



2020/0365(COD)

12.7.2021

OPINION

of the Committee on Transport and Tourism

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a directive of the European Parliament and of the Council
on the resilience of critical entities
(COM(2020)0829 – C9-0421/2020 – 2020/0365(COD))

Rapporteur for opinion: Angel Dzhambazki

PA_Legam

SHORT JUSTIFICATION

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

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

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

AMENDMENTS

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

Amendment 1

Proposal for a directive

Recital 1

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 ***such as rail, air traffic management or ports and terminals***, 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 ***and the functioning of the internal market***.

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 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.

¹⁹ European Programme for Critical Infrastructure Protection (EPCIP).

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, **as well as the free movement and safety of citizens**. This is due to a dynamic threat landscape with evolving **manmade threats such as terrorism, criminal infiltration, foreign interference and cyberattacks** and growing interdependencies between infrastructures and sectors, as well as an increased physical risk due to natural disasters and climate change, which increases the frequency and scale of extreme weather events and brings long-term changes in average climate that can reduce the capacity, efficiency **and lifespan** of certain infrastructure types if resilience or climate adaptation measures are not in place. Moreover, relevant sectors and types of entities are not recognised consistently as critical in all Member States, **which necessitates a higher level of coordination and a more integrated approach in the protection of important cross-border and horizontal critical infrastructures such as those in the transport and energy sectors**.

¹⁹ European Programme for Critical Infrastructure Protection (EPCIP).

Amendment 3

Proposal for a directive Recital 2 a (new)

Text proposed by the Commission

Amendment

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

Amendment 4

Proposal for a directive Recital 2 b (new)

Text proposed by the Commission

Amendment

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

Amendment 5

Proposal for a directive Recital 2 c (new)

Text proposed by the Commission

Amendment

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

transport, including ports and terminals.

Amendment 6

Proposal for a directive

Recital 2 d (new)

Text proposed by the Commission

Amendment

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

Amendment 7

Proposal for a directive

Recital 3

Text proposed by the Commission

Amendment

(3) Those growing interdependencies are the result of an increasingly cross-border and interdependent network of service provision using key infrastructures across the Union in the sectors of energy, transport, banking, financial market infrastructure, digital infrastructure, drinking and waste water, health, 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

(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.

across the internal market. The COVID-19 pandemic has shown the vulnerability of our increasingly interdependent societies, ***particularly the transport and tourism sectors***, in the face of low-probability risks ***and has demonstrated the importance of strategic sectors, such as the transport sector, through the implementation of green lanes, which has provided secure supply chains for healthcare and emergency services and ensured an essential food supply and the supply of medical and pharmaceutical products, underlining the need to ensure the resilience of critical transport infrastructure across the Union.***

Amendment 8

Proposal for a directive

Recital 4

Text proposed by the Commission

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

Amendment

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

borders, notably for companies active in Member States with more stringent requirements.

Amendment 9

Proposal for a directive

Recital 5

Text proposed by the Commission

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

Amendment

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

Amendment 10

Proposal for a directive Recital 6

Text proposed by the Commission

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

Amendment

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

Amendment 11

Proposal for a directive Recital 8 a (new)

Text proposed by the Commission

Amendment

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

Amendment 12

Proposal for a directive Recital 10

Text proposed by the Commission

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

Amendment

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

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

of critical entities, each Member State should have a strategy setting out objectives and policy measures to be implemented. To achieve this, **and taking account of the hybrid nature of many threats**, Member States should ensure that their 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 **and non-cyber** threats and the exercise of supervisory tasks.

Amendment 13

Proposal for a directive

Recital 11

Text proposed by the Commission

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

Amendment

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

resilience requirements of this Directive.

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 14

Proposal for a directive Recital 13 a (new)

Text proposed by the Commission

Amendment

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

Amendment 15

Proposal for a directive Recital 13 b (new)

Text proposed by the Commission

Amendment

(13b) In accordance with applicable Union and national law, including Regulation (EU) 2019/452 of the European Parliament and of the Council^{1a}, which establishes a framework for the screening of foreign direct investments into the Union, the potential threat posed by foreign ownership of critical infrastructures within the Union is to be acknowledged because services, the economy and the free movement and safety of Union citizens depend on the

proper functioning of critical infrastructure. Member States and the Commission should be vigilant with regard to financial investments that foreign countries make in the operation of critical entities within the Union and the consequences that such investments could have on the ability to prevent significant disruptions.

^{1a} Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union (OJ L 79I, 21.3.2019, p. 1).

Amendment 16

Proposal for a directive Recital 19

Text proposed by the Commission

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

Amendment

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

related to cyber security and climate change. Such training and tools should be extended to other involved stakeholders where necessary.

Amendment 17

Proposal for a directive Recital 19 a (new)

Text proposed by the Commission

Amendment

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

Amendment 18

Proposal for a directive Recital 20

Text proposed by the Commission

Amendment

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

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

sector. In order to avoid divergences between Member States, they should include minimum indicators. They should also include contingency protocols. Further harmonisation of security and safety standards and certification requirements is urgently necessary for critical infrastructure sectors and, in addition, for safe parking areas and rest areas, where divergent interpretations persist.

Amendment 19

Proposal for a directive Recital 23

Text proposed by the Commission

(23) Regulation (EC) No 300/2008 of the European Parliament and of the Council²⁸, Regulation (EC) No 725/2004 of the European Parliament and of the Council²⁹ and Directive 2005/65/EC of the European Parliament and of the Council³⁰ establish requirements applicable to entities in the aviation and maritime transport sectors to prevent incidents caused by unlawful acts and to resist and mitigate the consequences of such incidents. While the measures required in this Directive are broader in terms of risks addressed and types of measures to be taken, critical entities in those sectors should reflect in their resilience plan or equivalent documents the measures taken pursuant to those other Union acts. Moreover, when implementing resilience measures under this Directive, critical entities **may consider referring** to non-binding guidelines and good practices documents developed under sectorial workstreams, such as the EU Rail Passenger Security Platform³¹.

Amendment

(23) Regulation (EC) No 300/2008 of the European Parliament and of the Council²⁸, Regulation (EC) No 725/2004 of the European Parliament and of the Council²⁹ and Directive 2005/65/EC of the European Parliament and of the Council³⁰ establish requirements applicable to entities in the aviation and maritime transport sectors to prevent incidents caused by unlawful acts and to resist and mitigate the consequences of such incidents. While the measures required in this Directive are broader in terms of risks addressed and types of measures to be taken, critical entities in those sectors should reflect in their resilience plan or equivalent documents the measures taken pursuant to those other Union acts. Moreover, **critical entities should also take into consideration Directive 2008/96/EC of the European Parliament and of the Council^{30a}, which introduces a network-wide road assessment to map the risks of accidents and a targeted road safety inspection to identify hazardous conditions, defects and problems that increase the risk of accidents and injuries, based on a site visit of an existing road or section of road. Ensuring the protection**

and resilience of critical entities is of the utmost importance for the railway sector and, when implementing resilience measures under this Directive, critical entities ***are encouraged to refer*** to non-binding guidelines and good practices documents developed under sectorial workstreams, such as the EU Rail Passenger Security Platform³¹

²⁸ Regulation (EC) No 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security and repealing Regulation (EC) No 2320/2002 (OJ L 97/72, 9.4.2008, p. 72).

²⁹ Regulation (EC) No 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security (OJ L 129, 29.4.2004, p. 6.).

³⁰ Directive 2005/65/EC of the European Parliament and of the Council of 26 October 2005 on enhancing port security (OJ L 310, 25.11.2005, p. 28).

³¹ Commission Decision of 29 June 2018 setting up the EU Rail Passenger Security Platform C/2018/4014.

²⁸ Regulation (EC) No 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security and repealing Regulation (EC) No 2320/2002 (OJ L 97/72, 9.4.2008, p. 72).

²⁹ Regulation (EC) No 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security (OJ L 129, 29.4.2004, p. 6.).

³⁰ Directive 2005/65/EC of the European Parliament and of the Council of 26 October 2005 on enhancing port security (OJ L 310, 25.11.2005, p. 28).

^{30a} ***Directive 2008/96/EC of the European Parliament and of the Council of 19 November 2008 on road infrastructure safety management (OJ L 319, 29.11.2008, p. 59).***

³¹ Commission Decision of 29 June 2018 setting up the EU Rail Passenger Security Platform C/2018/4014.

Amendment 20

Proposal for a directive Recital 24

Text proposed by the Commission

(24) The risk of employees of critical entities misusing for instance their access rights within the entity's organisation to harm and cause damage is of increasing

Amendment

(24) The risk of employees of critical entities misusing for instance their access rights within the entity's organisation to harm and cause damage is of increasing

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

concern. ***This is particularly the case for critical entities in the transport sector, such as logistic hubs like ports and airports, where there is, in some cases, a substantial and growing problem of criminal infiltration.*** That risk is exacerbated by the growing phenomenon of radicalisation leading to violent extremism and terrorism. It is therefore necessary to enable critical entities to request background checks on persons falling within specific categories of its personnel and to ensure that those requests are assessed expeditiously by the relevant authorities, in accordance with the applicable rules of Union and national law, including on the protection of personal data.

Amendment 21

Proposal for a directive

Recital 25

Text proposed by the Commission

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

Amendment

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

points of contacts.

points of contacts.

Amendment 22

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

Text proposed by the Commission

Amendment

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

Amendment 23

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

Text proposed by the Commission

Amendment

1. This Directive:

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

Amendment 24

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

Text proposed by the Commission

Amendment

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

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

Amendment 25

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

Text proposed by the Commission

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;

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

Justification

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

Amendment 26

Proposal for a directive

Article 3 – paragraph 2 – point d a (new)

Text proposed by the Commission

Amendment

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

Amendment 27

Proposal for a directive

Article 3 – paragraph 2 – point d b (new)

Text proposed by the Commission

Amendment

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

climate adaptation.

Amendment 28

Proposal for a directive

Article 4 – paragraph 1 – subparagraph 1

Text proposed by the Commission

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

Amendment

Competent authorities designated pursuant to Article 8 shall establish a list of essential services in the sectors referred to in the Annex. They shall carry out by [three years after entry into force of this Directive], and subsequently where necessary, and at least every four years, an assessment of all relevant risks that may affect the provision of those essential services ***by using harmonised specifications or methodologies with detailed indicators depending on the specificities of each sector***, with a view to identifying critical entities in accordance with Article 5(1), and assisting those critical entities to take measures pursuant to Article 11 ***in order to ensure minimum levels of service and resilience of the critical infrastructure.***

Amendment 29

Proposal for a directive

Article 4 – paragraph 1 – subparagraph 2

Text proposed by the Commission

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

Amendment

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

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 30

Proposal for a directive Article 4 – paragraph 5

Text proposed by the Commission

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

Amendment

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

Amendment 31

Proposal for a directive Article 5 – paragraph 6

Text proposed by the Commission

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

Amendment

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

Amendment 32

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

Text proposed by the Commission

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

Amendment

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

Amendment 33

Proposal for a directive Article 9 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 34

Proposal for a directive Article 10 – paragraph 2

Text proposed by the Commission

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

Amendment

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

provided by the critical entity.

Amendment 35

Proposal for a directive

Article 11 – paragraph 1 – point b

Text proposed by the Commission

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

Amendment

(b) ensure adequate ***maintenance and*** physical protection of sensitive areas, facilities and other infrastructure ***in order to increase the lifespan of such existing infrastructures. Protection measure may include*** fencing, barriers, perimeter monitoring tools and routines, as well as detection equipment, ***emergency call systems for the notification of competent authorities,*** and access controls;

Amendment 36

Proposal for a directive

Article 11 – paragraph 1 – point f

Text proposed by the Commission

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

Amendment

(f) raise awareness about the ***incidents and disruptions that could occur, including criminal infiltration, as well as*** the measures referred to in points (a) to (e) among relevant personnel .

Amendment 37

Proposal for a directive

Article 11 – paragraph 3

Text proposed by the Commission

3. Upon request of the Member State that identified the critical entity ***and with the agreement of the critical entity concerned,*** the Commission shall organise advisory missions, in accordance with the

Amendment

3. Upon request of the Member State that identified the critical entity, the Commission shall organise advisory missions, in accordance with the arrangements set out in Article 15(4), (5),

arrangements set out in Article 15(4), (5), (7) and (8), to provide advice to the critical entity concerned in meeting its obligations pursuant to Chapter III. The advisory mission shall report its findings to the Commission, that Member State and the critical entity concerned.

(7) and (8), to provide advice to the critical entity concerned in meeting its obligations pursuant to Chapter III. The advisory mission shall report its findings to the Commission, that Member State and the critical entity concerned.

Amendment 38

Proposal for a directive Article 13 – paragraph 4

Text proposed by the Commission

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

Amendment

4. As soon as possible upon having been notified in accordance with paragraph 1, the competent authority shall provide the critical entity that notified it with relevant information regarding the follow-up of its notification, including information that could support the critical entity's effective response to the incident. ***Where the notification relates to the direct risk to human life, the competent authority shall ensure that relevant public security and safety services are mobilised and, where relevant, sent to the place of incident within a minimum amount of time.***

Amendment 39

Proposal for a directive Article 14 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Amendment 40

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

Text proposed by the Commission

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

Amendment

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

Amendment 41

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

Text proposed by the Commission

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

Amendment

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

Amendment 42

Proposal for a directive Article 18 – paragraph 1 – introductory part

Text proposed by the Commission

1. In order to assess the compliance of the entities that the Member States identified as critical entities pursuant to Article 5 with the obligations pursuant to this Directive, they shall ensure that the competent authorities shall have the powers **and** means to:

Amendment

1. In order to assess the compliance of the entities that the Member States identified as critical entities pursuant to Article 5 with the obligations pursuant to this Directive, they shall ensure that the competent authorities shall have the powers, means **and human and financial resources** to:

Amendment 43

Proposal for a directive Article 18 – paragraph 2 – introductory part

Text proposed by the Commission

2. Member States shall ensure that the competent authorities have the powers **and** means to require, where necessary for the performance of their tasks under this Directive, that the entities that they identified as critical entities pursuant to paragraph 5 provide, within a reasonable time period set by those authorities:

Amendment

2. Member States shall ensure that the competent authorities have the powers, means **and human and financial resources** to require, where necessary for the performance of their tasks under this Directive, that the entities that they identified as critical entities pursuant to paragraph 5 provide, within a reasonable time period set by those authorities:

Amendment 44

Proposal for a directive Article 22 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Amendment 45

Proposal for a directive Article 22 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

The Commission shall, by ... [6 years after the date of entry into force of this Directive], carry out a review of the application of this Directive and sector-specific legal acts. The review shall focus on identifying duplications in the legal acts, regulatory requirements or procedures concerned, and any overlap between them, with a view to improving coherence between this Directive and the relevant sector-specific legislation and legal certainty. To that end, the Commission shall prepare a report, which it shall transmit to the European Parliament and to the Council, accompanied, where necessary, by a legislative proposal.

Amendment 46

Proposal for a directive Article 24 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

They shall apply those provisions from [**two years** after entry into force of this Directive + one day].

They shall apply those provisions from [**30 months** after entry into force of this Directive + one day].

Amendment 47

Proposal for a directive Annex - table - point 2. Transport - point e new

Text proposed by the Commission

- | | | |
|--------------|--------|--|
| 2. Transport | a) Air | — Air carriers referred to in point (4) of Article 3 of Regulation (EC) No 300/2008 ⁵⁶

— Airport managing bodies referred to in point (2) of Article 2 of Directive 2009/12/EC ⁵⁷ , airports referred to in point (1) of Article 2 of that Directive, including the core airports listed in Section 2 of Annex II to Regulation (EU) No 1315/2013 ⁵⁸ , and entities operating ancillary installations contained within |
|--------------|--------|--|

airports

— Traffic management control operators providing air traffic control (ATC) services referred to in point (1) of Article 2 of Regulation (EC) No 549/2004⁵⁹

(b) — Infrastructure managers referred to in point (2) of Article 3
Rail of Directive 2012/34/EU⁶⁰

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

(c) — Inland, sea and coastal passenger and freight water
Water transport companies, referred to for maritime transport in Annex I to Regulation (EC) No 725/2004⁶¹, not including the individual vessels operated by those companies

— Managing bodies of ports referred to in point (1) of Article 3 of Directive 2005/65/EC⁶², including their port facilities referred to in point (11) of Article 2 of Regulation (EC) No 725/2004, and entities operating works and equipment contained within ports

— Operators of vessel traffic services referred to in point (o) of Article 3 of Directive 2002/59/EC⁶³ of the European Parliament and of the Council

(d) — Road authorities referred to in point (12) of Article 2 of
Road Commission Delegated Regulation (EU) 2015/962⁶⁴ responsible for traffic management control

— Operators of Intelligent Transport Systems referred to in point (1) of Article 4 of Directive 2010/40/EU⁶⁵

Amendment

2. Transport

a) Air

— Air carriers referred to in point (4) of Article 3 of Regulation (EC) No 300/2008⁵⁶

— Airport managing bodies referred to in point (2) of Article 2 of Directive 2009/12/EC⁵⁷, airports referred to in point (1) of Article 2 of that Directive, including the core airports listed in Section 2 of Annex II to Regulation (EU) No 1315/2013⁵⁸, and entities operating ancillary installations contained within airports

— Traffic management control operators providing air traffic control (ATC) services referred to in point (1) of Article 2 of Regulation (EC) No 549/2004⁵⁹

- (b) Rail — Infrastructure managers referred to in point (2) of Article 3 of Directive 2012/34/EU⁶⁰
- Railway undertakings referred to in point (1) of Article 3 of Directive 2012/34/EU, including operators of service facilities referred to in point (12) of Article 3 of Directive 2012/34/EU
- (c) Water — Inland, sea and coastal passenger and freight water transport companies, referred to for maritime transport in Annex I to Regulation (EC) No 725/2004⁶¹, not including the individual vessels operated by those companies
- Managing bodies of ports referred to in point (1) of Article 3 of Directive 2005/65/EC⁶², including their port facilities referred to in point (11) of Article 2 of Regulation (EC) No 725/2004, and entities operating works and equipment contained within ports
- Operators of vessel traffic services referred to in point (o) of Article 3 of Directive 2002/59/EC⁶³ of the European Parliament and of the Council
- (d) Road Road authorities referred to in point (12) of Article 2 of Commission Delegated Regulation (EU) 2015/962⁶⁴ responsible for traffic management control
- Operators of Intelligent Transport Systems referred to in point (1) of Article 4 of Directive 2010/40/EU⁶⁵
- (e) public transport*** — ***Public transport authorities and service operators referred to in points (b) and (d) of Article 2 of Regulation (EC) No 1370/2007 of the European Parliament and of the Council^{65a}.***

^{65a} ***Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70 (OJ L 315, 3.12.2007, p. 1).***

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	TRAN 11.2.2021
Rapporteur for the opinion Date appointed	Angel Dzhambazki 25.1.2021
Date adopted	12.7.2021
Result of final vote	+: 48 –: 0 0: 1
Members present for the final vote	Magdalena Adamowicz, Andris Ameriks, Izaskun Bilbao Barandica, Paolo Borchia, Marco Campomenosi, Massimo Casanova, Ciarán Cuffe, Jakob G. Dalunde, Johan Danielsson, Karima Delli, Anna Deparnay-Grunenberg, Gheorghe Falcă, Giuseppe Ferrandino, Mario Furore, Søren Gade, Isabel García Muñoz, Elsi Katainen, Kateřina Konečná, Julie Lechanteux, Peter Lundgren, Benoît Lutgen, Elżbieta Katarzyna Łukacijewska, Marian-Jean Marinescu, Tilly Metz, Cláudia Monteiro de Aguiar, Caroline Nagtegaal, Jan-Christoph Oetjen, Philippe Olivier, João Pimenta Lopes, Rovana Plumb, Dominique Riquet, Dorien Rookmaker, Massimiliano Salini, Sven Schulze, Vera Tax, Barbara Thaler, Henna Virkkunen, Petar Vitanov, Elissavet Vozemberg-Vrionidi, Roberts Zīle, Kosma Złotowski
Substitutes present for the final vote	Clare Daly, Nicola Danti, Angel Dzhambazki, Tomasz Frankowski, Michael Gahler, Maria Grapini, Alessandra Moretti, Marianne Vind

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

48	+
ECR	Angel Dzhambazki, Peter Lundgren, Roberts Zīle, Kosma Złotowski
ID	Paolo Borchia, Marco Campomenosi, Massimo Casanova, Julie Lechanteux, Philippe Olivier
NI	Mario Furore, Dorien Rookmaker
PPE	Magdalena Adamowicz, Gheorghe Falcă, Tomasz Frankowski, Michael Gahler, Elżbieta Katarzyna Łukacijewska, Benoît Lutgen, Marian-Jean Marinescu, Cláudia Monteiro de Aguiar, Massimiliano Salini, Sven Schulze, Barbara Thaler, Henna Virkkunen, Elissavet Vozemberg-Vrionidi
Renew	Izaskun Bilbao Barandica, Nicola Danti, Søren Gade, Elsi Katainen, Caroline Nagtegaal, Jan-Christoph Oetjen, Dominique Riquet
S&D	Andris Ameriks, Johan Danielsson, Giuseppe Ferrandino, Isabel García Muñoz, Maria Grapini, Alessandra Moretti, Rovana Plumb, Vera Tax, Marianne Vind, Petar Vitanov
The Left	Clare Daly, Kateřina Konečná
Verts/ALE	Ciarán Cuffe, Jakop G. Dalunde, Karima Delli, Anna Deparnay-Grunenberg, Tilly Metz

0	-

1	0
The Left	João Pimenta Lopes

Key to symbols:

+ : in favour

- : against

0 : abstention