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 (Text with EEA relevance)

Article 3

Identification of ECIs

1 Pursuant to the procedure provided in Annex III, each Member State shall identify potential ECIs which both satisfy the cross-cutting and sectoral criteria and meet the definitions set out in Article 2(a) and (b).

The Commission may assist Member States at their request to identify potential ECIs.

The Commission may draw the attention of the relevant Member States to the existence of potential critical infrastructures which may be deemed to satisfy the requirements for designation as an ECI.

Each Member State and the Commission shall continue on an ongoing basis the process of identifying potential ECIs.

2 The cross-cutting criteria referred to in paragraph 1 shall comprise the following:

a casualties criterion (assessed in terms of the potential number of fatalities or injuries);

b economic effects criterion (assessed in terms of the significance of economic loss and/or degradation of products or services; including potential environmental effects);

c public effects criterion (assessed in terms of the impact on public confidence, physical suffering and disruption of daily life; including the loss of essential services).

The cross-cutting criteria thresholds shall be based on the severity of the impact of the disruption or destruction of a particular infrastructure. The precise thresholds applicable to the cross-cutting criteria shall be determined on a case-by-case basis by the Member States concerned by a particular critical infrastructure. Each Member State shall inform the Commission on an annual basis of the number of infrastructures per sector for which discussions were held concerning the cross-cutting criteria thresholds.

The sectoral criteria shall take into account the characteristics of individual ECI sectors.

The Commission together with the Member States shall develop guidelines for the application of the cross-cutting and sectoral criteria and approximate thresholds to be used to identify ECIs. The criteria shall be classified. The use of such guidelines shall be optional for the Member States.

3 The sectors to be used for the purposes of implementing this Directive shall be the energy and transport sectors. The subsectors are identified in Annex I.

If deemed appropriate and in conjunction with the review of this Directive as laid down in Article 11, subsequent sectors to be used for the purpose of implementing this Directive may be identified. Priority shall be given to the ICT sector.