attacks” adopted by Council in December 2004 endorsed the Commission's intention to propose a European Programme for Critical Infrastructure Protection and agreed to the Commission setting up CIWIN¹.

15232/04.

Or. en

Justification

The document referred to in the Commission proposal (14894/04) gives only general comments on the critical infrastructure protection. The reference document should be document 15232/04.

Amendment 2

Proposal for a decision

Recital 4

Text proposed by the Commission

(4) Several incidents involving critical infrastructure in Europe such as for example the European blackout in 2006 demonstrated the need for a better and more efficient exchange of information in order to ***prevent or limit the scope of the incident.***

Amendment

(4) Several incidents involving critical infrastructure in Europe such as for example the European blackout in 2006 demonstrated the need for a better and more efficient exchange of information ***and greater knowledge of the practices of different Member States*** in order to ***be prepared and to avoid the occurrence of such incidents in the future.***

Or. en

Justification

The exclusion of the rapid alert system (RAS) from the current format of CIWIN requires the amendment of this recital.

Amendment 3

Proposal for a decision

Recital 5

Text proposed by the Commission

(5) It is appropriate to establish an information system that will enable Member States and the Commission to exchange information **and alerts** in the field of **Critical Infrastructure Protection (CIP)**, to strengthen their CIP dialogue, and contribute towards promoting the integration and better coordination of nationally scattered and fragmented CIP research programmes.

Amendment

(5) It is **therefore** appropriate to establish an information system that will enable Member States and the Commission to exchange information in the field of CIP, to strengthen their CIP dialogue, and contribute towards promoting the integration and better coordination of nationally scattered and fragmented CIP research programmes.

Or. en

Justification

Although the option for a rapid alert system (RAS) within CIWIN is to be welcome, further analysis and evaluation is needed in this respect. An in-depth study should to be launched by the Commission which would assess all the consequences of including a RAS functionality in CIWIN. The findings of the pilot project to be launched probably in June 2009 concerning CIWIN will also provide a more detailed and concrete picture for the RAS option. It should also be recalled that Member States had contrasting views with regard to this option when consulted on the CIWIN functionalities. The possibility for CIWIN to have this double functionality was put forward in the Commission Green Paper on a 'European Programme for a Critical Infrastructure Programme'.

Amendment 4

Proposal for a decision

Recital 6

Text proposed by the Commission

(6) CIWIN should contribute to the improvement of CIP in the EU by providing an information system that could facilitate Member States' cooperation; and offer an efficient and quick alternative to time-consuming methods of searching for information on critical infrastructures in

Amendment

(6) CIWIN should contribute to the improvement of CIP in the EU by providing an information system that could facilitate Member States' cooperation, and offer an efficient and quick alternative to time-consuming methods of searching for information on critical infrastructures in

the Community.

the Community. ***It should in particular, stimulate the development of appropriate measures aimed at facilitating an exchange of best practices.***

Or. en

Justification

See justification Amendment 6.

Amendment 5

**Proposal for a decision
Recital 6 a (new)**

Text proposed by the Commission

Amendment

(6a) The first evaluation of CIWIN should also include an in-depth analysis of the necessity of adding a new functionality to CIWIN, namely the technical facility of a rapid alert system (RAS).

Or. en

Justification

The results of the first evaluation of CIWIN together with the relevant study and findings of the pilot project to be launched by the Commission should provide sufficient information in order to assess the necessity of including this option within CIWIN.

Amendment 6

**Proposal for a decision
Recital 7**

Text proposed by the Commission

Amendment

(7) CIWIN should, in particular, stimulate the development of appropriate measures aimed at facilitating an exchange of best ***deleted***

practices as well as being a vehicle for transmission of immediate threats and alerts in a secure manner.

Or. en

Justification

Parts of this recital are currently included under Recital 6. The deletion of references to 'immediate threats and alerts' is in line with the position adopted by the draft report to have only an exchange of information functionality for the first stage of development of CIWIN.

Amendment 7

Proposal for a decision

Recital 8

Text proposed by the Commission

(8) CIWIN ***should*** avoid duplication and ***be*** heedful of the specific characteristics, expertise, arrangements and areas of competence of each of the existing sectoral ***rapid alert systems (RAS)***.

Amendment

(8) ***In the course of this evaluation particular care should be taken to ensure that*** CIWIN ***avoids*** duplication and ***is*** heedful of the specific characteristics, expertise, arrangements and areas of competence of each of the existing sectoral RAS.

Or. en

Justification

An important element of the evaluation and of the assessment of whether CIWIN should integrate or not a RAS lies also in the arrangements and current provisions concerning the existing sectoral rapid alert systems.

Amendment 8

Proposal for a decision

Recital 10

Text proposed by the Commission

(10) The interdependence of critical infrastructure in Member States and varying levels of CIP in Member States suggest that creating a horizontal and cross-sectoral Community tool for the exchange of information **and alerts** on CIP would increase the security of citizens.

Amendment

(4a) The interdependence of critical infrastructure in Member States and varying levels of **Critical Infrastructure Protection (CIP)** in Member States suggest that creating a horizontal and cross-sectoral Community tool for the exchange of information on CIP would increase the security of citizens.

Or. en

Justification

This argument should be put forward sooner in the explanation.

Amendment 9

Proposal for a decision

Recital 11

Text proposed by the Commission

(11) Taking into account the future availability of the Trans European Services for Telematics between Administrations (S-TESTA) communications network or **any** alternative secure network operated by the Commission, the Commission should decide on the most appropriate technological platform for CIWIN and require end users to meet the technical requirements established by the Commission.

Amendment

(11) Taking into account the future availability of the Trans European Services for Telematics between Administrations (S-TESTA) communications network or **another** alternative secure network operated by the Commission, the Commission should decide on the most appropriate technological platform for CIWIN and require end users to meet the technical requirements established by the Commission.

Or. en

Justification

If it can be understood that for the moment other technical solutions can be envisaged for CIWIN, it is important to specify in a more precise manner this fact.

Amendment 10

Proposal for a decision Recital 17

Text proposed by the Commission

(17 This Decision respects the fundamental rights and observes the principles recognised *in particular* by the Charter of Fundamental Rights of the European Union,

Amendment

(17) This Decision respects the fundamental rights and observes the principles recognised by *Article 6 of the Treaty on European Union and reflected in* the Charter of Fundamental Rights of the European Union,

Or. en

Justification

An additional reference to Article 6 of the Treaty on European Union is considered a necessary amendment.

Amendment 11

Proposal for a decision Article 1

Text proposed by the Commission

This Decision sets up a secure information, communication *and alert* system - Critical Infrastructure Warning Information Network (CIWIN) - with the aim of assisting Member States to exchange information on *shared threats*, vulnerabilities and appropriate measures and strategies to mitigate risks related to CIP.

Amendment

This Decision sets up a secure information *and* communication system - Critical Infrastructure Warning Information Network (CIWIN) - with the aim of assisting Member States to exchange information on vulnerabilities and appropriate measures and strategies to mitigate risks related to CIP.

Or. en

Justification

See justification Amendment 3. The title of the Network has not been changed although it

could be argued that the 'Warning' element should be deleted if the RAS is not included in the initial phase of CIWIN. The Commission Communication on a European Programme for Critical Infrastructure Protection from 2006 has kept this title although the Communication states that 'CIWIN will provide a platform for the exchange of best practices in a secure manner' and 'could also provide an optional platform for the exchange of rapid alerts[...]'].

Amendment 12

Proposal for a decision Article 2, subparagraph 4

Text proposed by the Commission

Amendment

"Threat" shall mean any indication, circumstance, or event with the potential to disrupt or destroy critical infrastructure, or any element thereof.

deleted

Or. en

Justification

See justification Amendment 3.

Amendment 13

Proposal for a decision Article 3

Text proposed by the Commission

Amendment

Participation in and use of CIWIN is open to all Member States. **The participation to CIWIN shall be conditional upon the signature of** a Memorandum of understanding that contains technical and security requirements applicable to CIWIN, and information on the sites to be connected to CIWIN.

Participation in and use of CIWIN is open to all Member States. **Member States that wish to participate in and use CIWIN shall sign** a Memorandum of understanding that contains technical and security requirements applicable to CIWIN, and information on the sites to be connected to CIWIN.

Or. en

Justification

The voluntary character should be better emphasized.

Amendment 14

Proposal for a decision

Article 3, subparagraph 1 a (new)

Text proposed by the Commission

Amendment

This Memorandum of understanding shall be established in accordance with the advisory procedure laid down in Article 3 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission¹.

¹ *OJ L 184, 17.7.1999, p. 23.*

Or. en

Justification

The procedure for establishing such texts should be clearly indicated.

Amendment 15

Proposal for a decision

Article 4 Title

Text proposed by the Commission

Amendment

Functionalities

Functionality and structure

Or. en

Justification

The exclusion of the RAS option requires an amendment of the title and an additional precision.

Amendment 16

Proposal for a decision Article 4, paragraph 1

Text proposed by the Commission

(1) The CIWIN shall **consist of the two following functionalities**:
(a) an electronic forum for the CIP related to information exchange;
(b) a rapid alert functionality that shall enable participating Member States and the Commission to post alerts on immediate risks and threats to critical infrastructure.

Amendment

(1) The CIWIN shall **be designed as** an electronic forum for the CIP related to information exchange;

Or. en

Justification

The exclusion of the RAS option requires an amendment of paragraph 1.

Amendment 17

Proposal for a decision Article 4, paragraph 2, subparagraph 2

Text proposed by the Commission

Fixed areas shall be included in the system on a permanent basis. While their content may be adjusted, the areas may not be removed, renamed **or new areas added**. Annex I contains a list of fixed areas.

Amendment

Fixed areas shall be included in the system on a permanent basis. While their content may be adjusted, the areas may not be removed **and** renamed. Annex I contains a list of fixed areas. **This does not preclude the inclusion of new areas if the functioning of the system demonstrates that this is necessary.**

Or. en

Justification

The pilot phase could very well provide evidence of the necessity to include new fixed areas in CIWIN. The same reasoning applies for the phase of normal functioning of CIWIN.

Amendment 18

Proposal for a decision
Article 6, paragraph 1, point b

Text proposed by the Commission

(b) laying down guidelines on the terms of use of the system, including confidentiality, transmission, storage, filing and deletion of information. The Commission shall also establish the terms and procedures for granting full or selective access to the CIWIN.

Amendment

(b) laying down **user** guidelines on the terms of use of the system, including confidentiality, transmission, storage, filing and deletion of information. The Commission shall also establish the terms and procedures for granting full or selective access to the CIWIN.

Or. en

Justification

It is necessary to harmonise the reference to these guidelines throughout the text.

Amendment 19

Proposal for a decision
Article 7, paragraph 2

Text proposed by the Commission

(2) Users' rights to access documents shall be on a “need to know” basis **and must** at all times respect the author’s specific instructions on the protection and distribution of a document.

Amendment

(2) Users' rights to access documents shall be on a “need to know” basis. **Users shall** at all times respect the author’s specific instructions on the protection and distribution of a document.

Or. en

Justification

This amendment aims to better clarify the meaning of the second part of paragraph 2.

Amendment 20

Proposal for a decision Article 7, paragraph 2a (new)

Text proposed by the Commission

Amendment

2a) In Member States, the exchange of sensitive information uploaded onto CIWIN between authorised users and third parties shall be subject to the prior authorisation of the owner of that information and shall take place in accordance with relevant Community and national law.

Or. en

Justification

While the Commission acknowledges in its Impact Assessment¹ that 'they (sectors of industry) will not have direct access to the information contained in CIWIN', it also emphasizes that 'the advantages of such information for the private sector will be limited by their classification and the distribution of relevant information will depend upon the relevant Member States authorities' willingness to distribute it through appropriate national channels.' Although it can be expected that the rules on the transmission of information contained in CIWIN to third parties will be clearly specified in the guidelines mentioned in Articles 6 and 8 and having also in view the provisions of Article 7(2), a specific provision on how third parties could receive information uploaded onto CIWIN is necessary.

Amendment 21

Proposal for a decision Article 7a (new)

Text proposed by the Commission

Amendment

Article 7a

Requirements relating to Information included in CIWIN

For any information or documents

¹ SEC(2008)2701 p.27.

*uploaded in the system an automatic translation will be possible.
The Commission shall, in collaboration with CIP contact points, develop a list of key words for each sector which could be used when uploading or searching for information in CIWIN.*

Or. en

Justification

Although it can be expected that the requirements related to information uploaded or searched on CIWIN will also be included in the User guidelines mentioned in Articles 6 and 8, it is important to give general elements about the facility with which an information could be retrieved on CIWIN, thus enhancing its user-friendly format.

Amendment 22

Proposal for a decision Article 8

Text proposed by the Commission

The Commission shall develop and regularly update User guidelines containing full details of CIWIN's *functionalities* and roles.

Amendment

The Commission shall develop and regularly update *the* User guidelines containing full details of CIWIN's *functionality* and roles.

Or. en

Amendment 23

Proposal for a decision Article 8, subparagraph 1 a (new)

Text proposed by the Commission

Amendment

1a) These User guidelines shall be established in accordance with the advisory procedure laid down in Article 3 of Decision 1999/468/EC.

Or. en

Justification

See justification Amendment 15.

Amendment 24

**Proposal for a decision
Article 10, subparagraph 1 a (new)**

Text proposed by the Commission

Amendment

1a) These reports shall also be sent for information to the European Parliament, the Committee of Regions and the European Economic and Social Committee.

Or. en

Amendment 25

**Proposal for a decision
Article 10, subparagraph 2**

Text proposed by the Commission

Amendment

The first report, which shall be submitted within three years after the entry into force of this Decision, shall, in particular, identify those elements of the Community network which should be improved or adapted. It shall also include any proposal that the Commission considers necessary for the amendment or adaptation of this Decision.

The first report, which shall be submitted within three years after the entry into force of this Decision, shall, in particular, identify those elements of the Community network which should be improved or adapted ***and shall in particular, assess the possibility of upgrading CIWIN to include a rapid alert system (RAS) functionality.*** It shall also include any proposal that the Commission considers necessary for the amendment or adaptation of this Decision.

Or. en

Justification

See justification Amendment 3.

Amendment 26

Proposal for a decision Article 11

Text proposed by the Commission

This Decision shall *apply as from 1 January 2009*.

Amendment

This Decision shall *take effect on the day of its publication in the Official Journal of the European Union*.

Or. en

Amendment 27

Proposal for a decision Annex II, point 3

Text proposed by the Commission

(3) Alert Areas, which may be created in the event of an alert being triggered in the RAS, and will constitute the channel of communication during CIP-related activities;

Amendment

deleted

Or. en

EXPLANATORY STATEMENT

1. Context of the Proposal

Critical infrastructures consist of those physical and information technology facilities, networks, services and assets which, if disrupted or destroyed, would have a serious impact on the health, safety, security or economic well-being of citizens or the effective functioning of governments in the Member States. Critical infrastructures extend across many sectors of the economy, including banking and finance, transport and distribution, energy, utilities, health, food supply and communications, as well as key government services. Any such disruptions or manipulations of critical infrastructure should, to the extent possible, be brief, infrequent, manageable, geographically isolated and minimally detrimental to the welfare of the Member States, their citizens and the European Union.

Furthermore, transport systems, telecommunication, energy are crucial sectors for the development and "life" of the EU and its Member States. These sectors are more and more interconnected or some Member States rely on others. Technology develops quickly and sometimes the lack of information can create problems, while the exchange of best practices (experiences, approaches, techniques, solutions) among Member States could provide elements of response in order to avoid such problems. This type of exchange could also help avoiding unnecessary costs of re-developing a similar practice already successfully implemented by another Member State.

Therefore, the need for a unique system where to connect to and share information among the different authorities in the Member States on the protection of critical infrastructure was translated by the European Commission in the format of the proposal for a Council Decision on a Critical Infrastructure Warning Information Network (CIWIN). CIWIN would function as a forum for exchange of best practices with a possible additional function of a rapid alert system.

The establishment of CIWIN was already put forward in the Communication on the European Programme for Critical Infrastructure Protection (EPCIP)¹, which set out the horizontal framework for the protection of critical infrastructures in the EU, comprising measures to facilitate the implementation of EPCIP, including CIWIN.

2. Position of the Rapporteur

The rapporteur welcomes the CIWIN proposal and advises the European Parliament to support it. He does not foresee major changes to the proposal, though he considers that some adjustments are needed. They mainly regard the elimination and possible future reconsideration of the Rapid Alert System (RAS) function (2.1.), the security of communication and the adequate level of protection, the language and the retrieving facilitation (2.2.) and finally a few clarifications on texts such as the Memorandum of understanding and the user guidelines or the fixed areas (2.3.).

¹ COM (2006) 786 final.

2.1. The Rapid Alert System (RAS) Option

The rapporteur warmly welcomes the sharing of information among authorities of the Member States which should in particular stimulate the development of appropriate measures aimed at facilitating the exchange of best practices.

The proposed modification of the proposal, which sets CIWIN as a secure information and communication system, without RAS option, seems the right direction at the moment. A pilot project will be launched and after the assessment of the system it could be possible to evaluate CIWIN and possibly introduce the alert system functionality. As a matter of fact experiences gained during the use of the system will enable the Commission and the Member States to decide whether the rapid alert function is needed and how it should be set up. This analysis should also tend to adjust the CIWIN system in order to avoid duplication and reduce costs.

The Commission proposed the use of the S-TESTA network to communicate among the Member States. The system proved adequately well built and able to support and carry information in a secure way. If further developments or studies will demonstrate that another alternative secure network is better performing and provides more benefits in terms of both security and costs, it is to be taken in consideration for adoption.

2.2. Precisions concerning the Exchange of Information and CIWIN User Friendly Format

Attention should also be paid on the right level of security and on the access to the information, sensitive one in particular. There is certainly a mutual trust among authorities of the Member States, but in some cases these authorities may share information also with private sector or third countries (third parties). To this end, the rapporteur believes that when uploading the information on CIWIN it should be possible for the owner of the specific information to condition the exchange with these third parties to his specific authorisation. Although it can be expected that the rules on the transmission of information contained in CIWIN will be clearly specified in the user guidelines, it seems necessary to insert a provision in the proposal clearly specifying how third parties can access such information.

Another fundamental aspect of the CIWIN system concerns the language. In order to function properly the information should be easily accessible and understood. To this end an automatic translation shall be provided after the national users have uploaded the information or the documents. To facilitate the research of information throughout the system, the Commission together with the CIP contact points should elaborate specific thematic research boxes ("key words"). When inserting or retrieving information on CIWIN then, the users will tick the box (or the boxes) concerned. This will facilitate the research of information for the other users. These boxes will contain general categories common for all the users (translated in each language) and agreed among the Member States.

2.3. Clarifications

The rapporteur considers that it is important to clearly specify by which procedure a series of

texts referred to in the proposal (Memorandum of understanding, User guidelines) should be adopted. To this end, the advisory procedure provided by Article 3 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission has been proposed in this draft report.

Furthermore, concerning the fixed areas foreseen by the proposal, the rapporteur considers that a relative flexibility should be allowed in the sense that the pilot phase or the assessment of the system itself could provide findings supporting the necessity of creating new fixed areas into CIWIN. This is why the proposal has been amended in this specific point.