

**Emergency ordinance no. 98 from 3rd of November 2010
on the identification, designation and protection of critical infrastructures**

THE GOVERNMENT OF ROMANIA
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Considering that ensuring an adequate level of infrastructures protection is essential for economic development, maintenance of society's vital functions and safety of citizens, and that disruption or destruction of critical infrastructures would undermine national security due to the significant impact caused by the inability to maintain those functions,

having regard to the requirement of transposition and implementation until January 12, 2011, of the 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, published in the Official Journal No. L 345/75 of 23.12.2008,

taking into account the need to adopt, at that time, a set of laws necessary to implement the provisions of the Directive,

taking into account the procedures for identification and designation of national and European critical infrastructures, which need to be completed by that date,

whereas the completion of the secondary normative framework, respectively the crossing through some specific procedures, is conditioned of the existence of primary rules on the protection of critical infrastructure,

considering that the delay of an accurate and complete transposition of the Council Directive 2008/114/EC of 8 December 2008 will have serious prejudices over Romania, consisting in difficulties in accessing the European funds made available through the European Commission Program for preventing, preparing and managing the terrorist acts and other risks related to security between 2007 – 2013, and blocking the possibilities to conclude, in due time, the agreements between Romania and other European Union member states which are involved in identification and designation of ECI's could produce as a consequence the initiation of infringement procedure against Romania,

considering that the delay of concluding the bilateral/ multilateral agreement with the EU member states in order to designate the critical infrastructure could place Romania in the situation of not being informed immediately over certain disastrous trans-border effects due to some malfunctions of installation, services and vital systems for Romania, positioned in those countries, and would deprive it from certain coordinating and integrated measures at European level meant for assuring critical infrastructure protection and also of the instruments for limiting and eliminating the negative consequences of such disruption or perturbation of those infrastructures,

Considering that all these aspects are of public interest and represent exceptional circumstances, whose settlement cannot be delayed,

Under Article 115. (4) of the Romanian Constitution, republished,

The Government of Romania adopts the present emergency ordinance.

CHAPTER I

General Provisions

Subject to regulatory

Article 1

The present emergency ordinance establishes the legal framework for the identification, designation of national/European critical infrastructures and for the assessment of the need to improve their protection, in order to increase the capacity to ensure stability, security and safety of the economic and social systems and of individuals' protection.

Scope

Article 2

(1) The provisions of this Emergency Ordinance will be applied to all legal persons of public or private law that carry out activities and provide essential services of national interest in the sectors and subsectors provided in annex no. 1.

(2) The provisions of the present emergency ordinance shall apply accordingly to sectors foreseen by EU directives.

Definitions

Article 3

For the purpose of the present emergency ordinance, the terms and expressions below are defined /used as follows:

a) *National Critical Infrastructure*, hereinafter referred to as NCI, is both an element, a system or a component of it, located on the national territory, which is essential for maintaining the vital functions of society, health, safety, security, social or economic well-being of persons. and whose disturbance or destruction would have a significant impact at national level as a result of the inability to maintain those functions, as well as the project of a strategic objective of national interest whose construction is imperative to safeguarding the national interest;

b) *European critical infrastructure* hereinafter, ECI - a national critical infrastructure, whose disruption or destruction would have a significant impact on at least two EU Member States, hereinafter, „the Member States”. The importance of the impact shall be assessed in terms of cross-sectoral criteria. This includes effects arising from intersectoral relations of dependency on other types of infrastructures;

c) *Critical infrastructure protection*, hereinafter referred to as CIP - the unitary set of processes and activities organized and carried out in order to ensure the functionality, continuity of services and integrity of NCI / ECI in order to deter, diminish and neutralize a threat, a risk or a vulnerable point by identifying, implementing and maintaining the security, organizational, technical, procedural and other measures resulting from the risk management processes. The CIP includes, in a non-exhaustive list, the activities carried out for the identification and designation of NCI / ECI, the risk management processes, the protection of sensitive information specific to the domain, the implementation of the security plans of the critical infrastructure operators, hereinafter referred to as the OSP, the establishment of the police officers, liaison for ICN / ICE security, staff training, early communication and warning, as well as exercises, reports, OSP viability tests, re-evaluations and updates of prepared documents.

d) *risk analysis* - analyzing the significant threat scenarios, in order to assess vulnerability and potential impact of disruption or destruction of NCI /ECI;

e) *responsible public authority* - a public institution designated under the conditions of this emergency ordinance, which, according to the legal competences and powers, is responsible for organizing and carrying out activities in the fields corresponding to the critical infrastructure sectors and subsectors presented in Annex no. 1;

f) *owners / operators / managers NCI /ECI* are those entities in charge of investment in an item, system or component thereof, designated as NCI /ECI, according to the present emergency ordinance, and/or in charge of the current operation / management of thereof;

g) *critical thresholds* - limit values depending on the severity of impact, disruption or destruction of infrastructures and which leads to its identification as NCI / ECI.

h) *Critical Infrastructure Warning Information Network* hereinafter, CIWIN – secured information and communication system, intended for national institutions and other Member States' assistance for information exchange related to vulnerabilities, appropriate measures to reduce them and risk mitigation strategies;

i) *sensitive information on critical infrastructure protection* - information on critical infrastructures, which could be used for disclosure, planning and completion of actions which would cause disruption or destruction of critical infrastructure facilities;

j) *essential services* - those services, facilities or activities that are or could be necessary to ensure a minimum standard of living and welfare of society and whose degradation or interruption, as a result of disruption or destruction of the basic physical system, would significantly influence safety or security of the population and the functioning of public institutions.

k) *OSP* - the planning document at strategic level, with operative character through the associated procedures, elaborated for each NCI / ECI designated and destined to achieve the risk management at NCI / ECI level, which defines their purpose, objectives, requirements and security measures;

l) *NCI / ECI resilience* - its ability to absorb the initial shock, to adapt as a result of a hazard or threat and to recover from their occurrence to continue to provide the essential services of the society;

m) *vital functions* - those services that are essential for the functioning of the society, such as: government affairs management; international activities; national defense; internal security; functioning of the economy and infrastructure; security of population's income and standard of living.

n) *strategic objective of national interest* - element, system or network from the territorial infrastructure of any type or technical decision-making support necessary for the political-military management of the National Security System and maintaining the social balance in the general assembly of the Romanian state.

CHAPTER II **Roles and responsibilities**

National Coordination

Article 4

(1) Coordination, at national level, of the activities regarding the identification, designation and protection of the NCI / ECI is carried out by the Prime Minister, through the designated counselor. In order to fulfill the responsibilities established by this emergency ordinance, the Prime Minister issues decisions.

(2) The Ministry of Internal Affairs, hereinafter referred to as the M.A.I., through the National Center for the Coordination of Critical Infrastructure Protection, hereinafter referred to as CNCPIC, is responsible for organizing and carrying out the activities necessary to implement the legislation specific to the CIP domain.

(3) The M.A.I., through the CNCPIC, ensures the strategic planning, coordination, permanent monitoring and control over the stage of the implementation of the activities regulated by this emergency ordinance, the national contact point in relation with other Member States of the European Union, the European Commission, the North Atlantic Treaty Organization and other international organizations and bodies, as well as the management of the critical infrastructure alert network - Critical Infrastructure Warning Information Network (CIWIN) at national level.

(4) The provisions of this emergency ordinance regarding the coordination and control of the activities regarding the identification, designation and protection of critical infrastructures are applying to the Romanian Intelligence Service, the External Information Service and the Special Telecommunications Service, only insofar as they do not contravene their own statutes and organizational and functioning laws or other normative acts that regulate their activity

(5) In order to evaluate the way of fulfilling the responsibilities deriving from the specific legislation in the field of critical infrastructure protection by the responsible public authorities, the prime minister can order the execution of control activities in accordance with the legal provisions.

Organisms for CIP

Article 5

(1) At the Government level, under the coordination of the appointed councilor, as mentioned in the article 4 (1), an inter-institutional working group for CIP shall be established and operational.

(2) The composition, attribution and organization of the inter-institutional working group shall be established by Government decision.

Assessments and reports on CIP

Article 6

(1) The responsible public authorities conduct, together with owners/operators /managers of NCI /ECI, a risk and threat assessment of NCI /ECI sub-sectors, within one year after the setting up of critical infrastructure as NCI/ECI, within subsectors concerned and they shall be subsequently annually reassessed. Evaluations shall contain proposals including the need to improve NCI/ECI protection, established within subsectors, and be submitted for approval to the Prime Minister.

(1[^]1) The responsible public authorities together with the owners / operators / administrators of NCI / ECI elaborate annually information on significant risks and incidents, as well as the evolution of threats in NCI / ECI sectors/sub-sectors, and make proposals regarding the need to improve their protection, submitted by CNCPIC in order to develop an integrated report, which will be submitted for approval to the Prime Minister

(1[^]2) Above-mentioned documents will be sent to CNCPIC by 15th of December each year in order that the annual report regarding the implementation of CIP at national level could be drafted and submitted to the Prime Minister for approval

(2) The owners /operators /managers of NCI /ECI are obliged to inform the responsible public authorities for any change in the approved NCI /ECI.

(3) M.A.I., through National Center for Coordination of Critical Infrastructures Protection submits to the European Commission, every two years, a summary report containing general information on types of risks, threats and vulnerabilities identified in each sector, where under Art. 10 an ECI has been approved, and which are located on the national territory.

(4) M.A.I., through National Center for Coordination of Critical Infrastructures Protection submits to the European Commission annual information on the number of infrastructure sectors that were subject to debates on the threshold intersectoral criteria.

(5) The report referred to in paragraph (3) shall be classified according to the information contained, according to the national law on classified information and forwarded to the European Commission by CNCPIC under the signature of the Prime Minister.

(6) National Center for Coordination of Critical Infrastructures Protection and the responsible public authorities, together with the European Commission and the responsible authorities from other Member States assess, at sectoral level, based on the biennial reports mentioned at paragraph 3, the need to provide additional safeguarding measures for ECI, at Community level.

Article 6¹

(1) M.A.I., through C.N.C.P.I.C., supports the responsible public authorities and the owners / operators / administrators of NCI/ECI, by providing them with access to information on best practices and methods available, facilitates participation in actions coordinated by the European Commission on training and information exchange on new technical developments in the field of CIP and organizes the cooperation between the responsible public authorities at national level, as well as their collaboration with the owners / operators / administrators of NCI / ECI with similar institutions in the Member States of the European Union, with the European Commission, NATO and other international organizations and bodies with activities / attributions in the field.

(2) C.N.C.P.I.C. has the following main tasks:

a) elaborates the draft of normative acts in the field of CIP and the specific strategic planning documents, which will be submitted to the analysis of the representatives of the responsible public authorities represented in the interinstitutional working group for the CIP, with a view to the subsequent initiation, by the M.A.I., of the legal procedures for approval and adoption;

b) elaborates and updates the methodological norms for the realization / equivalence / revision of the OSP, the OSP framework structure and the attributions of the liaison officer for the NCI / ECI security, within the specialized structure designated at the level of the responsible public authorities and at the level of the owners / operators / administrators of the NCI / ECI, which is subject to approval by decision of the Prime Minister, according to the law;

c) supports, at the request of the responsible public authorities, the process of elaborating sectoral instructions, regulations, norms and standards in the field of CIP;

d) elaborates, submits to the debate within the inter-institutional working group for the CIP and proposes for approval by decision of the Prime Minister the methodology for authorizing the liaison officers for the NCI / ECI security;

e) evaluates annually or whenever required, based on the data provided by the responsible public authorities, the risks, threats and vulnerabilities to the NCI / ECI and informs the Prime Minister, through the designated advisor, of the need to improve their level of protection;

f) ensures the permanent technical secretariat of the interinstitutional working group for the CIP;

g) elaborates and proposes for approval, by decision of the prime minister, the Annual Plan for the verification of the implementation of the legislation in the field of CIP by the responsible public authorities and the owners / operators / administrators of NCI / ECI;

h) provides specialized consultancy to the responsible public authorities and to the designated owners / operators / administrators of NCI / ECI, upon their request;

i) monitors the stage of elaboration of the OSP at national level, as well as of their viability testing through exercises;

j) fulfills the role of designated compartment at the level of M.A.I. under the conditions of art. 8

k) elaborates guidelines regarding the modalities of the management of critical infrastructure protection.

(3) In applying art. 4 paragraph (2), the M.A.I., through designated personnel from CNCPIC, carries out control activities based on the plan elaborated under the conditions of par. (2) lit. g), finds contraventions and applies sanctions in accordance with the law.

Responsible public authorities

Article 6²

(1) The responsible public authorities are established through Government's Decision, at the proposal of M.A.I., through C.N.C.P.I.C.

(2) Romanian Intelligence Service, External Intelligence Service and Special Telecommunications Service are the responsible public authorities for critical infrastructures being in the area of competence, related to the sectors “Communication and Information Technology” and “National Security”, as mentioned in the annex no. 1

(3) M.A.I., through C.N.C.P.I.C., identifies potential NCI / ECI that is not within the responsibility of any responsible public authority, according to the identification procedure set out in the annex no. 2

(4) The public authorities responsible for the NCI / ECI identified under the conditions of par. (3) are established by Government decision, at the proposal of the M.A.I., by CNCPIC, endorsed within the interinstitutional working group for the CIP.

Communication and early warning mechanism

Article 6³

(1) at the level of M.A.I., through C.N.C.P.I.C., is constituted and administrated a mechanism of communication and early warning, named MeCAT, destined for assuring integrated management for protection of NCI/ECI, having a role of a national secured information system in the area of protection of NCI/ECI.

(2) MeCAT provides the unitary framework for the exchange of information on incidents, threats, vulnerabilities and risks identified in relation to these types of infrastructures, necessary both in the process of preventing and combating risks and threats, as well as in reducing the impact generated by the inability to maintain essential services provided by them.

Attributions of the public responsible authorities

Article 7

(2) The public responsible authorities perform the following tasks:

a) establish the sectoral / intersectional criteria and the related critical thresholds and elaborate, as the case may be, specific working methodologies for their application in order to identify the potential NCI / ECI;

b) coordinating the process of identifying specific NCI /ECI in the area of responsibility;

c) proposing the establishment of NCI /ECI, according to sectors in their responsibility;

d) informs, at the request of CNCPIC, on the stage of implementation of normative acts in the field;

e) verifying the fulfillment of NCI /ECI owners/operators/managers' obligations established under the present emergency ordinance and imposing penalties for their infringement;

f) approving SOP for NCI /ECI within the area of responsibility;

g) taking part, upon request of M.A.I through National Center for Coordination of Critical Infrastructures Protection, at the bilateral/ multilateral discussions in order to conclude agreements necessary to identify and establish ECI;

h) establishing /ordering, as appropriate, those necessary measures in order to improve the specific activity of NCI /ECI in the area of responsibility;

i) informing M.A.I., through CNCPIC, on the identification stage of NCI /ECI in the area of responsibility;

j) provides the financial resources necessary for organizing and carrying out specific activities in the field of CIP for NCI / ECI, which are directly responsible, within the budget allocated

k) participates, at the request of the European Commission, transmitted through the national contact point, in the elaboration of the guidelines for the application of the sectoral and inter-sectoral criteria and in the approximation of the values of the critical thresholds that are used to identify ECI

l) establishes measures to reduce NCI / ECI vulnerabilities from liability and improve their resilience

m) notifies CNCPIC about the participation of its own staff and that of the owners / operators / administrators of NCI / ECI from responsibility for international activities specific to the CIP domain and presents to the interinstitutional working group for the CIP the aspects discussed in the activities in which they participated;

n) participates, at the request of CNCPIC, in control activities, organized under the conditions of article 6¹ para. (3)

Article 7¹

The owners / operators / administrators of NCI / ECI have the following tasks:

- a) designates, for each NCI / ECI under responsibility, a liaison officer for NCI / ECI security;
- b) elaborates for each NCI / ECI from OSP responsibility and sends it for approval to the responsible public authorities;
- c) carries out the activities related to the protection of the designated NCI / ECI;
- d) participates in the request of the responsible public authorities or CNCPIC for specific activities
- e) participates, according to the competences, in the operationalization of MeCAT;
- f) informs the responsible public authorities of any changes that may have an impact on NCI / ECI protection;
- g) informs the responsible public authorities and CNCPIC about the participation in national / international activities specific to the CIP domain, as well as the aspects discussed in these activities;
- h) implements measures to reduce designated NCI / ECI vulnerabilities and to improve their resilience
- i) ensures the authorization of NCI / ECI security liaison officers appointed for each NCI under their responsibility
- j) provides the financial resources necessary for the organization and conduct of the activities related to the protection of the NCI / ECI under responsibility

The specialized department on NCI / ECI

Article 8

(1) Each responsible public authority, as well as each owner / operator / administrator of NCI / ECI who has more than one NCI / ECI responsibility, is required to set up / designate a specialized structure / compartment in the NCI / ECI field, which will also play the role of contact point for critical infrastructure security issues between the owners / operators / administrators of NCI / ECI and the responsible public authorities.

(2) The responsible public authorities and the owners / operators / administrators of NCI / ECI who have the responsibility for a single NCI / ECI have the obligation to appoint a liaison officer for NCI / ECI security who will also play the role of contact point for security matters. critical infrastructures between the owners / operators / administrators of NCI / ECI and the responsible public authorities.

(3) The structure / compartment in par. (1) is headed by a liaison officer for NCI / ECI security and is directly subordinated to the head of the responsible public authority or to the owner / operator / administrator of NCI / ECI.

(4) The responsible public authorities establish and implement an adequate communication mechanism with the NCI / ECI security liaison officers from the owners / operators / administrators of NCI / ECI, in order to exchange relevant data on the risks and threats identified in connection with NCI / The respective ECI, with the security of classified / sensitive information regarding the protection of critical infrastructures, according to the regulations in force.

(5) Within one year of the designation of an NCI / ECI, the responsible public authorities and the owners / operators / administrators of NCI / ECI have the obligation to ensure the training of the liaison officers for the security of the NCI / ECI and of the personnel designated to perform the duties in the field of infrastructure protection. critical in the educational units for training and professional development skills, according to the law.

(6) The liaison officers for NCI / ECI security shall be evaluated and authorized periodically under the conditions established by the authorization methodology approved by the Prime Minister's decision.

CHAPTER III

Identification, designation and protection of NCIs / ECIs

Identification of NCIs / ECIs

Art. 9

(1) Pursuant to the procedure provided in Annex 2, the public responsible authorities identify potential NCIs / ECIs which both satisfy the cross-cutting and sectoral criteria and meet the definitions set out in Article 3(a) and (b).

(2) Sectoral criteria and related critical threshold defined based on the severity of the impact of the disruption or destruction of a particular infrastructure, are determined by:

a) orders of the heads of the public responsible authorities, according to their areas of responsibility, for NCIs and potential ECIs;

b) agreement between Member States, for ECIs.

(3) The cross-cutting criteria which are the basis for identifying NCIs / ECIs are as follows:

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.

(4) The cross-cutting criteria are not cumulative for identifying NCIs / ECIs.

(5) The cross-cutting criteria critical thresholds defined based on the severity of the impact of the disruption or destruction of a particular infrastructure shall be established by Government decision.

(6) The persons of public or private law that carry out activities and provide essential services of national interest in the sectors and subsectors provided in the annex no. 1 have the obligation to participate, at the request of the responsible public authorities or the M.A.I. through CNCPIC, at the process of identification and designation of NCI / ECI.

(7) In order to establish the sectoral / inter-sectoral criteria and the related critical thresholds, the responsible public authorities may also collaborate with other authorities or legal persons, under the conditions in which the NCI / ECI could generate effects in their area of responsibility.

(8) The sectors established for the implementation of this emergency ordinance shall be those provided in Annex 1, and the public responsible authorities may subsequently identify other sectors, for ECI priority is given to the sector – Information and communications technology.

(9) At the request of the European Commission, transmitted through the national contact point, the responsible public authorities or the owners / operators / administrators of NCI / ECI, as the case may be, can participate in the elaboration of the guidelines for the application of the sectoral / intersectoral criteria and the approximation of the threshold values that are used to identify the ECI. The use of these guidelines is optional for the responsible public authorities.

Art. 9¹

(1) The strategic objectives of national interest at the design stage, which meet the sectoral and inter-sectoral criteria related to the procedure of identification and designation of the NCI, are subject to the provisions of the legislation in the field of critical infrastructure protection.

(2) The methodological norms for identifying the strategic objectives of national interest, at the design stage, are established by Government decision.

Designation of NCIs / ECIs

Art. 10

(1) Following the process of identifying potential NCI / ECI, the responsible public authorities propose the M.A.I., through CNCPIC, the designation of NCI / ECI.

(2) The NCI / ECI designation is approved by Government decision.

(3) M.A.I., through the CNCPIC, following the process of identifying potential ECI, informs the Member States that can be significantly affected by a possible ECI regarding its identity and the reasons for designating the respective infrastructure as potential ECI.

(4) The responsible public authorities participate, at the request of the MAI, through the CNCPIC, in bilateral and / or multilateral debates with the other Member States that can be significantly affected by a potential ECI located on the national territory or that can significantly affect the national territory, in the case potential ECIs located in other Member States.

(5) If the responsible public authorities consider that Romania could be significantly affected by a potential ECI located in another Member State, however, it is not identified as such by the Member State in whose territory the potential ECI is, notifies CNCPIC in order to inform the prime minister, according to art. 4 paragraph (1). With the approval of the Prime Minister, The Ministry of Administration and Interior, through CNCPIC, informs the European Commission about Romania's intention to participate in bilateral and / or multilateral debates on this topic, in order to request the acceptance of the Member State on whose territory the infrastructure is to be. designated as ECI.

(6) The designation of ECI is made following an agreement between competent authority in Romania and those from the Member States, which could be significantly affected, with the consent of the Member State on whose territory the infrastructure to be designated as ECI is located and is approved through Government's Decision.

(7) The M.A.I., through CNCPIC, informs the European Commission annually on the number of ICE designated in each sector, as well as on the number of Member States dependent on each designated ECI.

(8) The public responsible authorities shall inform the owner / operator / manager of NCI / ECI concerning its designation as a/an NCI / ECI within 10 days after entry into force of the normative document of designation.

Protection of NCIs / ECIs

Art. 11

(1) Within 9 months of the designation of an infrastructure as NCI / ECI, the owner / operator / manager of NCI / ECI shall develop and submit the OSP for approval to the public responsible authorities.

(2) OSP identifies critical infrastructure elements of NCIs / ECIs and existing security solutions or that are to be implemented for their protection.

(3) The minimum requirements regarding the content of the OSP are provided in Annex 3.

(4) The responsible public authorities shall ensure, within one year of the designation of the infrastructure as NCI / ECI in the sector of responsibility, that there is a OSP or its equivalent. In the case of ECI, the term can only be extended in exceptional situations, with the agreement of the Prime Minister and the notification of the European Commission to this effect by the M.A.I., through CNCPIC.

(5) If there is an equivalent of OSP, it is assessed, tested and, if necessary, revised and updated by the owner / operator / manager of NCI / ECI, according to the minimum requirements regarding the content of OSP.

(6) The OSP is implemented, evaluated, tested and, if necessary, revised and updated by the owners / operators / administrators of NCI / ECI, periodically, at intervals of no more than 2 years, as well as whenever necessary.

(7) Where there are agreements on monitoring and supervision of an ECI, these agreements are not affected by this article, and the responsible national authority for the sector the related ECI belongs to has the role of supervisory authority in accordance with the existing agreements.

CHAPTER IV

Contraventions and penalties

Offences

Art. 12

The following acts committed by the responsible public authorities and / or the owners / operators / administrators of NCI / ECI constitute contraventions:

- a) failure in taking the measures to set up the NCI / ECI specialized compartment, according to article 8 (1);
- b) failure to fulfill the obligations referred to in article 8 (5);
- c) non-observance of the provisions regarding the participation in the process of identification and designation of the NCI / ECI, according to the provisions of art. 9 paragraph (6);
- d) failure in drafting the OSP under article 11 (1);
- e) failure to assess, review and update the OSP under article 11 (6) and to fulfill the tasks provided in OSP or the measures established by the public responsible authorities for endorsement of OSP.

Penalties

Art. 13

(1) Contraventions referred to in article 12 shall be penalized as follows:

- a) with fine from 2000 – 5000 lei, contraventions under article 12 (a) – (c);
- b) with fine from 10000 – 30000 lei, contraventions under article 12 (d) and (e).

(2) Establishing of contraventions and the application of the sanctions provided for in this emergency ordinance is carried out by

- a) the authorized staff from the public authorities responsible for the NCI / ECI sectors in charge
- b) CNCPIC staff under the conditions provided in art. 6 ^ 1 paragraph (3).

(3) The provisions of this article shall be complemented with the provisions of the Government Ordinance no. 2/2001 on legal regime of contraventions, approved by Law no. 180/2002, with subsequent amendments.

CHAPTER V

Final provisions

Application of this emergency ordinance

Art. 14

(1) The process of identification and designation of NCI ends on November 30, 2010 and shall be reviewed periodically.

(2) The process of identification and designation of ECI ends on January 12, 2011 and shall be reviewed periodically.

(3) After the completion of the activities provided in par. (2) The European Commission will be informed immediately, by the M.A.I., through the CNCPIC, about the measures arranged for the transposition of the provisions of the directive, while transmitting the texts and the correlation table.

Information protection

Art. 14^1

(1) The responsible public authorities and the law-enabled structures ensure that classified information on NCI / ECI protection used at national level, as well as those transmitted to the Member States or the European Commission, are not used for any purpose other than the CIP.

(2) Sensitive information regarding the protection of critical infrastructures is classified, as the case may be, at an appropriate level, according to the law. The dissemination of this information

is done according to the principle of the need to know, both in relation to the responsible public authorities, the owners / operators / administrators of NCI / ECI, as well as with the other Member States.

(3) Any person operating with information classified under this Emergency Ordinance on behalf of the Romanian State or the European Commission is subject to a security check at the appropriate level.

(4) The provisions of para. (1) and (2) apply equally to information expressed verbally and unwritten during meetings in which sensitive topics are discussed.

Additional normative acts

Art. 15

(1) Through Government decision shall be approved:

a) composition, functions and organization of inter-institutional working group, referred to in article 5 (2) within 30 days from the entry into force of this emergency ordinance;

b) the cross-cutting critical thresholds provided in article 9 (5), within 60 days from the entry into force of this emergency ordinance;

c) designation of NCI provided in article 10 (2) until November 30, 2010.

(2) The orders of the heads of the public authorities under article 9 (2) a) shall be issued within 60 days from the entry into force of this emergency ordinance.

Annexes

Art. 16

Annexes no. 1 – 3 are part of this emergency ordinance.

This emergency ordinance transposes the provisions of Council Directive 2008/114/CE of 8 December 2008 on the identification and designation of the European critical infrastructures and assessment of the need to improve their protection, published in the Official Journal no. L 345/75 of 23.12.2008.

PRIME-MINISTER

EMIL BOC

Bucharest, 3rd of November 2010.

No. 98

List of sectors, subsectors of national critical infrastructure / European critical infrastructure (NCI / ECI)

1.1. NCI sector and the public responsible authorities list

No.	Sector	Sub-sector
1.	Energetic	1.1. Electricity, including nuclear-electric - capacities and installations for production, storage, distribution and transport networks 1.2. Oil and petroleum derivatives - capacities and installations for extraction / production, refining, treatment, storage, distribution and transport through pipelines, terminals 1.3. Natural gases and natural gas derivatives - capacities and installations for extraction / production, refining, treatment, storage, distribution and transport through pipelines, terminals 1.4. Mineral resources
2.	Information and communication technology	2.1. Electronic communications systems, networks and services 2.2. Data processing and storage systems, including electronic public services 2.3. Cybersecurity infrastructures 2.4. Communications systems and networks for the state cipher 2.5. Radio-TV broadcasting infrastructures 2.6. Postal services at national level
3.	Water, forests and the environment	3.1. Supply of drinking water and sewage 3.2. Quality and quantitative control of water 3.3. Environment protection 3.4. Protection of the forestry and hunting fund
4.	Food and agriculture	4.1. Food production and supply, food safety and security
5.	Health	5.1. Medical and hospital care 5.2. Medicines, serums, vaccines, pharmaceuticals 5.3. Bio-laboratory and bio-agents 5.4. Emergency medical and sanitary transport services
6.	National security	6.1. Defence of the country, public order and national security 6.2. Borders, migration and asylum 6.3. National security industry, production and storage facilities and capacities 6.4. Emergency situations 6.5. Justice and penitentiaries
7.	Administration	7.1. Public administration
8.	Transports	8.1. Road transport 8.2. Railway transport 8.3. Air transport 8.4. Water transport
9.	Industry	9.1. Production, processing, storage and use of chemical and nuclear and radioactive materials 9.2. Pipes of hazardous chemical products.
10.	Space and research	10.1. Cosmic space 10.2. Research
11.	Banks and finance	11.1. Taxes and fees 11.2. Insurance 11.3. Banks 11.4. Stock Exchange 11.5. Cash and payment systems
12.	Culture and national cultural heritage	12.1. Cultural public institutes

1.2 ECI sector list

Responsible public authority	Sector	Subsector	
Ministry of Economy, Trade and Business	I. Energy	Electricity	1.1. Infrastructures and facilities for generation, transmission and distribution of electricity, including the energetic resources used
		Oil	1.2. Oil production, refining, processing, storage and pipeline distribution
		Gas	1.3. Gas production, refining, processing, storage and pipeline distribution
			1.4. GNL terminals
Ministry of Transport and Infrastructure	II. Transportation	2.1 Road transport	
		2.2. Rail transport	
		2.3. Aviation transport	
		2.4. Inland waterways transport	
		2.5. Sea transport on short distances and ports	

NOTE: This list is set in accordance with Directive 2008/114/CE and will be completed with the issue of EU directives for appointment as ECI.

Identification procedure by the public responsible authorities for critical infrastructure that may be designated as ECI / NCI

I. Identification procedure of public responsible authorities for infrastructure which can be designated as NCI

1. Public responsible authorities identify critical infrastructure which may be designated as NCI through the following consecutive stages. One potential NCI which does not satisfy one of the following steps is considered “non-NCI” and is excluded from the procedure.
2. One potential NCI which meets the established requirements will pass through the following stages of that procedure.
3. Competent public authority, together with the owners / operators / managers identifies potential NCI covering the following steps:
 - a) Stage 1 - Application of critical sectoral criteria and thresholds;
 - b) Stage 2 - Preliminary assessment by applying the definition of art. 3 points. (A);
 - c) Stage 3 - Application of critical cross-cutting criteria and thresholds;
 - d) Stage 4 - Formulation of proposals for the designation of NCI.

II. Identification procedure by the public authorities responsible for infrastructure which can be designated as ECI

1. Public responsible authorities identify critical infrastructures that may be designated as potential ECI through the following consecutive stages.
2. A potential ECI which does not satisfy one of the following steps is considered "Non-ECI" and is excluded from the procedure.
3. A potential ECI satisfying the established requirements will pass through the following stages of this procedure:
 - a) Stage 1 - Public responsible authorities apply to designated NCI, sectoral criteria for making a first selection of ECIs from one sector;
 - b) Stage 2 - Public responsible authorities apply ECI definition, under Art. 3 b), to the potential ECI identified in the first stage. The significance of the impact is determined through using of national methods for identifying ECI, or according to cross-cutting criteria, at a suitable national level. If an infrastructure provides an essential service, it will be taken into account the availability of alternatives and the duration of the disturbance / re-operation.
 - c) Stage 3 - Responsible public authorities apply the cross border element from the ECI definition, under Article 3 (b), to the potential ECI that passed the first two stages of the procedure. A potential ECI subject meets the definition of next stage of the procedure. If an infrastructure provides an essential service, it will be taken into account the availability of alternatives and the duration of the disturbance / re-operation.
 - d) Stage 4 - Responsible public authorities apply cross-cutting criteria to the potential selected ECI. Under cross sector criteria it is taken into account the severity of impact and, if an infrastructure provides an essential service, it will be taken into account the availability of alternatives and the duration of the disturbance / re-operation.
4. During the identification process, it is sufficient to meet a cross criteria-cutting for potential ECI to pass that stage.
5. A potential ECI which does not meet the cross-cutting criteria is not considered an ECI.
6. One potential ECI that has passed this procedure is communicated only to Member States which may be significantly affected by that potential ECI.

Procedure regarding the operator security plan

1. Through the security plan for the operator it will be identified the elements of ECI / NCI and security solutions which exist or are being applied for their protection.
2. The procedure regarding the operator security plan for the operator of NCI / ECI will cover at least:
 - a) identifying important elements;
 - b) conducting a risk analysis based on scenarios of major threats, vulnerabilities of each element and on the potential impact.
 - c) identification, selection and prioritization of priorities regarding counter-measures and procedures, making distinction between permanent security measures, which identify the indispensable security investments and resources that are relevant for use in any situation. This chapter will include information on general measures such as technical measures - including installation of means of detection, access control, protection and prevention -, organizational measures - including procedures for alerts and crisis management - control and verification measures, communication, awareness and training, gradual security measures, which can be activated by different levels of risks and threats and measures for the security of information systems.