



**COUNCIL OF
THE EUROPEAN UNION**

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14935/07

LIMITE

| | |
|----------------|------------|
| PROCIV | 195 |
| JAI | 575 |
| COTER | 80 |
| ENER | 271 |
| TRANS | 356 |
| TELECOM | 138 |
| ATO | 152 |
| ECOFIN | 441 |
| ENV | 603 |
| SAN | 199 |
| CHIMIE | 38 |
| RECH | 354 |
| DENLEG | 109 |
| RELEX | 836 |

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NOTE

from : General Secretariat
to : Working Party on Civil Protection

No. prev. doc. : 14915/07 PROCIV 194 JAI 573 COTER 79 ENER 269 TRANS 350
TELECOM 136 ATO 151 ECOFIN 440 ENV 600 SAN 198 CHIMIE 37
RECH 352 DENLEG 108 RELEX 832

No. Cion prop. : 16933/06 PROCIV 273 JAI 725 COTER 64 ENER 323 TRANS 345
TELECOM 133 ATO 174 ECOFIN 472 ENV 713 SAN 270 CHIMIE 43
RECH 365 DENLEG 61 RELEX 929 + ADD 1 + ADD 2

Subject : Proposal for a Directive of the Council on the identification and designation of
European Critical Infrastructure and the assessment of the need to improve their
protection
- Draft progress report

Delegations will find in the Annex a draft progress report on the above proposal to be discussed at the meeting of the Working Party on Civil Protection at its meeting on 20 November 2007.

In order to facilitate the discussions on the draft, the Presidency invites delegations to send any comments or text proposals they may have already before the above meeting takes place to the Presidency (**DELETED**), with a copy to the Council Secretariat (**DELETED**).

It is the intention to submit this progress report to the Council on 6/7 December 2007.

DRAFT

**PROGRESS REPORT ON WORK ON
A EUROPEAN PROGRAMME FOR CRITICAL INFRASTRUCTURE PROTECTION**

1. Following the Madrid terrorist attack, the European Council of June 2004 had asked for the preparation of an overall strategy to enhance the protection of critical infrastructures¹. Following the London terrorist attack, the Council in December 2005 called on the Commission to submit a proposal in this area while laying down some general principles to be taken into account in future work². It is the purpose of this report to take stock of the progress achieved since then and to give indications on the way ahead.

2. After extensive consultations with Member States, industry and other stakeholders, the Commission issued in December 2006 the *Communication on a European Programme for Critical Infrastructure Protection (EPCIP)*³ which sets out an overall policy approach and framework for EPCIP. As one element of this framework, the Commission also submitted a *Proposal for a Directive on the identification and designation of European Critical Infrastructure and the assessment of the need to improve their protection*⁴. In February 2007, the Commission in addition issued a *Communication on Protecting Europe's Critical Energy and Transport Infrastructure*⁵.

¹ 10679/2/04 REV2, point 19

² 14689/05

³ 16932/06

⁴ 16933/06

⁵ 6315/07 EU RESTRICTED (a partly declassified version of this document is contained in 6315/07 EXT1 REV1)

3. Since then, substantial progress has been achieved. The Council has, as a first reaction to the EPCIP-Communication and proposed Directive, adopted conclusions⁶. Even though the proposed Directive had, in dealing with a new policy field on the EU level, raised difficult questions, the discussions on that Directive in the competent Working Party have enabled a number of issues to be clarified and most questions of a more technical nature were solved. The opinions of the European Parliament⁷ and the European Central Bank⁸ were examined.
4. Following discussions between delegations and the Commission, the proposal has been adapted significantly, in particular regarding the process leading to the identification and designation of European Critical Infrastructure, the implementation of the Directive and the role of the Committee. Delegations also agreed that the cross-cutting and sector-specific criteria should be annexed to the proposed Directive and not be adopted through Comitology procedure; therefore, the Directive could only be adopted once agreement has been reached on the cross-cutting criteria as well as on the specific criteria applying to the transport sector, the energy sector and the information and communication technology sector. In this context, the Commission has been invited to submit as soon as possible concrete proposals for the cross-cutting and sector-specific criteria. [The Commission has already presented its ideas on the abovementioned criteria.] The current state of negotiations is described in greater detail in 14915/07.
5. However, it should be noted that, while recognising the added-value of EU-cooperation on Critical Infrastructure Protection, DE, followed by SE, requested clarification of the relationship between existing sector-specific instruments and the proposed Directive. DE, with SE support, has entered an overall reservation on the approach proposed by the Commission, proposing, as one possible alternative, the adoption of a *Council Decision establishing a mechanism for the exchange of information and best practices as well as for*

⁶ 7743/07

⁷ The provisional version of the opinion of the EP is contained in doc. P6_TA-PROV (2007)0325

⁸ 8987/07

*the preparation of recommendations regarding European Critical Infrastructure priority sectors in order to improve their protection*⁹. CZ has also entered an overall reservation but does not see the adoption of such a mechanism as a possible alternative. DK/MT/UK have noted that some elements of the approach proposed by DE deserve further consideration.

6. As to the way ahead, it is the intention to continue the necessary discussions of this new policy field and strive for adoption of an instrument without undue delay, if possible under the next Presidency. In order to achieve this objective, the Commission has been invited to continue to provide information on the technical background to its proposals, *inter alia* by organising informal meetings with experts from the Member States and, in order to avoid any duplication, by analysing existing legislative documents in this field. Moreover, it is the intention to present the state of play on implementation of the Action Plan contained in the EPCIP-Communication.
7. Finally, in response to requests from several third countries, the Presidency, together with the Commission, has given delegations from the EFTA countries, Russia and the United States an informal update on the state of play of EU work on EPCIP without engaging in any kind of formalized cooperation at this stage; this they will continue to do.

⁹ 14282/07