Stakeholder Consultation Strategy

Evaluation of 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

1. Context

Council Directive 2008/114 was adopted in a time when the threat levels facing European critical infrastructure were lower than they are today. The 2017 Comprehensive Assessment of EU Security Policy underlined the new spectrum of challenges that the EU is confronted with in view of new threats and changes in the modus operandi of terrorist organisations. Crucially, the Assessment foresaw the need to be prepared for more attacks on public spaces, the use of explosives, CBRN attacks, but also attacks on critical infrastructure. Given the increased likelihood of attacks in the future, the Assessment concluded that there is a need for a broader approach to the protection of critical infrastructure within the EU, starting with the evaluation of Directive 2008/114.

In its Eleventh progress report towards an effective and genuine Security Union of 18 October 2017, the Commission reported that the evaluation that will be carried out will take account of lessons learned and policy developments in recent years (such as the adoption of the NIS Directive).

The purpose of the evaluation is to assess the effectiveness, efficiency, relevance, coherence and European added value of the Directive, and on this basis offer recommendations as to possible improvements that might strengthen the protection of

1 Directive (EU) 2016/1148 of the European Parliament and the of the Council of 6 July 2016 concerning measures for a high common level of security of network and information systems across the Union
critical infrastructure in Europe.

The evaluation is supported by an external study. An external Contractor will have responsibility for carrying out much of the consultation work related to the evaluation.

An Inter-Service Steering Group (ISG) with representatives from many of the Directorates-General of the European Commission will be set up in order to provide guidance to the Contractor throughout the course of the evaluation.

2. Objectives and scope of the consultations

The Commission, either directly or through the external Contractor that will carry out the evaluation, shall carry out a wide number of stakeholder consultations during the evaluation, the aim being to ensure that all interested parties can provide feedback on the Directive. Besides ensuring transparency and accountability, these consultations will guarantee that the outcomes of the evaluation are credible and of high quality and reflect a wide range of views. The Consultation Strategy at hand seeks to identify appropriate consultation methods that are best suited to the relevant stakeholder groups.

The outcomes of the consultations will feed into the evaluation process and be clearly identifiable in the various reports issued by the Contractor and, later, the Commission in its Staff Working Document on the evaluation.

3. The relevant stakeholders

Those stakeholder groups that might be concerned by the Directive include: the competent authorities at the Member State level; operators of critical infrastructures and other industry stakeholders in the transport and energy sectors; academia and think tanks; the general public; and the relevant Directorate-Generals within the Commission, the European External Action Service (EEAS), and any other EU services/agencies that are deemed relevant (i.e. Europol and ENISA). However, inter-institutional consultations between the various EU institutions will not be addressed as part of this Strategy.

In this context, it is important to point out that the competent authorities at the Member State level participate in regular meetings of the Critical Infrastructure Protection Points of Contact (CIP POCs).
4. Consultation methodology

Appropriate consultation methods will be used to collect responses from the various stakeholder groups listed above. These will include at least one workshop and may include targeted surveys, interviews and other tools that the Contractor deems appropriate for the purposes of the evaluation. In addition, an open public consultation will be carried out via the Commission's website. Unless otherwise stated, all consultations will be carried out by the Contractor.

In order to gather feedback from the operators of critical infrastructures, other industry stakeholders, and competent authorities at the Member State level, the Contractor will participate during a two-day workshop organised by the Commission in Brussels. The Contractor will use this workshop as an opportunity to collect data relevant to the evaluation.2

In addition, the Contractor may opt to conduct interviews and/or targeted online surveys in order to reach operators and competent authorities at the Member State level. Any such interviews/surveys should be based on questionnaires developed by the Contractor, based on the questions and evaluation tasks provided in the Terms of Reference (ToR), and agreed to by the Commission beforehand (through the aforementioned Inter-Service Group set up for the Evaluation).

The Commission will independently consult with the CIP POCs throughout the course of the evaluation. The results of these consultations will be made available to the Contractor as appropriate.

The Contractor should propose in his data collection strategy how relevant academia and/or think tanks will be approached. The Commission will provide approval before any contacts with academia/think tanks are made.

In order to collect views from the general public, the Commission will launch an internet-based open public consultation relating to the Directive. The consultation period will be

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2 During the course of the consultations with operators and competent authorities, the Contractor may be provided with information that is considered sensitive by the stakeholders on the basis of the EU’s own classified information system (EUCI), relevant national-level regulation or both. The management of sensitive information should be thoroughly addressed as part of the Contractor's data collection strategy.
twelve (12) weeks. The outcomes of the open public consultation will feed into the evaluation process. The replies that are submitted to the Commission as part of this consultation will be reflected in a synopsis report consistent with the structure provided in the Better Regulation Guidelines (SWD (2017) 350).

The stakeholder consultation approach that is initially agreed to at the outset of the evaluation may be altered during the evaluation phase as appropriate, but only with agreement from the Commission.

A strategy for how DG HOME proposes to raise awareness concerning the public consultations in particular is provided in the following section.

5. Awareness-raising

In order to raise stakeholders' awareness about the evaluation generally and the various forms of consultation specifically, the CIP POCs will be requested to forward relevant information within their respective networks. Other relevant groups will also be contacted with information at the outset of the evaluation.

Furthermore, DG HOME will employ other means by which to raise awareness concerning the evaluation. For instance, DG HOME will set up a website dedicated to the evaluation on the Europa website. This site will serve to provide general information concerning the evaluation and how it will be carried out. The website will provide a link to the open public consultation (described above) as it becomes available as well as information concerning the relevant unit within DG HOME in charge of overseeing the evaluation. DG HOME may also issue press releases pertaining to the evaluation as appropriate.