

## **CONSIDERATIONS REGARDING THE COMPANIES' OBLIGATIONS TOWARDS THE DIRECTIVE 2008/114/CE CONCERNING CRITICAL INFRASTRUCTURES**

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Nowadays critical infrastructures are a major issue of discussion. As a natural consequence, the European Committee published in 28<sup>th</sup> December 2008 the Directive 2008/114/CE that settles the definition and the directions to put in practice the following period of time.

This paper presents the steps that the companies that operate a national critical infrastructure, on one hand, or a European critical infrastructure, on the other hand, have to follow, by emphasizing the obligations they have to submit in order to respect the regulations stated by national or European institutions.

### **1. INTRODUCTION**

Starting with 2004, given the debates within European Union, there were released several documents concerning the concept of critical infrastructure [1], such as:

- *Communication from the Commission to the Council and the European Parliament: Preparedness and consequence management in the fight against terrorism, COM (2004) 701 final, Bruxelles, 20 October 2004;*
- *Communication from the Commission to the Council and the European Parliament: Critical Infrastructure Protection in the fight against terrorism, COM (2004) 702 final, Bruxelles, 20 October 2004;*
- *Green paper on a European programme for critical infrastructure protection (presented by the Commission) COM (2005) 576 final, Bruxelles, 17 November 2005.*
- *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.*

As a consequence, the Directive focuses on both energetic and transports sector and it should be reviewed for analysing its impact and the necessity of including also other sectors, *inter alia*, the IT&C sector.

### **2. CRITICAL INFRASTRUCTURES - THE COMMISSION APPROACH**

According to the Directive, the main and final responsibility concerns member states and the owners/operators of those infrastructures. It should be mentioned that the Directive consider to be very important the principles of subsidiary, proportionality and complementarity, as well as the stakeholders dialogue.

Since various sectors have particular experience, expertise and requirements concerning critical infrastructure protection, a Community approach to critical infrastructure protection was developed and implemented taking into account sector specificities and existing sector based measures including those already existing at Community, national or regional level, and where relevant cross-border mutual aid agreements between owners/operators of critical infrastructures already in place. Given the very significant private sector involvement in overseeing and managing risks, business continuity planning and post-disaster recovery, a Community approach needs to encourage full private sector involvement [2].

Within the Community there are a large number of critical infrastructures whose disturbance or destruction could have **significant cross-border effects**. This could

comply the inter-sectorial cross-cutting effects that result from the interdependencies in between interconnected infrastructures [3]. Such as ECI should be identified and designed using **a common procedure**.

The stages proposed by the Directive for the Identification and the designation of ECIs (articles 3 and 4) (Fig.1)

Step 1: Each state Member applies the sectorial criteria in order to make a first selection of the infrastructures within a given sector.

The directive already mentions the criteria for the energetic and transport sector.

Step 2: Each state member applies the definition of the critical infrastructure as mention at article 2 (a)

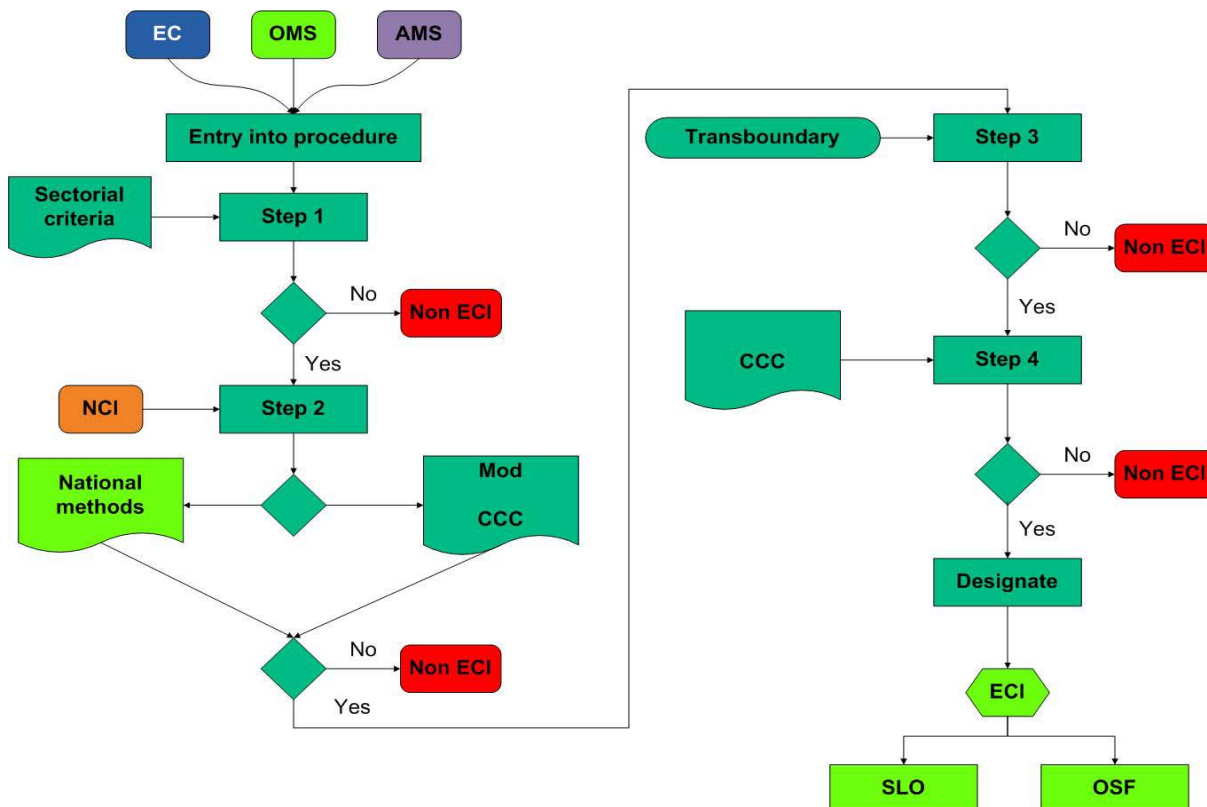
There are taken into consideration only the infrastructures that, as the definition mentions, are perceived by the OMS as being critical.

Step 3: Each state member applies the cross-cutting element of the ECI's definition as mentioned at article 2 (b).

This step validates whether the disturbance or the destruction of a certain infrastructure has a significant cross-cutting effect against another state member.

Step 4: each state member applies intersectorial criteria in case of all the other left infrastructures.

Only the infrastructures that are perceived commonly by OMS and AMS should be taken into consideration.



**Fig.1 – Process of identification and classification of a critical infrastructure**  
 Source: Joint Research Center (JRC) – European Comission

### **3. CRITICAL INFRASTRUCTURE PROTECTION IN ROMANIA**

Critical infrastructure protection Romanian national is put into practice in one form or another, through the European Programme for Critical Infrastructure Protection in at least three ways [4]:

1. Harmonizing national legal system, the action plans and the mutual information European standards and obligations in emergency cases assumed during the process of integration into European and Euro-Atlantic structures; it should be harmonized legally the Directive EC114/2008 and developed new working procedures and regulations for assessment, risk analysis, exchange of information between specialized structures, between the competencies and the responsibilities concerning the management, the control and the coordination of government and sectorial levels, assurance of logistics (human, material and financial) available for intervention that can act internally or to international requests.
2. Dependencies and interdependencies between Romanian and European critical infrastructures: Romania's strategic options will take into account the rapid development of specialized and efficient infrastructure networks, compatible with European and Euro-Atlantic ones, able to support accelerated economic development and upgrading and strengthening national security. For that it has to be launched various research programs in national development cooperation and partnership with other member states of the European Union and NATO.
3. Participation in the development and implementation of policies, strategies and specific norms to combat terrorism, illegal trafficking, organized crime and other serious threats: All ministries that coordinate or lead a critical infrastructure as well as their owners or operators, will consider their obligations under Directive EC114/2008, to contribute with proposals, appropriate measures and "learned lessons" to improve national and European standards.

Considering the fact that currently, most critical infrastructures are owned by private operators, national or multinational, it is necessary to develop a national strategy and regulatory legal actions to promote effective public-private partnership on security CIP generally and specifically.

According to the Directive EC 114/2008, it is necessary to establish the legislative framework for implementation, monitoring and coordination of intersectorial action for prevention, education, intervention in case of necessity and the restoration of damaged structures, all these measures and actions aimed at protecting the public safety in affected areas or major risk of being affected.

It is also necessary the permanent monitoring of events possible to occur near the borders of Romania, with the risk of being affected people or facilities considered critical in neighbouring countries but also in Romania.

Attention is required to be paid to energy critical infrastructure, transit transport and electricity, gas or oil, and land transport infrastructure, air and marine areas considered - both at the European Union and NATO level – priority and very sensitive.

### **4. THE RESPONSABILITIES OF CRITICAL INFRASTRUCTURES OWNERS OR OPERATORS IN ENERGETIC SYSTEM REGARDING CIP**

Regarding energetic sector, even though Romania has resources to service (but does not provide full consumer needs) it is considered a transit country with opportunities but also responsibilities for security of transit and transport routes electricity, gas and petroleum products to Western Europe will need to carry out the missions planned by mutual agreement in cooperation with other NATO or EU member states. Therefore several directions should be mentioned:

- The current capitalization of human potential in energy research, raising expertise to link technical knowledge of global developments with customization opportunities nationwide;
- creating opportunities to stimulate profesionists to remain in the country and work in energy research to help Romanian in absorbting European research funds;
- association with other structures of research, academia, the private sector or NGOs, to promote consistency of public-private partnership on security of energy infrastructure;
- assimilation of the CIP concept through their own effort and consultant contracts or outsourcing of specific activities managed critical infrastructure protection;
- continuing with the R & D sectorial Plan for energy and allocate increased funds for this program.

## **5. CONCLUSIONS**

Starting from existing legal obligations at this time in Romanian law and having regard to the new European Directive, we consider oportune to be developed at national level the activity of CIP based on legislation dedicated to answer to the following general issues;

- Establish general and sectorial criteria for including various infrastructures in the category of critical infrastructures;
- Establish the framework through which to define specific activities and roles of authorized state authorities and operators of critical infrastructure;
- Establish a coherent strategy to ensure continuity of critical infrastructure activities at sectorial and intersectorial level;
- Coherent approach of interdependences at sectorial and inter-sectorial level as well as at national and regional level
- Approach of critical infrastructure protection of private and public-private partnership development in the business of protecting critical infrastructure;
- Establishing a framework for dissemination of information to those interested, to share experience and to create premises for the generalization of a coherent national strategy.

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