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## INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing a Single Market emergency instrument and repealing Council Regulation No (EC) 2679/98 ( <b>first reading</b> ) - Outcome of the European Parliament's first reading and Corrigendum procedure (Strasbourg, 24 April 2024 and Strasbourg, 17 September 2024)

## I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the Joint Declaration on practical arrangements for the co-decision procedure<sup>1</sup>, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this legislative file at first reading.

This file was expected<sup>2</sup> to undergo the Corrigendum procedure<sup>3</sup> in the European Parliament after adoption by the outgoing Parliament of its position at first reading.

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<sup>1</sup> OJ C 145, 30.6.2007, p.5.

<sup>2</sup> 10078/24.

<sup>3</sup> Rule 251, EP Rules of Procedure.

## II. VOTES

At its sitting of 24 April 2024, the European Parliament adopted amendment 296 (without legal linguistic revision) to the Commission proposal and a legislative resolution, constituting the European Parliament's position at first reading. It reflects what had been provisionally agreed between the Institutions.

After finalisation of the adopted text by the legal linguists, the European Parliament approved on 17 September 2024 a corrigendum to the position adopted at first reading.

With this corrigendum, the Council should be able to approve the position of the European Parliament as set out in the Annex<sup>4</sup> hereto, thus bringing to a close the first reading for both Institutions.

The act would then be adopted in the wording which corresponds to the European Parliament's position.

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<sup>4</sup> The text of the corrigendum is set out in the Annex. It is presented in the form of a consolidated text, where changes to the Commission's proposal are highlighted in bold and italics. The symbol "■" indicates deleted text.

**P9\_TA(2024)0320**

## **Single Market Emergency Instrument**

**European Parliament legislative resolution of 24 April 2024 on the proposal for a regulation of the European Parliament and of the Council establishing a Single Market emergency instrument and repealing Council Regulation No (EC) 2679/98 (COM(2022)0459 – C9-0315/2022 – 2022/0278(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2022)0459),
- having regard to Article 294(2) and Articles 114, 21 and 46 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0315/2022),
- having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
- having regard to the reasoned opinion submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Swedish Parliament, asserting that the draft legislative act does not comply with the principle of subsidiarity,
- having regard to the opinion of the European Economic and Social Committee of 14 December 2022<sup>1</sup>,
- having regard to the opinion of the Committee of the Regions of 8 February 2023<sup>2</sup>,
- having regard to the provisional agreement approved by the responsible committee under Rule 74(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 16 February 2024 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,

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<sup>1</sup> OJ C 100, 16.3.2023, p. 95.

<sup>2</sup> OJ C 157, 3.5.2023, p. 82.

- having regard to Rule 59 of its Rules of Procedure,
  - having regard to the letters from the Committee on Budgets,
  - having regard to the opinions of the Committee on Employment and Social Affairs and the Committee on Industry, Research and Energy,
  - having regard to the report of the Committee on the Internal Market and Consumer Protection (A9-0246/2023),
1. Adopts its position at first reading hereinafter set out<sup>3</sup>;
  2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

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<sup>3</sup> This position replaces the amendments adopted on 13 September 2023 (Texts adopted, P9\_TA(2023)0317).

**Position of the European Parliament adopted at first reading on 24 April 2024 with a view to the adoption of Regulation (EU) 2024/... of the European Parliament and of the Council establishing a *framework of measures related to an internal market emergency and to the resilience of the internal market and amending Council Regulation (EC) No 2679/98 (Internal Market Emergency and Resilience Act)***

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 21, 46 and 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>8</sup>,

Having regard to the opinion of the Committee of the Regions<sup>9</sup>,

Acting in accordance with the ordinary legislative procedure<sup>10</sup>,

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<sup>8</sup> OJ C 100, 16.3.2023, p. 95.

<sup>9</sup> OJ C 157, 3.5.2023, p. 82.

<sup>10</sup> Position of the European Parliament of 24 April 2024 [(OJ ...)/(not yet published in the Official Journal)] and decision of the Council of ...

Whereas:

- (1) Past crises, especially the early days of the COVID-19 crisis, have shown that the *free movement of goods, persons and services in the internal* market and its supply chains can be severely affected. *That can have consequences on cross-border trade between Member States, thus creating obstacles to the proper functioning of the internal market. Furthermore, during those crises*, appropriate crisis management tools and coordination mechanisms *were* either lacking, *did* not cover all aspects of the *internal* market or *did* not allow for a timely *and effective* response to such *crises*.
- (2) *In the early phase of the COVID-19 crisis, Member States introduced barriers to free movement in the internal market as well as diverging measures regarding the supply of goods and services that were of critical importance or were indispensable for responding to the crisis, which were not always justified.* Ad-hoc measures taken by the Commission in order to re-establish the functioning of the *internal* market, *based on the existing rules, were not sufficient. The Union was not sufficiently prepared to ensure efficient manufacturing, procurement and distribution of crisis-relevant non-medical goods, such as personal protective equipment. Measures* to ensure the availability of crisis-relevant non-medical goods during the COVID-19 *crisis* were necessarily reactive. The COVID-19 crisis also revealed insufficient *information sharing and an insufficient* overview of manufacturing capacities across the Union, as well as vulnerabilities related to *intra-Union and* global supply chains.

- (3) *Furthermore, uncoordinated measures restricting the free movement of persons had a particular impact on sectors that rely on mobile workers, including workers in border regions, who played an essential role in the internal market during the COVID-19 crisis.*
- (4) *It was possible for the Council, through the Integrated Political Crisis Response (IPCR) arrangements, to exchange information and coordinate certain actions with regard to the COVID-19 crisis, while Member States acted independently in other situations. However, actions by the Commission were delayed by several weeks due to the lack of Union-wide contingency planning measures and a lack of clarity as to which national authority should be contacted to find rapid solutions to the impact of the crisis on the internal market. In addition, it became clear that uncoordinated restrictive actions taken by the Member States would further aggravate the impact of the crisis on the internal market. It emerged that there is a need for arrangements between the Member States and Union institutions, bodies, offices and agencies as regards contingency planning, technical level coordination and cooperation, and information exchange. Additionally, it became clear that the lack of effective coordination between Member States exacerbated the shortages of goods and created more obstacles to the free movement of services and persons.*

- (5) Representative organisations of economic operators claimed that economic operators did not have sufficient information on the ***restrictions to free movement or*** crisis-response measures introduced by the Member States during the COVID-19 crisis. ***That was due, inter alia, to a lack of transparency from authorities of the Member States, to economic operators*** not knowing where to obtain such information, to language constraints and to the administrative burden implied in making repeated inquiries in all Member States, especially in a constantly changing regulatory environment. That lack of information prevented economic operators from making informed business decisions regarding the extent to which they ***could exercise*** their right to free movement or continue cross-border business operations during that crisis. It is necessary to improve the availability of information regarding national and Union-level ***restrictions on free movement and*** crisis response measures.
- (6) ***Despite the initial lack of coordination, the internal market rules played a key role in mitigating the negative impact of the COVID-19 crisis and in ensuring a swift recovery of the Union economy, namely by precluding unjustified and disproportionate national restrictions contained in the unilateral responses by the Member States and by providing a strong incentive to find common solutions, thus promoting solidarity.***



- (7) Events linked to the COVID-19 crisis have highlighted the need for the Union to take a coordinated approach and be better prepared for possible future crises, especially considering the continuing effects of climate change which result in natural disasters, as well as global economic and geopolitical instabilities. *Other crises which might require a quicker response to prevent barriers to free movement in the internal market and to avoid severe disruptions to supply chains that are indispensable in the maintenance of activities in the internal market include, for example, forest fires, earthquakes or large-scale cyber attacks. The fact that such crises constitute exceptional and sudden events of extraordinary nature and scale implies that such events are reasonably unexpected.* As it is not known what kind of crises could arise next and have a severe impact on the *internal* market and its supply chains in the future, it is necessary to provide for an instrument that would apply in the event of a wide range of crises having an impact on the *internal* market.
- (8) The impact of a crisis on the *internal* market can *hinder the functioning of the internal market in two ways. It can give rise to obstacles to free movement or it can cause disruptions to supply chains. Disruptions to supply chains can exacerbate shortages of goods and services in the internal market and hinder production, which leads to additional barriers to trade and to the distortion of competition between Member States and between private operators, thereby disrupting the proper functioning of the internal market. Disruptions to supply chains can also lead to the emergence or likely emergence of diverging national measures to address those supply chain issues, leading to the activation of an internal market emergency mode.* This Regulation should address *these* types of impacts on the *internal* market *and introduce measures to avoid obstacles to free movement or supply chain disruptions that create shortages of crisis-relevant goods or services.*

(9) *In order to avoid an unnecessary administrative burden on Member States, incidents reported by means of the ad hoc alerts for early warning referred to in this Regulation should be defined in such a manner that they exclude events that have a negligible foreseeable consequence on the free movement of goods, services and persons, including workers, or on the supply chains of goods and services that are indispensable to the maintenance of vital societal functions or economic activities in the internal market.*

(10) *In order to ensure that the framework of measures laid down by this Regulation is able to deploy its full effect in the context of the internal market vigilance and the internal market emergency modes, the Commission should be empowered to set out detailed arrangements regarding crisis preparedness, cooperation, exchange of information and crisis communication. Those detailed arrangements, taking the form of a contingency framework, should set out the specific technical and operational aspects of the mechanisms for exchanging information between the Commission and the Member States. Furthermore, it should lay down arrangements for operational coordination between the Commission and the Member States regarding crisis communication. In this context, a dedicated inventory of all the competent authorities of the respective Member States involved in the implementation of the framework laid down by this Regulation should be set up on the basis of the information communicated by the Member States. That inventory should indicate, in particular, the roles and responsibilities assigned to the competent authorities of their respective Member States during the internal market vigilance and emergency modes in accordance with national law. The arrangements between the Commission and the Member States should also cover the secure exchange of information concerning consultation of the economic operators and social partners with respect to their respective initiatives and actions to mitigate and respond to the effects of a potential crisis.*

- (11) The ■ measures set out *in* this Regulation should be deployed in a coherent, transparent, efficient, proportionate and timely manner, having due regard to the need to maintain vital societal functions, ■ including public security, public safety, public order or public health. *This Regulation should not affect the competence of the Member States with respect to, for example, national policies of public health and should be without prejudice to the responsibility of the Member States to safeguard national security and their power to safeguard other essential state functions, including ensuring the territorial integrity of the state and maintaining law and order. This Regulation should therefore be without prejudice to matters related to national security and defence.*
- (12) This Regulation provides the necessary means to ensure, during times of crisis, the continued functioning of the *internal* market, of the businesses that operate in the *internal* market and its strategic supply chains, including the free *movement* of goods, services and persons, *including workers*, and the availability of *crisis-relevant* goods or services to citizens, businesses and public authorities. In addition, this Regulation establishes a forum for appropriate coordination, cooperation and exchange of information. Furthermore it provides the means for the timely accessibility and availability of the information needed for a targeted response and adequate market behaviour by businesses and citizens during a crisis.
- (13) Where possible, this Regulation should allow for anticipation of events and crises *by allowing the Union to continue* building on ongoing analysis concerning critically important sectors of the *internal* market economy ■ .
- (14) *By reinforcing the resilience and preparedness of Union industry with regard to critical raw materials, Regulation (EU) 2024/1252 of the European Parliament and of the Council<sup>11</sup> complements this Regulation, which allows the Commission, during an internal market vigilance mode or internal market emergency mode, to activate targeted measures when a threat to or a disruption to the supply of goods of critical importance emerges, including with regard to critical raw materials.*

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<sup>11</sup> *Regulation (EU) 2024/1252 of the European Parliament and of the Council of 11 April 2024 establishing a framework for ensuring a secure and sustainable supply of critical raw materials and amending Regulations (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1724 and (EU) 2019/1020 (OJ L, 2024/1252, 3.5.2024, ELI: <http://data.europa.eu/eli/reg/2024/1252/oj>).*

- (15) This Regulation should not duplicate the existing framework for medicinal products, medical devices or other medical countermeasures under the EU Health Security Framework, including Regulations (EU) 2022/123<sup>12</sup>, (EU) 2022/2370<sup>13</sup> and (EU) 2022/2371<sup>14</sup> of the European Parliament and of the Council and Council Regulation (EU) 2022/2372<sup>15</sup> regarding crisis preparedness and response in the area of health. The EU Health Security Framework should take precedence over this Regulation as regards supply chain disruptions and shortages of medicinal products, medical devices or other medical countermeasures where the conditions of that framework are met. Therefore, medicinal products, medical devices or other medical countermeasures *within the meaning of Regulations (EU) 2022/2371 and (EU) 2022/2372 should*, where they have been *included in the list adopted pursuant to Article 7(1) of Regulation (EU) 2022/2372*, be excluded from the scope of this Regulation, except in relation to the provisions relating to the free movement *of goods, services and persons, including workers*, during an *internal market emergency*, and in particular those designed to re-establish and facilitate free movement ■ .

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<sup>12</sup> Regulation (EU) 2022/123 of the European Parliament and of the Council of 25 January 2022 on a reinforced role for the European Medicines Agency in crisis preparedness and management for medicinal products and medical devices (OJ L 20, 31.1.2022, p. 1).

<sup>13</sup> Regulation (EU) 2022/2370 of the European Parliament and of the Council of 23 November 2022 amending Regulation (EC) No 851/2004 establishing a European centre for disease prevention and control (OJ L 314, 6.12.2022, p. 1).

<sup>14</sup> Regulation (EU) 2022/2371 of the European Parliament and of the Council of 23 November 2022 on serious cross-border threats to health and repealing Decision No 1082/2013/EU (OJ L 314, 6.12.2022, p. 26).

<sup>15</sup> Council Regulation (EU) 2022/2372 of 24 October 2022 on a framework of measures for ensuring the supply of crisis-relevant medical countermeasures in the event of a public health emergency at Union level (OJ L 314, 6.12.2022, p. 64).

- (16) *This Regulation should complement the IPCR arrangements operated by the Council under Council Decision 2014/415/EU<sup>16</sup> as regards the Council's work on the impact on the **internal** market of cross-sectoral crises that require **decision-making in relation to contingency planning and the implementation of vigilance and emergency measures**. This Regulation should **be without prejudice to** the IPCR arrangements operated by the Council under Council Implementing Decision (EU) 2018/1993<sup>17</sup>.*
- (17) This Regulation should be without prejudice to the Union Civil Protection Mechanism (UCPM). This Regulation should **complement** the UCPM and should support it, where **necessary**, as regards the availability of critical goods and the free movement of civil protection workers, including their equipment, for crises that fall under the remit of the UCPM.
- (18) This Regulation should be without prejudice to **Regulation (EU) 2016/399 of the European Parliament and of the Council<sup>18</sup>**, including its general framework for the temporary introduction or prolongation of internal border controls and the notification system for the temporary reintroduction of internal border controls.
- (19) *This Regulation should be without prejudice to the provisions of Regulation (EC) No 178/2002 of the European Parliament and of the Council<sup>19</sup> on crisis management, as set out in Articles 55 to 57 thereof, implemented by Commission Implementing Decision (EU) 2019/300<sup>20</sup>.*

<sup>16</sup> Council Decision 2014/415/EU of 24 June 2014 on the arrangements for the implementation by the Union of the solidarity clause (OJ L 192, 1.7.2014, p. 53).

<sup>17</sup> Council Implementing Decision (EU) 2018/1993 of 11 December 2018 on the EU Integrated Political Crisis Response Arrangements (OJ L 320, 17.12.2018, p. 28).

<sup>18</sup> Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 77, 23.3.2016, p. 1).

<sup>19</sup> Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1).

<sup>20</sup> Commission Implementing Decision (EU) 2019/300 of 19 February 2019 establishing a general plan for crisis management in the field of the safety of food and feed (OJ L 50, 21.2.2019, p. 55).

- (20) *This Regulation should be without prejudice to the European Food Security Crisis preparedness and response Mechanism. Nevertheless, food products should be governed by the **free movement** provisions of this Regulation, including those ■ concerning restrictions to the right to free movement ■ . The measures concerning food products ■ can also be reviewed as regards their compliance with any other relevant provisions of **Union** law.*
- (21) *This Regulation should be without prejudice to the ability of the Commission to enter into consultations or to cooperate, on behalf of the Union, with relevant authorities of countries outside the Union, in accordance with Union law, with particular attention paid to developing countries, with a view to seeking cooperative solutions to avoid disruptions to supply chains, in compliance with international obligations. This may involve, where appropriate, coordination in relevant international fora.*
- (22) *One of the challenges identified during the COVID-19 crisis was the lack of a network for ensuring preparedness and information sharing between the Member States, on the one hand, and between the Member States and the Commission, on the other hand. Therefore, the achievement of the objectives pursued by this Regulation should be supported by a governance mechanism. At Union level, this Regulation should establish an Internal Market Emergency and Resilience Board (the ‘Board’), composed of representatives of the Member States and chaired by the Commission, to facilitate cooperation, exchange of information and the smooth, effective and harmonised implementation of this Regulation. The Board should provide advice to and assist the Commission on specific questions, including the consistent implementation of this Regulation, facilitating cooperation among Member States, and it should analyse and discuss relevant topics relating to imminent or ongoing crises.*



- (23) *The Commission should chair the Board and provide its secretariat. Each Member State should appoint a representative and an alternate representative. The Chair should invite a representative from the European Parliament as a permanent observer. In order to receive relevant advice on the activities of the Board and allow appropriate participation of experts, the Chair should be able to invite experts to take part, as observers, in the work of the Board and to attend specific meetings, on an ad-hoc basis, where such attendance is relevant considering the agenda of the meeting. With a view to ensuring a coherent and coordinated Union response to various crises which might have an impact on the functioning of the internal market, the Chair should also invite representatives of other crisis-relevant bodies at Union level as observers to the relevant meetings of the Board. With a view to promoting international cooperation, the Chair should invite representatives of international organisations and countries outside the Union to take part in relevant meetings of the Board in accordance with the relevant bilateral or international agreements. The Chair should be able to invite observers to contribute to the discussions with relevant expertise, information and insights, but observers should not take part in the formulation of opinions, recommendations or advice of the Board.*
- (24) *The Board should have specific tasks in the context of the contingency framework, the internal market vigilance mode and the internal market emergency mode. Those tasks include the exchange of views and the provision of advice to the Commission with respect to the assessment of the criteria which are to be taken into consideration when activating the different modes as well as with respect to the assessment of whether the specific preconditions for the deployment of concrete response measures are met. The Commission should take the utmost account of opinions, recommendations or reports adopted by the Board.*
- (25) *In the interest of guaranteeing the confidentiality of the information received pursuant to this Regulation, the Board is encouraged to provide in its rules of procedure that its members and observers are not to disclose trade and business secrets and other sensitive and confidential information acquired or generated in application of this Regulation and are to respect professional secrecy obligations equivalent to those applicable to members of staff of the Commission.*

- (26) *In order to ensure greater transparency, accountability and coordination, particularly in times of crises, the competent committee of the European Parliament should be able to invite the Chair of the Board to appear before that committee. The European Parliament should be informed as soon as possible of any Council implementing acts proposed or adopted. The Commission should take into account elements arising from the views expressed through the emergency and resilience dialogue carried out under this Regulation, including the relevant resolutions of the European Parliament.*
- (27) *Furthermore, in order to enhance involvement of key stakeholders, in particular representatives of economic operators, social partners, researchers and civil society, the Commission should set up a stakeholder platform to facilitate and encourage voluntary response to internal market emergencies.*
- (28) *To ensure effective coordination and information exchange in the context of the contingency framework, as well as in the context of the internal market vigilance and emergency modes, Member States should designate a central liaison office responsible for contact with the Union-level liaison office designated by the Commission and with the central liaison offices of other Member States. The central liaison offices should work as a focal point as regards contacts with relevant competent authorities of the Member States, compiling information from those authorities, including, where relevant, authorities at regional and local level. The central liaison offices should also be responsible for coordination and information exchange. It should be possible for Member States to designate an authority that already exists as their central liaison office. Such liaison offices should also transmit all crisis-relevant information to the single points of contact in the Member States in real time where possible.*



- (29) *This Regulation should be without prejudice to the possibility of the Commission to assess whether it is appropriate to impose restrictions on exports of goods in line with the international rights and obligations of the Union under Regulation (EU) 2015/479 of the European Parliament and of the Council<sup>21</sup>.*
- (30) *This Regulation should be without prejudice to measures taken pursuant to Regulation (EU) No 1308/2013 of the European Parliament and of the Council<sup>22</sup>.*
- (31) *This Regulation applies without prejudice to and is complementary with Directive (EU) 2022/2557 of the European Parliament and of the Council<sup>23</sup>, which lays down harmonised minimum rules to ensure that services essential for the maintenance of vital societal functions or economic activities are provided in an unobstructed manner in the internal market, to enhance the resilience of critical entities providing such services, and to improve cross-border cooperation between competent authorities.*

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<sup>21</sup> *Regulation (EU) 2015/479 of the European Parliament and of the Council of 11 March 2015 on common rules for exports (OJ L 83, 27.3.2015, p. 34).*

<sup>22</sup> *Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).*

<sup>23</sup> *Directive (EU) 2022/2557 of the European Parliament and of the Council of 14 December 2022 on the resilience of critical entities and repealing Council Directive 2008/114/EC (OJ L 333, 27.12.2022, p. 164).*

- (32) *With the objective of being better prepared for and more resilient during potential future crises which could have a severe negative impact on the free movement of goods, services and persons, including workers, or cause disruptions to the supply chains of goods and services in the internal market, the Commission should encourage and facilitate economic operators in drawing up voluntary crisis protocols. Economic operators should remain free to decide whether to take part in such voluntary crisis protocols. Participation in such voluntary crisis protocols should not give rise to a disproportionate administrative burden. The voluntary crisis protocols should set out the specific parameters of the disruptions that are expected, as well as an allocation of the specific roles of each participant, a description of the mechanisms of activation of such protocols and the associated actions. Relevant stakeholders, including authorities of the Member States, Union bodies, offices and agencies and civil society organisations or other relevant organisations may also be involved in the drawing up of such voluntary crisis protocols. In determining the parameters of the disruptions to be considered, economic operators should be able to build on their past experiences in relation to restrictions on free movement and supply chain disruptions caused by various crises.*

- (33) *With the view to drawing from the experience of past crises, the Commission should develop and make available training programmes and materials for public and private stakeholders, including economic operators. Participation in such training programmes and in simulations should remain voluntary.*
- (34) *As part of crisis preparedness, this Regulation should allow for anticipation of events and crises for which it would be possible to carry out stress tests and simulations, building on ongoing analysis concerning critically important sectors of the internal market economy and the Union's continuous foresight work. In particular, the Commission should develop scenarios and parameters in specific sectors that capture the particular risks associated with a crisis. In order to ensure the crisis preparedness of all actors, it is necessary to set out rules on stress tests, which should be conducted at least every two years. In this context, the Commission should facilitate and encourage the development of strategies for emergency preparedness, including strategies for crisis communication and exchanging information about applicable restrictions in challenging circumstances. The identification of the specific focus sectors should be based on existing indicator-based tools which monitor the development of supply chains in the Union with a view to identifying potential distress, taking into account relevant specific criteria such as trade flows, demand and supply, concentration of supply, Union and global production and production capacities at different stages of the value chain and the interdependencies between economic operators.*
- (35) *It should be possible to exchange information relating to ad hoc alerts for early warning through the network created between the central liaison offices of the Member States and the Union-level liaison office. Such ad hoc alerts for early warning should be notified to the Commission in cases of significant incidents in order to allow the Union to better follow the development of a potential, imminent or ongoing crisis, thus ensuring a better level of preparedness should the crisis emerge or develop.*

- (36) In order to account for the exceptional nature of and potential far-reaching consequences for the functioning of the *internal* market during the *internal market vigilance mode or during the internal* market emergency mode, implementing powers should exceptionally be conferred on the Council for the activation of *the internal* market *vigilance mode or the internal market* emergency mode pursuant to Article 291(2) of the Treaty on the Functioning of the European Union (TFEU). *The Council implementing act for the activation of the internal market vigilance mode should contain elements which are intrinsically linked to the assessment of the fulfilment of the preconditions justifying the activation, namely an assessment of the potential impact of the relevant crisis on the free movement of goods, services and persons, including workers, in the internal market and on its supply chains, a list of the goods and services of critical importance which are indispensable to the maintenance of vital societal functions or economic activities in the internal market and the vigilance measures to be taken. Furthermore, where the activation of the internal market emergency mode also requires the adoption of a list of crisis-relevant goods or of crisis-relevant services, or of both, that list should be adopted at the same time as the internal market emergency mode is activated and should therefore be intrinsically linked to that activation. For that reason, implementing powers should also be conferred on the Council for the adoption of that list of crisis-relevant goods or crisis-relevant services and any update thereto. It should be possible to extend the internal market vigilance mode or internal market emergency mode through a Council implementing act on a proposal from the Commission. If it transpires that there is no need for either of the modes to be active, then the respective mode should be deactivated.*

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- (37) *To ensure that the Board receives appropriate information about a potential internal market emergency, it is necessary to provide for monitoring. Such monitoring should concern supply chains of goods and services of critical importance for which the internal market vigilance mode has been activated and the free movement of persons who are involved in the production and supply of such goods and services. Monitoring of the supply chains of goods and services of critical importance should be carried out by the competent authorities of the Member States on the basis of requests for the voluntary provision of information about factors impacting the availability of the selected goods and services of critical importance, such as production capacity, availability of the necessary workforce, stocks, suppliers' limitations, possibilities for diversification and substitution, demand conditions and bottlenecks. The request for the voluntary provision of information in the context of such monitoring should be addressed to all actors along the relevant supply chain of goods and services of critical importance and other relevant stakeholders established in the territory of the Member States. Collecting information about disruptions to free movement from the relevant economic operators along the supply chains of goods and services of critical importance is particularly important because the lack of an appropriate workforce is one of the prevailing causes of disruptions to supply chains. The monitoring, by authorities of the Member States, of disruptions to the free movement of persons involved in the production and supply of goods and services should be understood broadly, covering workers, service providers, business representatives and other persons involved in research, development and placing goods on the market. Competent authorities of the Member States should provide the information gathered to the Commission and the Board via the central liaison offices. That information should enable the Board to advise the Commission on the necessity of activation of the internal market emergency mode.*

- (38) *For national measures which are not harmonised under this Regulation and which affect, when adopted and applied in response to an internal market emergency, the free movement of goods or persons, or the freedom to provide services during internal market emergencies, Member States should ensure that such measures fully comply with the TFEU and other provisions of Union law such as Regulation (EU) No 492/2011 of the European Parliament and of the Council<sup>24</sup>, and Directives 2004/38/EC<sup>25</sup>, 2005/36/EC<sup>26</sup>, 2006/123/EC<sup>27</sup> and (EU) 2015/1535<sup>28</sup> of the European Parliament and of the Council. If Member States adopt such measures, they should be justified and respect the principles of proportionality and non-discrimination in accordance with Union law. Furthermore, in line with those principles, such measures should not create an unnecessary administrative burden and Member States should take all possible measures to limit any administrative burden caused by measures adopted in response to an internal market emergency. In addition, any such measures should adequately take into account the situation of border regions and outermost regions, especially for cross-border workers. Member States should remove measures taken to respond to an internal market emergency that restrict free movement as soon as they are no longer necessary. In general, national measures restricting free movement which are not harmonised under this Regulation would be in principle no longer justified or proportionate when the internal market emergency mode is deactivated and should therefore be removed.*

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<sup>24</sup> Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union (OJ L 141, 27.5.2011, p. 1).

<sup>25</sup> Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ L 158, 30.4.2004, p. 77).

<sup>26</sup> Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255, 30.9.2005, p. 22).

<sup>27</sup> Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ L 376, 27.12.2006, p. 36).

<sup>28</sup> Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.9.2015, p. 1).



- (39) *This Regulation should not be construed as authorising or justifying restrictions to the free movement of goods, services and persons contrary to the TFEU or other provisions of Union law. For example, the fact that some restrictions are explicitly prohibited during an internal market emergency mode should not be construed as justifying such restrictions outside that mode or as justifying other possible restrictions incompatible with Union law that are not explicitly prohibited by this Regulation.*
- (40) *Article 21 TFEU lays down the right of Union citizens to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down in the Treaties and the measures adopted to give them effect. The detailed conditions and limitations regarding that right are laid down in Directive 2004/38/EC. That Directive sets out the general principles applicable to those limitations and the grounds that can be used to justify such measures. Those grounds are public policy, public security or public health. In that context, restrictions to the freedom of movement can be justified if they are proportionate and non-discriminatory. This Regulation is not intended to provide for additional grounds for the limitation of the right to free movement of persons beyond those provided for in Chapter VI of Directive 2004/38/EC.*
- (41) *Measures for facilitating the free movement of persons and any other measures affecting the free movement of persons provided under this Regulation are based on Article 21 TFEU and complement Directive 2004/38/EC during internal market emergencies. Such measures should not result in authorising or justifying restrictions to free movement contrary to the Treaties or other Union law.*
- (42) *Article 45 TFEU lays down the right to free movement of workers, subject to the limitations and conditions laid down in the Treaties and the measures adopted to give them effect. Article 46 TFEU is the legal basis for the adoption of measures required to bring about freedom of movement for workers, as defined in Article 45 TFEU. This Regulation contains provisions which complement existing measures in order to further strengthen the free movement of persons, increase transparency and provide administrative assistance during internal market emergencies. Such measures include setting up and making single points of contact available to workers and their representatives in the Member States and at Union level during the internal market vigilance and emergency modes in accordance with this Regulation.*

- (43) *It is appropriate to prohibit certain national measures that restrict free movement or the freedom to provide services and that should not be imposed during, or in response to, an internal market emergency, because they are manifestly disproportionate. Therefore, any such measures taken by Member States should be assessed in light of those harmonising provisions and not the TFEU or other Union law.*
- (44) *In particular, Member States should refrain from introducing measures that constitute discrimination based on nationality or, in the case of companies, the location of their registered office, central administration or principal place of business.*
- (45) *Member States should refrain from introducing measures that make it impossible for beneficiaries of the right to free movement to return to their Member State of residence should they find themselves in another Member State at the outbreak of a crisis.*
- (46) *Member States should refrain from taking measures that make it impossible for beneficiaries of the right to free movement to travel to other Member States for imperative family reasons, when such travel remains permitted within the Member State adopting the measure in the same circumstances.*
- (47) *This Regulation should not prevent Member States from allowing their nationals and residents to return to their territory during internal market emergencies. To facilitate such travel, other Member States should allow such nationals and residents to exit their territory to travel to the Member State of nationality or residence, or to transit through their territory in order to reach the Member State of nationality or residence.*
- (48) *Restrictions to free movement, including in the form of administrative requirements and procedures such as declaration, registration or authorisation procedures, are prohibited, unless they comply with Union law. When justified and proportionate administrative requirements and procedures have been adopted in accordance with Union law, Member States should, during an internal market emergency, prioritise facilitating compliance with such requirements and processing such procedures for persons involved in the production or supply of crisis-relevant goods or crisis-relevant services. To that end and when necessary to do so in order to facilitate the free movement of such providers or certain categories thereof, the Commission should put in place arrangements, including digital tools and templates.*



(49) *This Regulation lays down obligations with a view to ensuring transparency in relation to national measures adopted during an internal market emergency mode that restrict the right to free movement of persons. Any such restrictions should comply with Union law, in particular Directive 2004/38/EC. Those obligations should be without prejudice to any existing information or notification obligations that continue to apply. The free movement of persons is of paramount importance for the proper functioning of the internal market. Experience from the COVID-19 crisis shows that restrictions to that right to free movement can have spill-over effects on all other fundamental freedoms. Lack of information on crisis-related restrictions to the free movement of persons can cause Union citizens and economic operators additional difficulties in managing their activities during a crisis. Currently, there is no applicable transparency system in force that could provide Union citizens and economic operators with information on restrictions to the free movement of persons. Member States should communicate to the Commission and to other Member States the text of the national legislative or regulatory provisions introducing restrictions on the exercise of the right to free movement of persons in response to a crisis, as well as the modifications thereof, without delay after their adoption. That text should be accompanied by the reasons for such measures, including reasons demonstrating that the measures are justified and proportionate, as well as any underlying scientific or other data supporting their adoption, the scope of such measures, the dates of adoption and application, and the duration of those measures. To ensure that Union citizens and economic operators can obtain reliable information regarding restrictions to free movement, Member States should provide the public with clear, comprehensive and timely information explaining such measures, in particular their scope, date of adoption and application and duration, as soon as possible. That information should also be provided to the Commission. On that basis, the Commission should publish the relevant information on a dedicated website available in all official languages of the institutions of the Union.*

I

- (50) In order to ensure that the specific *internal* market emergency measures provided for in this Regulation are used only when indispensable for responding to a particular *internal* market emergency, such measures should require ■ activation by means of Commission implementing acts indicating the reasons for such activation and the crisis-relevant goods or crisis-relevant services that such measures apply to.
- (51) Furthermore, in order to ensure the proportionality of those implementing acts and to ensure due respect for the role of economic operators in crisis management, the Commission should only resort to the activation of the internal market *emergency response measures after an internal market emergency mode has been activated by the Council and* if economic operators are not able to provide a solution on a voluntary basis within a reasonable timeframe ('two-tier activation'). The need for the activation of internal market *emergency response measures* should be justified in each such implementing act, and in relation to all particular aspects of a crisis.

- (52) *To enable precise assessments of whether the deployment of specific internal market emergency response measures would allow for the reduction of the severe shortages of crisis-relevant goods or crisis-relevant services or the imminent threat thereof in an internal market emergency, the Commission should be able to request information from the relevant economic operators in supply chains of crisis-relevant goods and services. Such information requests should, where appropriate, concern: production capacities and stocks of crisis-relevant goods in production facilities located both in the Union and in countries outside the Union which those economic operators operate, contract with or purchase supplies from; the schedule or an estimation of the expected production output for the following three months for each production facility located in the Union and in countries outside the Union which those economic operators operate or contract with; and details of any relevant disruptions to or shortages in supply chains. To ensure full involvement of the Member State where the economic operator has its production facility, the Commission should forward, without delay, a copy of the information request to that Member State and, if the competent authority of that Member State so requests, the Commission should share the information it has acquired with that Member State through secure means.*

- (53) Information requests to economic operators should be used by the Commission only where the information which is necessary for responding adequately to the *internal* market emergency, such as information necessary for procurement by the Commission on behalf of or in the name of the Member States or estimating the production capacities of manufacturers of crisis-relevant goods the supply chains of which have been disrupted, *is not yet available to the Commission and* cannot be obtained from publicly available sources or as a result of information provided voluntarily. *When making a request for information by means of an implementing act, the Commission should ensure that the benefit for the public interest outweighs the possible inconveniences that the economic operators concerned may sustain. The Commission should take into consideration the burden that such a request for information could represent, in particular for micro-, small and medium-sized enterprises (SMEs), and should set the time limit for reply accordingly. When the processing of a request for information by an economic operator has the potential to significantly disrupt its operations, that economic operator should be allowed to refuse to supply the information requested. The economic operator should be obliged to provide to the Commission the reasons for any refusal to supply the information requested. Such reasons should include, in particular, the risk of liability for breach of contractual non-disclosure obligations based on contracts governed by the law of a country outside the Union or the risk of disclosing information related to national security in the case of goods with possible uses in the context of national security, which could include national reserves.*

- (54) *The maximum time limit for an economic operator to reply to a request for information should be 20 working days. The specific individual time limit should be set on a case-by-case basis and could, in certain circumstances, be shorter. The economic operator should be allowed to request a one-time extension to the time limit which could, subject to the explicit agreement of the Commission, extend the overall time limit beyond 20 working days. It should be provided that any request for an extension of the time limit by the economic operator be submitted to the Commission in accordance with the communication arrangements specified within the individual decision. It should also be provided that, until the Commission has responded to the request for an extension, the initial time limit be regarded as fully applicable.*

(55) The activation of the *internal* market emergency mode, where needed, should also *enable the triggering of* the application of certain crisis response procedures which introduce adjustments to the rules governing the design, manufacture, conformity assessment and the placing on the market of goods subject to Union harmonised rules *as well as to certain rules governing the goods subject to the Union's general product safety framework*. Those crisis response procedures should enable products designated as crisis-relevant goods to be placed swiftly on the market in an emergency context. *In the case of harmonised products*, the conformity assessment bodies should prioritise the conformity assessment of crisis-relevant goods over any other ongoing applications for other products.

■ Where there are undue delays in the conformity assessment procedures *of crisis-relevant goods*, the ■ competent authorities of *the Member States* should be able to issue authorisations for *such goods* which have not undergone the applicable conformity assessment procedures to be placed on their respective market, provided that they comply with the applicable safety requirements. Such authorisations *should* be valid only in the territory of the issuing Member State *until their validity is extended to the territory of the Union by means of a Commission implementing act*. *The validity of such authorisations that derogate from conformity assessment procedures should be* limited to the duration of the *internal* market emergency mode. In addition, *with a view to facilitating* the increase in supply of *harmonised and non-harmonised* crisis-relevant *goods*, certain flexibilities should be introduced with respect to the *mechanisms of presumption of conformity and* presumption of conformity *with the general safety requirement, respectively*. In the context of *an internal* market emergency, the manufacturers of crisis-relevant goods should also be able to rely on national and international standards which provide an equivalent level of protection to the ■ European standards *the references of which have been published in the Official Journal of the European Union*. *With respect to the harmonised crisis-relevant goods alone*, in cases where such European standards do not exist or compliance with them is rendered excessively difficult as a result of the disruptions to the *internal* market, the Commission should be able to issue common specifications *providing a presumption of conformity* in order to provide ready-to-use technical solutions to the manufacturers.

- (56) The introduction of these crisis-relevant adjustments to the relevant sectorial Union rules requires targeted adjustments to the following **16** acts: ■ Directives 2000/14/EC<sup>29</sup>, 2006/42/EC<sup>30</sup>, 2010/35/EU<sup>31</sup>, ■ 2014/29/EU<sup>32</sup>, 2014/30/EU<sup>33</sup>, ■ 2014/33/EU<sup>34</sup>, 2014/34/EU<sup>35</sup>, 2014/35/EU<sup>36</sup>, 2014/53/EU<sup>37</sup>, 2014/68/EU<sup>38</sup> of the European Parliament and of the Council and Regulations (EU) 2016/424<sup>39</sup>, (EU) 2016/425<sup>40</sup>, (EU) 2016/426<sup>41</sup>,

- <sup>29</sup> Directive 2000/14/EC of the European Parliament and of the Council of 8 May 2000 on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors (OJ L 162, 3.7.2000, p. 1).
- <sup>30</sup> Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006 on machinery, and amending Directive 95/16/EC (OJ L 157, 9.6.2006, p. 24).
- <sup>31</sup> Directive 2010/35/EU of the European Parliament and of the Council of 16 June 2010 on transportable pressure equipment and repealing Council Directives 76/767/EEC, 84/525/EEC, 84/526/EEC, 84/527/EEC and 1999/36/EC (OJ L 165, 30.6.2010, p. 1).
- <sup>32</sup> Directive 2014/29/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of simple pressure vessels (OJ L 96, 29.3.2014, p. 45).
- <sup>33</sup> Directive 2014/30/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to electromagnetic compatibility (OJ L 96, 29.3.2014, p. 79).
- <sup>34</sup> Directive 2014/33/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to lifts and safety components for lifts (OJ L 96, 29.3.2014, p. 251).
- <sup>35</sup> Directive 2014/34/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to equipment and protective systems intended for use in potentially explosive atmospheres (OJ L 96, 29.3.2014, p. 309).
- <sup>36</sup> Directive 2014/35/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of electrical equipment designed for use within certain voltage limits (OJ L 96, 29.3.2014, p. 357).
- <sup>37</sup> Directive 2014/53/EU of the European Parliament and of the Council of 16 April 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of radio equipment and repealing Directive 1999/5/EC (OJ L 153, 22.5.2014, p. 62).
- <sup>38</sup> Directive 2014/68/EU of the European Parliament and of the Council of 15 May 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of pressure equipment (OJ L 189, 27.6.2014, p. 164).
- <sup>39</sup> Regulation (EU) 2016/424 of the European Parliament and of the Council of 9 March 2016 on cableway installations and repealing Directive 2000/9/EC (OJ L 81, 31.3.2016, p. 1).
- <sup>40</sup> Regulation (EU) 2016/425 of the European Parliament and of the Council of 9 March 2016 on personal protective equipment and repealing Council Directive 89/686/EEC (OJ L 81, 31.3.2016, p. 51).
- <sup>41</sup> Regulation (EU) 2016/426 of the European Parliament and of the Council of 9 March 2016 on appliances burning gaseous fuels and repealing Directive 2009/142/EC (OJ L 81, 31.3.2016, p. 99).

(EU) No 305/2011<sup>42</sup>, (EU) 2023/988<sup>43</sup> and (EU) 2023/1230<sup>44</sup> of the European Parliament and of the Council. The amendments laying down emergency procedures in each of the respective acts should only become applicable when they are specifically activated. The activation of the emergency procedures *under each respective act* should be conditional on the activation of the *internal* market emergency *mode under this Regulation* and should be limited to ■ products designated as crisis-relevant goods *and limited in time to the duration of the internal market emergency mode*.

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<sup>42</sup> Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC (OJ L 88, 4.4.2011, p. 5).

<sup>43</sup> Regulation (EU) 2023/988 of the European Parliament and of the Council of 10 May 2023 on general product safety, amending Regulation (EU) No 1025/2012 of the European Parliament and of the Council and Directive (EU) 2020/1828 of the European Parliament and the Council, and repealing Directive 2001/95/EC of the European Parliament and of the Council and Council Directive 87/357/EEC (OJ L 135, 23.5.2023, p. 1).

<sup>44</sup> Regulation (EU) 2023/1230 of the European Parliament and of the Council of 14 June 2023 on machinery and repealing Directive 2006/42/EC of the European Parliament and of the Council and Council Directive 73/361/EEC (OJ L 165, 29.6.2023, p. 1).



- (57) In cases where there are substantial risks to the functioning of the *internal* market or in cases of severe *and persistent* shortages or an exceptionally high demand for *crisis-relevant goods*, measures at Union level aiming to ensure the availability of crisis-relevant *goods*, such as priority-rated *requests*, could prove to be indispensable *in ensuring the proper-functioning of the internal market and its supply chains*.
- (58) *As an instrument of last resort in ensuring the maintenance of vital societal functions or economic activities in the internal market where the production or supply of certain crisis-relevant goods could not be achieved by other measures, the Commission should be able to address requests to economic operators established in the Union to produce or supply certain crisis-relevant goods. When issuing a request, the Commission should take into account the possible negative impact on competition in the internal market and the risk of exacerbating market distortions. Furthermore, the choice of the recipients and beneficiaries of the requests should not be discriminatory.*
- (59) *The priority-rated request should be based on objective, factual, measurable and substantiated data. Such requests should have regard for the legitimate interests of the economic operators and the cost and effort required for any change in the production sequence. The priority-rated request should clearly specify that the choice to accept or refuse the request remains entirely with the economic operator. Where the economic operator chooses to refuse the priority-rated request, the economic operator is also free to decide whether to provide an explicit rejection and whether to provide a justification when informing the Commission of its rejection.*

- (60) *When accepted, the obligation to perform the priority-rated request should take precedence over any performance obligation under private or public law. Each priority-rated request should be placed at a fair and reasonable price. It should be possible to carry out the calculation of such price on the basis of average market prices over recent years, subject to reasons being given for any increase or decrease, for example taking into account inflation or input costs. In light of the importance of ensuring the supply of crisis-relevant goods, which are indispensable to the maintenance of vital societal functions or economic activities in the internal market, compliance with the obligation to perform a priority-rated request should not entail liability to third parties for damages that may result from any breach of contractual obligations governed by the law of a Member State, to the extent that the breach of contractual obligations was necessary for compliance with the mandated prioritisation. Economic operators potentially within the scope of a priority-rated request should be allowed to provide, in the conditions of their commercial contracts, for the possible consequences of a priority-rated request. Without prejudice to the applicability of other provisions, the liability for defective products, provided for by Council Directive 85/374/EEC<sup>45</sup>, should not be affected by that liability exemption.*
- (61) *Where the economic operator has expressly accepted a priority-rated request and the Commission has adopted an implementing act following such an acceptance, the economic operator should comply with all the conditions of that implementing act. Non-compliance by the economic operator with the conditions laid down in the implementing act should result in a loss of the benefit of a waiver of contractual liability. When the non-compliance is intentional or attributable to gross negligence, the economic operator may also be subject to a fine, subject to the proportionality principle. It should not be possible to impose fines on economic operators which have not expressly accepted a priority-rated request.*

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<sup>45</sup> Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products (OJ L 210, 7.8.1985, p. 29).

- (62) *Where the Commission is informed by one or more Member States of shortages of crisis-relevant goods and services or a risk thereof, the Commission should be able to recommend that the Member States █ take measures aiming to ensure the swift increase of the availability of crisis-relevant goods and services. The Commission should consider the impact of the measures envisaged on the economic operators concerned. Such recommendations may include measures aiming to facilitate the expansion, repurposing or establishment of new production capacities for crisis-relevant goods or new capacities related to crisis-relevant service activities as well as aiming to accelerate the relevant and applicable approval, authorisation and registration procedures.*
- (63) *Where the Commission is informed by one or more Member States of shortages of crisis-relevant goods or crisis-relevant services, the Commission should transmit that information to all competent authorities of the Member States and streamline the coordination of the response. Furthermore, to ensure the availability of certain crisis-relevant goods or crisis-relevant services during an internal market emergency and with a view to ending the internal market emergency, the Commission should be able to recommend that the Member States distribute those goods or services, having █ due regard to the principles of solidarity, necessity and proportionality. The Commission should help to coordinate that distribution.*

- (64) *In addition to the current possibility for joint procurement between the Commission and one or more Member States provided for in Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council<sup>46</sup> (the ‘Financial Regulation’), one or more Member States should also be able to request the Commission to launch a procurement on their behalf or in their name for the purchasing of goods and services of critical importance or of crisis-relevant goods and services, in order to leverage the purchasing power and negotiating position of the Commission during the *internal* market vigilance mode or the *internal* market emergency mode. Such procurement should cover the acquisition by the contracting authority or contracting entity, by means of a contract, of crisis-relevant works, supplies or services and the acquisition or rental of land, buildings or other immovable property from economic operators chosen by that contracting authority or contracting entity for the purpose of responding to the crisis. The Commission should be able to conduct the relevant procurement procedure on behalf of Member States or in their name based on an agreement between the parties, or act as a wholesaler, by buying, stocking and reselling or donating supplies and services, including rental of land, buildings or other immovable property, to the participating Member States or partner organisations it has selected.*

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<sup>46</sup> *Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).*

(65) *It became clear during the COVID-19 crisis that the Commission should be able to procure crisis-relevant goods and services jointly with European Free Trade Association (EFTA) States and countries outside the Union, such as the European microstates. Any joint procurement procedures launched for the acquisition of crisis-relevant goods and services or goods and services of critical importance should not negatively affect the functioning of the internal market and should not constitute discrimination or a restriction of trade, nor should such procurement procedures cause distortion of competition or have any direct financial impact on the budget of the countries that do not participate in the joint procurement procedure. It is also essential to ensure that Member States coordinate their actions with the support of the Commission and the Board prior to launching procedures for the procurement of crisis-relevant goods and services. During the contingency phase, Member States should put in place a system which would allow for the identification of the contracting authorities and contracting entities subject to Directives 2014/24/EU<sup>47</sup> and 2014/25/EU<sup>48</sup> of the European Parliament and of the Council that are procuring the crisis-relevant goods and services during emergencies. Member States should be able to rely on the central liaison offices for collection and transmission of information about ongoing and intended procurement by the contracting authorities and contracting entities in their territory for the purposes of compliance with the coordination clause under this Regulation.*

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<sup>47</sup> Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

<sup>48</sup> Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

(66) *The agreement governing the Commission's procurement on behalf of or in the name of one or more Member States or joint procurement between the Commission and one or more Member States should, where appropriate, provide for an exclusivity clause, under which participating Member States commit to not procuring the crisis-relevant goods or crisis-relevant services in question through other channels and to not running parallel negotiations. Where such an exclusivity clause is provided for, it should stipulate that, where Member States have additional procurement needs and such procurement does not undermine the ongoing joint procurement or procurement on behalf of or in the name of the Member States according to the assessment of the Commission, it is possible for the participating Member States to launch their own procurement procedure. For the purposes of the joint procurement, EFTA States and Union candidate countries, as well as the Principality of Andorra, the Principality of Monaco, the Republic of San Marino and the Vatican City State should be considered participating Member States in case they decide to participate in the joint procurement. The purpose of the exclusivity clause is to ensure that the ongoing joint procurement or procurement on behalf of or in the name of the Member States is not undermined. De minimis procurement does not affect such procurement, and therefore Member States' contracting authorities and contracting entities should be permitted to launch a procurement procedure which falls below the thresholds of Directives 2014/24/EU and 2014/25/EU. In addition, given that procurement from an economic operator that is not participating in the ongoing tender does not undermine the ongoing procurement, the exclusivity clause laid down in this Regulation should not apply to that kind of procurement. Where a Member State decides to participate in joint procurement or procurement on behalf of or in the name of Member States for acquiring crisis-relevant goods and services, it should be able to use the central liaison offices provided for in this Regulation to inform all contracting authorities and contracting entities in its territory of the ongoing procurement that triggers the application of the exclusivity clause.*

(67) *Transparency is a core principle of effective public procurement that improves competition, increases efficiency and creates a level playing field. The European Parliament should be informed about procedures concerning joint procurements under this Regulation and, upon request, be granted access to the contracts concluded as a result of those procedures, subject to the adequate protection of secrecy and protection of any personal data, the national security of the Member States and commercially sensitive information, including business secrets.*

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(68) *It is necessary to provide information holders with safeguards that the information that they have provided as a result of the application of this Regulation is processed and used respecting the principles of necessity and proportionality. Information received via monitoring, information requests and priority rated requests should therefore only be used by Union institutions, bodies, offices or agencies and their staff, authorities of the Member States and their staff, or any individuals, including the members and observers of the Board, for the purpose for which such information was requested.*

(69) *Given that the Board acts as an advisory body to the Commission, it should respect the Commission's principles, standards and rules for protecting classified information and sensitive non-classified information including, inter alia, provisions for processing and storage of such information as set out in Commission Decisions (EU, Euratom) 2015/443<sup>49</sup> and (EU, Euratom) 2015/444<sup>50</sup>. Members of staff of the Commission and other Union institutions and bodies that have access to the classified information and sensitive non-classified information relating to the work of the Board should be bound by the confidentiality requirements under Article 339 TFEU, even after their duties have ceased.*

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<sup>49</sup> *Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission (OJ L 72, 17.3.2015, p. 41).*

<sup>50</sup> *Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53).*



- (70) Where the activities to be carried out pursuant to this Regulation involve the processing of personal data, such processing should comply with the relevant Union legislation on personal data protection, namely Regulations (EU) 2016/679<sup>51</sup> and (EU) 2018/1725<sup>52</sup> of the European Parliament and of the Council.
- (71) *It is necessary to lay down rules on digital tools in order to ensure preparedness for responding to possible future emergencies in a timely and efficient manner to guarantee the continued functioning of the internal market, the free movement of goods, services and persons in times of crisis and the availability of crisis-relevant goods and services to citizens, businesses and public authorities. This Regulation should also set out rules for digital tools ensuring prioritisation and acceleration of authorisation, registration or declaration procedures to facilitate the free movement of persons and the secure transmission and exchange of information. The Commission and the Member States should reuse or expand to the extent possible their existing digital tools. Where this is not possible, the Commission and the Member States should establish, where necessary and justified, new digital tools. The Commission should set out the technical aspects of such tools or infrastructures by means of implementing acts.*

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<sup>51</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (OJ L 119, 4.5.2016, p. 1).

<sup>52</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).



- (72) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission as regards *specifications of the contingency framework regarding preparedness, cooperation, exchange of information and crisis communication for the internal market vigilance and emergency modes*. Moreover, implementing powers should be conferred on the Commission as regards *the possibility to adopt mitigation measures, namely administrative arrangements, digital tools and templates, facilitating the free movement of persons*. Moreover, implementing powers should be conferred on the Commission as regards activation of specific emergency response measures at the time of *an internal* market emergency mode, to allow for a rapid and coordinated response. In addition, implementing powers should be conferred on the Commission as regards the establishment of technical aspects of specific digital tools supporting the objectives of this Regulation. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>53</sup>.
- (73) *The Commission should adopt immediately applicable implementing acts where, in duly justified cases relating to the impacts of the crisis on the internal market, imperative grounds of urgency so require.*
- (74) This Regulation respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union (the ‘Charter’). In particular, it respects the right to privacy of the economic operators enshrined in Article 7 of the Charter, the right to data protection set out in Article 8 of the Charter, the freedom to conduct business and the freedom of contract, which are protected by Article 16 of the Charter, the right to property, protected by Article 17 of the Charter, the right to collective bargaining and the right to take collective action protected by Article 28 of the Charter and the right to an effective judicial remedy and to a fair trial as provided for in Article 47 of the Charter. ■

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<sup>53</sup> *Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).*

- (75) *This Regulation should not affect the autonomy of the social partners as recognised by the TFEU.*
- (76) *This Regulation should not be interpreted as affecting the right to environmental protection, the right to collective bargaining and the right to take collective action in accordance with the Charter, including the right of workers and employers to take collective action to defend their interests, including strike action, and the right or freedom to strike or to take other action covered by the specific industrial relation systems in Member States in accordance with national law or practice.*
- (77) *Other Union legal acts, such as those providing for obligations on economic operators to make data available to public sector bodies, do not affect this Regulation. Therefore, where other Union legal acts also contain provisions on information requests by the Commission which have the same purpose as those provided for under this Regulation, after the internal market emergency mode has been activated by the Council, only the relevant provisions of this Regulation relating to information requests should apply.*
- (78) The Union remains fully committed to international solidarity and strongly supports the principle that any measures deemed necessary taken under this Regulation, including those necessary to prevent or relieve critical shortages, are implemented in a manner that is targeted, transparent, proportionate, temporary and consistent with World Trade Organization obligations.
- (79) The Union framework **should** include interregional elements to establish coherent, multi-sectoral, cross-border **internal** market contingency, vigilance and emergency response measures, considering, in particular, the resources, capacities and vulnerabilities across neighbouring regions, in particular border regions.

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**(80) *The Commission should carry out a regular evaluation of the functioning and effectiveness of this Regulation and submit a report to the European Parliament and the Council, including an evaluation of the work of the Board, stress tests, training and crisis protocols, the criteria for the activation of the internal market vigilance mode and the internal market emergency mode as well as the use of digital tools. Furthermore, reports should be submitted by four months after the deactivation of the internal market vigilance mode or the internal market emergency mode, as applicable. Those reports should include an evaluation of the measures implemented under this Regulation in relation to the crisis that led to the activation of that mode, in particular on the effectiveness of those measures. Those reports could suggest any improvements if necessary, and be accompanied, where appropriate, by relevant legislative proposals.***

**(81) *Council Regulation (EC) No 2679/98<sup>54</sup> provides for a mechanism for bilateral discussions and notification of obstacles to the functioning of the internal market. In order to avoid the duplication of rules where the internal market emergency mode has been activated, that Regulation should be amended accordingly. Regulation (EC) No 2679/98 should not in any way affect the exercise of fundamental rights as recognised at Union level and in the Member States, including the right or freedom to strike or to take other action covered by the specific industrial relations systems in Member States, in accordance with national law or practice. It should also be without prejudice to the right to negotiate, to conclude collective agreements and to take collective action in accordance with national law or practice.***

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<sup>54</sup> ***Council Regulation (EC) No 2679/98 of 7 December 1998 on the functioning of the internal market in relation to the free movement of goods among the Member States (OJ L 337, 12.12.1998, p. 8).***

(82) *Since the objective of this Regulation, namely to ensure the smooth and uninterrupted functioning of the internal market by putting in place contingency, vigilance and emergency measures across the internal market in order to facilitate the coordination of the response measures in the event of a crisis, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale or effects of the action, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,*

HAVE ADOPTED THIS REGULATION:

Title I  
General provisions

Chapter I  
Subject matter, objectives, scope and definitions

Article 1  
Subject matter *and objectives*

1. This Regulation establishes a framework of *harmonised* measures to *effectively* anticipate, prepare for and respond to *the impact of crises on the internal* market.
2. *The framework referred to in paragraph 1 aims to:*
  - (a) *safeguard and facilitate the free movement of goods, services and persons, including workers;*
  - (b) *ensure the availability of goods and services of critical importance and crisis-relevant goods and services in the internal market where the Member States have adopted or are likely to adopt divergent national measures; and*
  - (c) *prevent the creation of obstacles to the proper functioning of the internal market.*

3. *This Regulation lays down, in particular:*

- (a) *rules on the establishment and functioning of an Internal Market Emergency and Resilience Board to assist and advise the Commission with regard to anticipating, preventing or responding to the impact of a crisis on the **internal** market;*

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- (b) contingency measures relating to anticipation, *planning and resilience*;
- (c) measures, *during the internal market vigilance mode, for addressing the impact of a threat of a crisis that has the potential to escalate into an internal market emergency*;
- (d) measures, *during the internal market emergency mode*, for addressing the impact of *a crisis on the internal market, including measures that facilitate the free movement of goods, services and persons, including workers, during that mode*;
- (e) *rules on public procurement during the internal market vigilance and emergency modes*;
- (f) *rules on the provision of digital tools and the cooperation between the competent authorities.*

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## Article 2

### Scope

1. This Regulation *shall apply to goods, services and persons, including workers, within the internal market*.
2. This Regulation shall not apply to the following:
  - (a) medicinal products as defined in Article 1, point (2), of Directive 2001/83/EC *of the European Parliament and of the Council*<sup>55</sup>;
  - (b) medical devices as defined in Article 2, point (e), of Regulation (EU) 2022/123;
  - (c) other medical countermeasures as referred to in Article 3, point (10), of Regulation (EU) 2022/2371 *and included in the list established in accordance with Article 7(1) of* Regulation (EU) 2022/2372;

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<sup>55</sup> *Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use (OJ L 311, 28.11.2001, p. 67).*



- (d) semiconductors as defined in Article 2, point (1), of **Regulation (EU) 2023/1781** of the European Parliament *and of the Council*<sup>56</sup>;
- (e) energy products within the meaning of Article 2, paragraph 1, of **Council Directive 2003/96/EC**<sup>57</sup>, electricity within the meaning of Article 2, paragraph 2, of that Directive and other products as referred to in Article 2, paragraph 3, of that Directive;
- (f) financial services, such as banking, credit, insurance and re-insurance, occupational or personal pensions, securities, investment funds, payment and investment advice, including the services and activities listed in Annex I to Directive **2013/36/EU** of the **European Parliament and of the Council**<sup>58</sup>, as well as settlement and clearing activities and advisory, intermediation and other auxiliary financial services;
- (g) *defence-related products as defined in Article 3, point 1, of Directive 2009/43/EC of the European Parliament and the Council*<sup>59</sup> or as defined by the national law of Member States in compliance with Union law.

<sup>56</sup> **Regulation (EU) 2023/1781 of the European Parliament and of the Council of 13 September 2023 establishing a framework of measures for strengthening Europe's semiconductor ecosystem and amending Regulation (EU) 2021/694 (Chips Act) (OJ L 229, 18.9.2023, p. 1).**

<sup>57</sup> **Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (OJ L 283, 31.10.2003, p. 51).**

<sup>58</sup> **Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).**

<sup>59</sup> **Directive 2009/43/EC of the European Parliament and of the Council of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community (OJ L 146, 10.6.2009, p. 1).**

3. By way of derogation from paragraph 2, points (a), (b) and (c), of this Article, Articles 20 to 23 and Article 44 ■ of this Regulation shall apply to the products referred to in those points.
4. This Regulation is without prejudice to *other legal acts of the Union laying down specific rules on crisis response or crisis management, such as:*
- (a) *Decision No 1313/2013/EU of the European Parliament and of the Council<sup>60</sup> establishing the Union Civil Protection Mechanism;*
  - (b) *the relevant provisions of Regulation (EU) 2015/479 relating to the Commission's power to assess whether it is appropriate to impose restrictions to exports of goods in line with the international rights and obligations of the Union;*
  - (c) *Regulations (EU) 2022/2371 and (EU) 2022/2372 relating to the EU Health Security Framework;*
  - (d) *Decision 2014/415/EU establishing the Integrated Political Crisis Response (IPCR) arrangements, including the political coordination role of the IPCR, and Implementing Decision (EU) 2018/1993 laying down rules on the operation of those arrangements.*
5. This Regulation is without prejudice to Union competition rules ■ , including antitrust, merger and State aid rules.

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<sup>60</sup> *Decision No 1313/2013/EU of the European Parliament and of the Council of 17 December 2013 on a Union Civil Protection Mechanism (OJ L 347, 20.12.2013, p. 924).*

6. This Regulation is without prejudice to the responsibility of the Member States to safeguard national security or their power to safeguard essential state functions, including ensuring the territorial integrity of the State and maintaining law and order. ***In particular, national security remains the sole responsibility of each Member State.***
7. ***This Regulation shall not affect the exercise of fundamental rights, in accordance with the Charter of Fundamental Rights of the European Union (the ‘Charter’). In particular, this Regulation shall not affect the right to strike or the right to take other action covered by the specific industrial relations systems in Member States, in accordance with national law and practice. It also shall not affect the right to negotiate, conclude and enforce collective agreements, or to take collective action in accordance with national law and practice.***

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## Article 3

### Definitions

For the purposes of this Regulation, the following definitions apply:

- (1) ‘crisis’ means an exceptional, unexpected and sudden, natural or man-made event of extraordinary nature and scale that takes place within or outside of the Union, *that has or may have a severe negative impact on the functioning of the internal market and that disrupts the free movement of goods, services and persons or disrupts the functioning of its supply chains*;
- (2) ‘*internal* market vigilance mode’ means a framework for addressing *the* threat of *a crisis* that has the potential to escalate into *an internal* market emergency within the next six months;
- (3) ‘*internal* market emergency *mode*’ means a *framework for addressing* a crisis *with a significant negative impact* on the *internal* market which severely disrupts the free movement *of goods, services and persons or, where such a severe disruption has been or is likely to be subject to divergent national measures, the functioning of its supply chains*;

- (4) ‘**critically** important sectors’ means sectors that are of systemic and vital importance to the Union and its Member States for **upholding** public security, public safety, public order or public health, and the disruption, failure, loss or destruction of which **can** have a significant **negative** impact on the functioning of the **internal** market **in times of a threat of a crisis**;
- (5) ‘goods of **critical** importance’ or ‘services of **critical** importance’, together referred to as ‘goods and services of critical importance’, means goods or services that are **non-substitutable, non-diversifiable or** indispensable **in the maintenance of vital societal functions or economic activities in order to ensure the proper functioning of the internal market and its supply chains in critically important sectors and that are listed in an implementing act adopted by the Council pursuant to Article 14(1)**;
- (6) ‘crisis-relevant goods’ or ‘crisis-relevant services’, together referred to as ‘crisis-relevant goods and services’, means goods or services that are **non-substitutable, non-diversifiable or indispensable in the maintenance of vital societal functions or economic activities in order to ensure the proper functioning of the internal market and its supply chains and that are considered essential for responding to a crisis and that are listed in an implementing act adopted by the Council pursuant to Article 18(4)**;

- (7) *‘significant incidents’ means incidents that significantly disrupt or have the potential to significantly disrupt the functioning of the internal market and its supply chains;*
- (8) *‘relevant economic operator’ means an economic operator along the supply chain that has the ability or capacity to produce or distribute any of the following:*
- (a) *goods of critical importance or services of critical importance;*
  - (b) *crisis-relevant goods or crisis-relevant services;*
  - (c) *components of the goods referred to in points (a) and (b);*
- (9) *‘micro, small and medium-sized enterprises’ or ‘SMEs’ means microenterprises, small enterprises and medium-sized enterprises as defined in Article 2 of the Annex to Commission Recommendation 2003/361/EC<sup>61</sup>.*

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<sup>61</sup> *Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).*

Chapter II  
Governance

Article 4

***Internal Market Emergency and Resilience Board***

1. An ***Internal Market Emergency and Resilience Board (the ‘Board’)*** is established.
2. The ***Board*** shall be composed of one representative from each Member State ***and one representative from the Commission***. Each Member State shall ***appoint*** a representative and an alternate representative. ***In addition, Member States may appoint a sector-specific ad hoc representative if appropriate, depending on the nature of the crisis.***
3. A representative of the Commission shall chair the ***Board and the Commission shall provide*** the secretariat of the Board. ■
4. ***The Chair of the Board (the ‘Chair’) shall invite a representative from the European Parliament as a permanent observer to the Board.***



5. *The Chair may invite experts with specific knowledge to take part, as observers, in the work of the Board and to attend specific meetings, on an ad-hoc basis, where such attendance is relevant considering the agenda of the meeting. Such experts may include representatives of economic operators, stakeholder organisations and social partners.*
6. *The Chair shall invite the representatives of other crisis-relevant bodies at Union level as observers to the relevant meetings of the Board.*
7. *The Chair shall invite representatives of international organisations and countries outside the Union to relevant meetings of the Board in accordance with the relevant bilateral or international agreements.*
8. *Observers shall not have voting rights and shall not participate in the formulation of opinions, recommendations or advice of the Board. Where appropriate, the Chair may invite those observers to contribute information and insights.*
9. *The Board shall meet at least three times a year. At its first meeting, on a proposal by and in agreement with the Commission, the Board shall adopt its rules of procedure.*
10. *The Board may adopt opinions, recommendations or reports in the context of its tasks set out in Article 5. The Commission shall, in a transparent manner, take the utmost account of those opinions, recommendations or reports.*

## *Article 5*

### *Tasks of the Board*

- I.* For the purpose of internal market contingency planning under Articles 9 to 13, the **Board** shall assist and advise the Commission on the following tasks:
- (a) proposing arrangements for administrative cooperation *to facilitate the exchange of information* between the Commission and the Member States during the *internal* market vigilance and emergency modes that are to be contained in the *contingency framework referred to in Article 9*;
  - (b) *assessing* incidents that the Member States have notified to the Commission *in accordance with Article 13 and their impact on the internal market and its supply chains*;
  - (c) *gathering information for the purposes of gaining foresight on the possibility of a crisis occurring, conducting data analysis and providing market intelligence*;
  - (d) *consulting the representatives of economic operators, including SMEs, and of industry , as well as, where relevant, of social partners, in order to collect market intelligence in accordance with Article 43*;
  - (e) *analysing aggregated data received by other crisis-relevant bodies at Union and international level*;
  - (f) *maintaining a repository of national and Union crisis measures that have been taken in previous crises and that have had an impact on the internal market and its supply chains; and*
  - (g) *advising on which measures are to be chosen to anticipate and plan for a crisis, while strengthening the resilience of the internal market, and advising on the implementation of the measures chosen.*

2. For the purpose of *the internal* market vigilance mode as referred to in Article 14, the *Board* shall assist *and advise* the Commission on the following tasks:

- (a) establishing whether the *criteria for activation or deactivation of the internal market vigilance mode have been fulfilled in order to determine whether the* threat of a crisis referred to in Article 3, point (2), is present, and the scope of such threat;

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- (b) *coordinating and* facilitating exchanges and sharing of information, including with other relevant bodies and other crisis-relevant bodies at Union level and, as appropriate, *with* countries *outside the Union*, with particular attention paid to candidate countries to the Union and developing countries, and with international organisations; and

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- (c) *analysing and discussing the impact of the threat of a crisis on the internal market, with due regard to the situation in border regions, with a view to finding possible solutions.*

3. For the purposes of the *internal* market emergency mode as referred to in Article 18, the *Board* shall assist *and advise* the Commission on the following tasks:
- (a) analysing crisis-relevant information gathered by Member States or the Commission;
  - (b) establishing whether the criteria for activation or deactivation of the internal market emergency mode have been fulfilled;
  - (c) advising on which measures are to be chosen to respond to an *internal* market emergency at Union level, *and advising on the implementation of the measures chosen*;
  - (d) performing a review of national crisis measures;
  - (e) *coordinating and* facilitating exchanges and sharing of information, including with other crisis-relevant bodies at Union level, and, as appropriate, with countries outside the Union, with particular attention paid to *candidate countries to the Union and* developing countries, and with international organisations;
  - (f) *analysing and discussing the impact of the crisis on the internal market, with due regard to the situation in border regions, with a view to finding possible solutions; and*
  - (g) *establishing, where appropriate, a list of categories of persons involved in the production or supply of crisis-relevant goods and services for whom it is necessary to establish common templates and forms which can be used by the Member States on a voluntary basis.*

4. The Commission shall ensure the involvement in the work of the Board of all bodies at Union level that are relevant to the respective crisis. The **Board** shall cooperate and coordinate closely, where appropriate, with other crisis-relevant bodies at Union level **and the European Critical Raw Materials Board established by Regulation (EU) 2024/1252**. The Commission shall ensure coordination with the measures implemented through other Union mechanisms, such as the Union Civil Protection Mechanism (UCPM), **the IPCR**, the EU Health Security Framework **and the European critical raw materials framework**. **The Board** shall ensure information exchange with the Emergency Response Coordination Centre under the UCPM **and the Integrated Situational Awareness and Analysis support capability under the IPCR**.

5. **The Board shall, in cooperation with the Commission, adopt an annual activity report and transmit it to the European Parliament and the Council.**

## *Article 6*

### *Emergency and resilience dialogue*

1. *In order to enhance dialogue between the institutions of the Union and to ensure greater transparency, accountability and coordination, the competent committee of the European Parliament may invite the Commission in its capacity as Chair of the Board to appear before that committee to provide information on all matters falling within the scope of this Regulation, in particular after each meeting of the Board and after each deactivation of the internal market vigilance or emergency modes.*
2. *The European Parliament shall be informed as soon as possible of any Council implementing acts proposed or adopted pursuant to this Regulation.*
3. *The Commission shall take into account any elements arising from the views expressed through the emergency and resilience dialogue, including the relevant resolutions of the European Parliament.*

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## *Article 7*

### *Emergency and resilience platform*

- 1. The Commission shall establish a stakeholder platform in order to facilitate sector-specific dialogue and partnerships by bringing together key stakeholders, namely representatives of economic operators, social partners, researchers and civil society. In particular, that platform shall provide a functionality that allows interested stakeholders to:*
  - (a) indicate voluntary actions needed to successfully respond to an internal market emergency;*
  - (b) provide scientific advice, opinions or reports on crisis-related issues;*
  - (c) contribute to the exchange of information and best practices, in particular as regards the free movement of goods, services and persons, and to the avoidance of divergent national measures which could create cross-border restrictions.*
- 2. The Commission and the Board shall take into account the outcomes of the sector-specific dialogue and partnerships referred to in paragraph 1, as well as any relevant input provided by stakeholders in accordance with that paragraph, in the implementation of this Regulation.*



Article 8  
Liaison offices

1. *Each Member State shall designate a central liaison office* ■ .
2. *The central liaison office of a Member State shall be responsible for contact, coordination and information exchange with:*
  - (a) *the central liaison offices of other Member States and the Union-level liaison office referred to in paragraph 4;*
  - (b) *the relevant competent authorities of that Member State, in particular with the national single points of contact referred to in Article 24.*
3. *In order to perform its tasks under this Regulation, the central liaison office of a Member State shall compile input from the relevant competent authorities of that Member State.*
4. The Commission shall designate a Union-level ■ liaison office ■ .
5. *The Union-level liaison office shall be responsible for ensuring coordination and information exchange, including the exchange of crisis-relevant information, with the central liaison offices of the Member States for the management of the internal market vigilance and emergency modes.*

## Title II

### *Internal market contingency planning*

#### Article 9

##### *Contingency framework*

1. The Commission, taking *due* consideration *of* the opinion of the *Board* and the input of relevant Union-level bodies, *may* adopt *an implementing* act to *set out the detailed arrangements for a contingency framework* regarding crisis *preparedness*, cooperation, exchange of information and crisis communication for the *internal* market vigilance and emergency modes. *That implementing act shall set out the detailed arrangements for:*
  - (a) cooperation between *the* competent authorities of the *Member States* and Union-level bodies *during the internal* market vigilance and emergency modes;
  - (b) ■ secure exchange of information; *and*
  - (c) a coordinated approach to ■ crisis communication *during the internal market vigilance and emergency modes* vis-à-vis the public with a coordinating role for the Commission.

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2. *The implementing act referred to in paragraph 1 shall be adopted in accordance with the examination procedure referred to in Article 45(2).*
3. The Commission and the Member States shall **ensure** arrangements are in place for timely cooperation and secure exchange of information between the Commission, the relevant Union-level bodies and the Member States concerning:
- (a) an inventory of the **competent authorities of the Member States, the** central liaison offices designated in accordance with Article 8 and **the** single points of contact referred to in Article 24, including their contact details, assigned roles and responsibilities during the internal market vigilance and emergency modes **under** this Regulation, **in accordance with** national law;
  - (b) consultation of the representatives of economic operators , including SMEs, on their initiatives and actions to mitigate and respond to potential **internal** market **crises**;
  - (c) **consultation of social partners on the implications, for the free movement of workers, of their initiatives and actions to mitigate and respond to a potential crisis**;
  - (d) technical level cooperation during the internal market vigilance and emergency modes ;
  - (e) risk and emergency communication, with a coordinating role for the Commission, taking into account existing structures.
4. *In order to ensure the operation of the framework established in accordance with paragraph 1, the Commission may conduct stress tests, simulations and in-action and after-action reviews with Member States, and propose that the relevant Union-level bodies and the Member States update the framework as necessary.*

5. *In order to promote and facilitate the free movement of goods and services during an internal market emergency mode, the Commission shall assist Member States in coordinating their efforts in laying down single digital forms for the purpose of declaration, registration or authorisation of activities carried out between Member States.*

## *Article 10*

### *Voluntary crisis protocols*

1. *The Board may recommend the Commission to initiate the drawing up of voluntary crisis protocols by economic operators for addressing crises under the internal market emergency mode.*
2. *The Commission shall encourage and facilitate the drawing up of those voluntary crisis protocols by economic operators. Economic operators may decide, on a voluntary basis, whether to participate in voluntary crisis protocols.*
3. *The voluntary crisis protocols shall set out:*
  - (a) *the specific parameters of the disruption that the voluntary crisis protocol seeks to address and the objectives it pursues;*
  - (b) *the role of each participant under the voluntary crisis protocol and the preparatory measures they are to put in place once the internal market emergency mode has been activated to mitigate and respond to the crisis;*
  - (c) *a clear procedure for determining the moment of the activation and the period during which the measures are to be taken once the crisis protocol has been activated;*
  - (d) *actions to mitigate and respond to potential crises under the internal market emergency mode, strictly limited to what is necessary for addressing them.*

4. *The Commission shall, as appropriate, involve authorities of the Member States, and Union bodies, offices and agencies in drawing up the voluntary crisis protocols. The Commission may, where necessary and appropriate, also involve civil society organisations or other relevant organisations.*

## Article 11

### Training and simulations

1. The Commission shall *develop and regularly organise* training on crisis *preparedness*, coordination, cooperation and information exchange for the staff of the central liaison offices. It shall organise simulations involving the staff of the central liaison offices from all Member States based on potential scenarios of *internal* market emergencies.
2. *In particular, the Commission shall develop and manage a training programme derived from lessons learnt from previous crises, including aspects of the entire emergency-management cycle, in order to provide a rapid response to crises under the internal market vigilance or emergency mode. That programme may include, in particular, the following:*
- (a) *monitoring, analysing and evaluating all relevant actions to facilitate the free movement of goods, services and persons;*
  - (b) *promoting the implementation of best practices at Union and national level, and, where appropriate, best practices developed by countries outside the Union and international organisations;*
  - (c) *developing guidance on knowledge dissemination and the implementation of different tasks at national and, where relevant, regional and local level;*
  - (d) *encouraging the use of relevant new technologies and digital tools for the purpose of responding to internal market emergencies.*

3. *The Commission shall develop and make available training programmes and materials for stakeholders, including economic operators. Where relevant, the Commission may invite stakeholders to participate in training and simulations.*
4. *At the request of a Member State, the Commission may provide advice and support on crisis-preparedness and crisis-response measures, taking particular account of the needs and interests of that Member State.*

## *Article 12*

### *Stress tests*

1. *The Commission, taking into consideration the opinion of the Board, shall conduct and coordinate stress tests, including simulations that aim to anticipate and prepare for a crisis in the internal market.*
2. *In particular, the Commission shall:*
  - (a) *develop scenarios and parameters in a specific sector that capture the particular risks associated with a crisis, in order to assess the potential impact on the free movement of goods, services and persons in that sector;*
  - (b) *facilitate and encourage the development of strategies for emergency preparedness;*
  - (c) *identify, in cooperation with all actors involved, risk mitigation measures after the completion of the stress tests.*
3. *In order to identify the specific sector referred to in paragraph 2, point (a), the Commission, in cooperation with the Board, shall make use of all the existing tools at its disposal, including mapping exercises.*

4. *The Commission shall conduct stress tests regularly, and at least once every two years, at Union level. To that end, the Commission shall invite staff from the central liaison offices of all Member States to participate in simulations. The Commission may also invite other relevant actors involved in the prevention of, preparedness for and response to internal market emergencies to participate on a voluntary basis.*
5. *On the basis of a request by two or more Member States, the Commission may conduct stress tests in specific geographical areas or border regions in those Member States.*
6. *The Commission shall communicate the results of the stress tests conducted pursuant to this Article to the Board and publish a report thereon.*

#### Article 13

##### Ad hoc alerts for early warning

1. The central liaison office of a Member State shall notify the Commission and the central liaison offices of other Member States without undue delay of any ■ significant incidents ■ .
2. The central liaison offices and any relevant ■ competent authorities *of the Member States* shall, in accordance with Union law and national law that is in compliance with Union law, ***adopt all measures necessary to*** treat the information referred to in paragraph 1 in a way that respects its confidentiality, protects the security and public order of the ■ Union or the Member States, and protects the security and commercial interests of the economic operators concerned.



3. In order to determine whether *incidents should be the object* of an *alert as referred to in paragraph 1*, the central liaison office of a Member State shall take into account the following:
- (a) the *market position or* number of economic operators affected by the *incident*;
  - (b) the duration or anticipated duration of *the incident*;
  - (c) the geographical area and the proportion of the *internal* market affected by the *incident and its cross-border effects, as well as its impact on* particularly vulnerable or exposed *geographical areas, such as the* outermost regions; *and*
  - (d) the impact of *those incidents* on non-diversifiable and non-substitutable *goods*.

Title III  
*Internal market vigilance*

Chapter I  
Internal market vigilance mode

Article 14  
Criteria for activation

1. Where the Commission, taking into consideration the opinion provided by the **Board**, considers that the conditions *referred to* in Article 3, point (2), *are fulfilled*, it shall *propose to the Council that the Council* activate the *internal market vigilance mode*. *The Council may activate the internal market vigilance mode by means of a Council implementing act. The duration of that activation shall be specified in the* implementing act, *and shall be a maximum of six months*. Such   implementing act shall contain the following:
  - (a) an assessment of the potential impact of the crisis *on the free movement of goods, services and persons, including workers, in the internal market and on its supply chains*;
  - (b) *a* list of the goods and services of *critical* importance concerned; and
  - (c) the vigilance measures to be taken, *including a justification regarding the necessity and proportionality of such measures*.

2. *When assessing whether the conditions laid down in Article 3, point (2) are fulfilled in order to determine the need to activate the internal market vigilance mode, the Commission and the Council shall take into account at least the following criteria:*
- (a) the anticipated time before the threat of a crisis escalates into an internal market emergency;*
  - (b) the number or market position of economic operators expected to be affected by the crisis;*
  - (c) the extent to which goods and services of critical importance are expected to be impacted by the crisis; and*
  - (d) the geographical area expected to be impacted by the crisis, in particular the impact on border regions and outermost regions.*

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## Article 15

### Extension and deactivation

1. ***In the event that*** the Commission **■** considers that the reasons for activating the internal market vigilance mode pursuant to Article 14(1) remain valid, and taking into consideration the opinion provided by the **Board**, ***it shall propose to the Council that it*** extends the internal market vigilance mode. ***Subject to urgent and exceptional changes in circumstances, the Commission shall make best efforts to do so no later than 30 days before the expiry of the period for which the internal market vigilance mode has been activated. On the basis of that proposal, the Council may extend the internal market vigilance mode by no more than six months at a time*** by means of ***a Council*** implementing act.
2. Where the Commission, taking into consideration the opinion provided by the **Board**, finds that the conditions ***referred to*** in Article 3, point (2), ***are*** no longer ***fulfilled*** with respect to some or all vigilance measures or for some or all of the goods and services of ***critical*** importance, it shall ***propose to the Council to*** deactivate the internal market vigilance mode in full or in part. ***On the basis of that proposal, the Council may deactivate the internal market vigilance mode*** by means of ***a Council*** implementing act.

## Chapter II

### Vigilance measures

#### Article 16

##### Monitoring

1. When the internal market vigilance mode has been activated in accordance with Article 14, **the competent authorities of *the Member States* shall monitor the supply chains of goods and services of *critical* importance *and the free movement of persons, including workers, involved in the production and supply of those goods and services.***
2. The Commission shall provide for standardised and secure electronic means for the collection ***of the information obtained through the monitoring referred to in paragraph 1 and the*** processing of ***that*** information ***in an aggregated manner***. Without prejudice to national law requiring, ***in compliance with Union law***, that such information, including business secrets, be kept confidential, confidentiality shall be ensured with regard to commercially sensitive ***information and*** information relating to the security and public order of the Union or the Member States.
3. Member States shall, ***where possible***, set up, ***update*** and maintain an inventory of the **relevant economic operators established in their respective national territory that operate along the supply chains of goods and services of *critical* importance. *The contents of that inventory shall be confidential at all times.***

4. On the basis of the inventory set up pursuant to *paragraph 3*, competent authorities of *the Member States* shall, *where it is not possible to obtain the information from other sources*, address requests for the voluntary provision of information to the most relevant economic operators along the supply chains of goods and services *of critical importance* and operating in their respective national territory. Such requests shall in particular *state* which information about factors impacting the availability of the identified goods and services of *critical* importance is requested. The economic *operator* addressed shall provide the information requested on a voluntary basis, in accordance with Union competition rules governing the exchange of information. The **■** competent authorities of *the Member States* shall transmit the relevant findings to the Commission and the *Board* without delay via their respective central liaison office.
5. **■** Competent authorities *of the Member States* shall have due regard to the administrative burden on economic operators, and in particular on SMEs, which may be generated by requests for information, and ensure *that such administrative burden* is kept to a minimum *and that the confidentiality of the information is respected*.
6. *On the basis of the information collected through the monitoring activities carried out in accordance with paragraph 1, the Commission shall present a report on the aggregated findings to the Board.*
7. The Commission may ask the *Board* to discuss the *aggregated* findings and prospects of development based on *the information obtained by Member States pursuant to paragraphs 1 and 4 regarding their* monitoring of supply chains of goods and services of *critical* importance, *and in that case shall ensure confidentiality and respect the commercial sensitivity of the information concerned*.
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8. *The Commission may also share relevant information with the Member States, obtained through other monitoring means or systems.*
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Title IV  
***Internal market emergency***

Chapter I  
Internal market emergency mode

Article 17  
Criteria for activation

1. When assessing ***whether the conditions referred to in Article 3, point (3), are fulfilled in order to determine the need to activate the internal market emergency mode, the Commission and the Council*** shall, based on concrete and reliable evidence, ***assess whether the crisis creates one or more obstacles to the free movement of goods, services or persons, having an impact on at least one sector of vital societal functions or economic activities in the internal market.***

***Where the crisis leads to a disruption to the functioning of supply chains, in addition to the criteria set out in the first subparagraph, the Commission and the Council shall assess whether the goods or services can be diversified or substituted or whether the workers concerned can be substituted.***

2. ***When applying paragraph 1, the Commission and the Council shall, in particular, take into account the following indicators:***

- (a) ***the number of significant incidents notified pursuant to Article 13(1);***
- (b) ***the fact that*** the crisis has ***triggered the*** activation of any ***of the following:***
  - (i) ***a relevant Council crisis response mechanism, including IPCR;***
  - (ii) ***the UCPM; or***
  - (iii) ***any of*** the mechanisms set up within the EU Health Security Framework, including ***the emergency framework established by*** Regulation (EU) 2022/2372;

- (c) an estimation of the number *or market position* of, *and market demand* for, economic *operators*, as well as an estimation of the number of users, relying on the disrupted sector or sectors of the *internal* market for the provision of the goods or services concerned;
- (d) *an estimation of the types of goods and services or the number of persons, including workers, affected by the crisis*;
- (e) the *impact or the potential impact of the crisis* in terms of degree and duration on *vital* societal functions and economic activities, the environment and public safety;
- (f) *the fact that* the economic operators affected *by the crisis* have not been able to provide a solution in a reasonable time to the particular aspects of the crisis on a voluntary basis;

■

- (g) the geographical areas, *including border regions and outermost regions*, that are and could be affected *by the crisis*, including any cross-border impact on the functioning of supply chains that are indispensable *to* the maintenance of vital societal functions or economic activities in the *internal* market;
- (h) the importance of the affected economic *operators* in maintaining a sufficient level of supply of the goods or services, taking into account the availability of alternative means for the provision of those goods or services; and
- (i) the absence *or shortage of substitutes for goods* or services.

■



1. *The internal market emergency mode shall only be activated if the criteria laid down in Article 17(1) are fulfilled.*

2. The **internal** market emergency mode may be activated without the **internal** market vigilance mode having previously been activated with regard to the same goods or services.

The activation of the **internal** market emergency mode regarding certain goods and services does not prevent the activation or continued application of the internal market vigilance mode or deployment of the vigilance measures laid down in **Article 16** regarding the same goods and services. Where the internal market vigilance mode has previously been activated, the internal market emergency mode may replace it partially or entirely.

3. Where the Commission, taking into consideration the opinion provided by the **Board**, considers that there is **an internal** market emergency, it shall propose to the Council that the Council activate the **internal** market emergency mode *and, where applicable, adopt a list of crisis-relevant goods and services.*

4. The Council may activate the **internal** market emergency mode *and, where applicable, adopt a list of crisis-relevant goods or crisis-relevant services, or of both*, by means of a Council implementing act *on the basis of a proposal from the Commission*. The duration of the activation **shall** be specified in the implementing act, and shall be a maximum of six months. *The list of crisis-relevant goods and services may be amended by means of Council implementing act on the basis of a proposal from the Commission.*

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## Article 19

### Extension and deactivation

1. In the event that the Commission considers that the reasons for activating the *internal* market emergency mode pursuant to Article 17(1) remain valid, and taking into consideration the opinion provided by the Board, it shall propose to the Council that it extends the *internal* market emergency mode. Subject to urgent and exceptional changes in circumstances, the Commission shall *make best efforts* to do so no later than 30 days before the expiry of the period for which the *internal* market emergency mode has been activated. On the basis of that proposal, the Council may extend the *internal* market emergency mode by no more than six months at a time by means of *a Council* implementing act.
2. Where the *Board* has concrete and reliable evidence that the *internal* market emergency *mode* should be deactivated, it may formulate an opinion to that effect and transmit it to the Commission. Where the Commission, taking into consideration the opinion provided by the *Board*, considers *that the internal* market emergency no longer exists, it shall propose to the Council, without delay, the deactivation of the *internal* market emergency mode.
3. The measures taken in accordance with Articles 27 to 35 ■ shall cease to apply upon deactivation of the *internal* market emergency mode. ■

## Chapter II

### Free movement during an *internal* market emergency

#### Section I

#### Measures ■ facilitating free movement

#### Article 20

##### *Restrictions to free movement during the internal market emergency mode*

1. *Without prejudice to Article 21*, when adopting and applying national measures in response to an *internal* market emergency ■, Member States shall ensure that *such measures* comply with ■ Union law, *including as regards non-discrimination, justification and proportionality*.
2. *Member States shall ensure, in particular, that the measures referred to in paragraph 1 are removed as soon as they are no longer justified or proportionate*.
3. *Member States shall ensure that* any requirement imposed on citizens *or economic operators does* not create an undue or unnecessary administrative burden.
- 
4. Member States shall ensure that all affected *citizens and* stakeholders are informed *in a clear and unambiguous manner of the* measures restricting *the* free movement of goods, services and persons, including workers and service providers, before their entry into force. Member States shall ensure a continual dialogue with stakeholders, including communication with social partners and international partners.

## Article 21

Prohibited restrictions *on the right to* free movement ■ during *an internal* market emergency

During *an internal* market emergency mode and when responding to *an internal* market emergency, Member States shall refrain from introducing any of the following:

- (a) *any measures that are not limited in time;*
- (b) *bans on intra-Union export*, or measures having equivalent effect, of crisis-relevant goods or services, *or bans on the transit of crisis-relevant goods, or measures having equivalent effect;*
- (c) *measures that restrict the intra-Union* export of goods, or measures having equivalent effect or *measures that restrict the cross-border* provision or receipt of services, where those restrictions *cause* any of the following:
  - (i) *disruptions to* supply chains of crisis-relevant goods and services; or
  - (ii) *shortages, or an* increase *in* shortages, of such goods and services in the *internal* market;
- (d) *measures that discriminate between beneficiaries of the right to free movement under Union law* based ■ on nationality or, in the case of companies, the location of *their* registered office, central administration or principal place of business;

■

- (e) *measures that deny* beneficiaries of the right *to* free movement under Union law the following: ■ the right to enter the territory of their Member State of nationality or residence; the right to exit the territory of *a* Member *State* in order to travel to *their* Member State of nationality or residence; or the right to transit through a Member State in order to reach *their* Member State of nationality or residence;
- (f) *measures that prohibit* business travel linked to the research and development, *production, placing on the market or related inspections and maintenance of crisis-relevant* goods;
- (g) *measures that prohibit* travel *between Member States* for imperative family reasons, *when such travel is permitted within the Member State introducing such a measure*;
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- (h) *measures that impose travel restrictions on service providers, business representatives and workers, preventing them from travelling between Member States in order to access their place of activity or workplace when there are no such travel restrictions within the Member State introducing such a measure*;
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- (i) *measures that impose restrictions preventing*:
- (i) *the travel of providers of crisis-relevant services*, business representatives *and* workers ■ involved in *the* production of crisis-relevant goods, *or in the* provision of crisis-relevant services ■, *or civil protection workers; or*
- (ii) *the transport of the equipment of the persons referred to in point (i) to the place of their activities.*
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## Article 22

### *Mitigation measures for the free movement of persons*

1. During the *internal* market emergency mode *and for the purpose of facilitating the* free movement of persons referred to in *Article 21, points (f) to (i), the Commission may*, by means of implementing acts, *adopt administrative arrangements or provide Member States with digital tools to facilitate the identification of the categories of persons and verification of the facts referred to in those provisions by the Member States in cooperation with the other relevant Member States and the Commission.*
2. During the *internal* market emergency mode, where the Commission establishes that Member States have put in place templates for attesting that *an* individual or economic operator *fulfils the general requirements set out in national emergency measures* and it considers that the use of different templates by each Member *State* is an obstacle to the free movement *of those individuals or economic operators and their equipment*, the Commission may issue, *by means of implementing acts*, templates *which may be used by* the Member States on a voluntary basis.
3. *Without prejudice to relevant Union law and applicable national law and procedures, Member States shall prioritise declaration, registration or authorisation procedures with regard to providers of crisis-relevant services.*

4. *The Commission shall identify the categories of persons involved in the production or supply of crisis-relevant goods and services for which it is necessary to facilitate free movement by establishing templates by means of implementing acts, after consulting the Board, which may be used by the Member States on a voluntary basis.*
5. The implementing acts referred to in paragraphs 1, **2 and 4** of this Article shall be adopted in accordance with the examination procedure referred to in Article 45(2). On duly justified imperative grounds of urgency relating to the impact of the crisis on the *internal* market, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 45(3).
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6. *The Commission shall make information on the mitigation measures it has adopted pursuant to this Article publicly available on a dedicated website.*

Section II  
Transparency and administrative assistance

Article 23  
*Transparency*

1. *Where the internal market emergency mode has been activated in accordance with Article 18(4), Member States shall communicate the text of any emergency measures taken in response to the crisis, without delay and after their adoption, to the Commission and to other Member States via the Union-level liaison office. That obligation shall only apply where those measures introduce restrictions on the exercise of the right to free movement of persons between Member States and are not already covered by an information or notification obligation provided for in other Union legislation. Such communication shall include:*
  - (a) *the reasons for such measures, including reasons demonstrating that the measures are justified and proportionate, as well as any underlying scientific or other data supporting their adoption;*
  - (b) *the scope of such measures;*
  - (c) *the date of adoption and date of application and duration of those measures.*

■



2. Member States *may communicate to the Commission and to other Member States via the Union-level liaison office the draft text of any measures referred in paragraph 1 before their adoption, together with the information referred to in points (a) to (c) of paragraph 1.*
3. *The communication referred to in paragraph 2 shall not prevent Member States from adopting the measures in question.*
4. *Member States shall provide the public and, at the same time, the Commission with clear, comprehensive and timely information explaining the measures referred to in paragraph 1 as soon as possible.*
5. *The Commission shall coordinate the information exchange between Member States and, based on the information received pursuant to this Article, publish on a dedicated website, available in all official languages of the institutions of the Union, relevant information on any restrictions on the exercise of the right to free movement, including information on the scope and duration of the national measures in question, and, where possible, real-time information. That dedicated website may include an interactive map with relevant real-time information on those measures.*
6. The Commission shall *make the information received pursuant to paragraphs 1, 2 and 4 available to the Board.*
7. *The information referred to in paragraphs 1, 2 and 4 shall be transmitted via a secure tool provided by the Commission* ■ .

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## Article 24

### Single points of contact in the Member States

1. Each Member State shall operate a national single point of contact that shall provide citizens, consumers, economic operators and workers and their representatives with the following **■** :
  - (a) assistance in requesting and obtaining information about national restrictions on the free movement of goods, services, persons and workers introduced during the *internal* market emergency *mode*;
  - (b) assistance in the performance of any national level crisis procedures and formalities that have been put in place due to the activation of the *internal* market emergency *mode*.
2. Member States shall ensure that it is possible for citizens, consumers, economic operators and workers and their representatives to receive, at their request and via the relevant single point of contact, information from the competent authorities on the way in which the respective national crisis response measures are generally interpreted and applied. Where appropriate, such information shall include a step-by-step guide. That information shall be provided in clear, understandable and intelligible language. It shall be easily accessible remotely and by electronic means, and shall be kept up to date.
3. *Member States shall also make the information referred to in paragraph 1 accessible in an official language of the institutions of the Union that is broadly understood by the largest possible number of cross-border users and shall make best efforts to provide such information in other official languages of the institutions of the Union, paying particular attention to the situation and needs of the border regions.*

## Article 25

### Union-level single point of contact

1. The Commission shall set up and operate a Union-level single point of contact.
2. The Union-level single point of contact shall **■** :
  - (a) provide citizens, consumers, economic operators, workers and their representatives with assistance in requesting and obtaining information as regards Union-level crisis response measures that are relevant or affect the exercise of the free movement of goods, services *and* persons, *including* workers, during the *internal* market emergency *mode*;
  - (b) provide citizens, consumers, economic operators, workers and their representatives with assistance in the performance of any crisis procedures and formalities that have been put in place at Union level due to the activation of the *internal* market emergency *mode*;
  - (c) *compile and publish* a list *of* all national crisis measures and national contact points.
3. *Sufficient human and financial resources shall be allocated to the Union-level single point of contact.*

### Chapter III

#### *Internal* market emergency response measures

#### Section I

Information requests, emergency procedures under Union product legislation and priority-rated requests

#### Article 26

##### Requirement of two-tier activation

1. *The* measures under this Section shall *only* be adopted by the Commission *when an internal market emergency mode has been activated and a list* has been *established by the* Council *pursuant to* Article 18(4).
2. An implementing act introducing a measure under this Section shall clearly and specifically identify, from the crisis-relevant goods or crisis-relevant services, those to which such *a* measure applies. That measure shall apply only for the duration of the internal market emergency mode.

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## Article 27

### Information requests to economic operators

1. ■ The Commission may invite *the relevant* economic operators in *the* supply chains of *crisis-relevant goods or crisis-relevant services* to provide, on a voluntary basis ■ within a set time limit, specific information *in the following circumstances*:
  - (a) *there are severe shortages of crisis-relevant goods or crisis-relevant services or an imminent threat thereof;*
  - (b) *the information sought is strictly necessary for assessing whether any of the measures laid down in Article 28, or Articles 34 to 39 is capable of reducing such shortages or the imminent threat thereof;*
  - (c) *the information provided through the Board or obtained through other means from the Member States in the contingency phase or internal market vigilance mode is not sufficient; and*
  - (d) *the Commission is not able to obtain such information from other sources.*

*The Commission, after consulting the Board, shall assess the existence of the conditions referred to in the first subparagraph.*

2. *The Commission may make a request for information, by means of an implementing act in the event that:*
- (a) *no information is provided to the Commission on a voluntary basis within the set time limit pursuant to paragraph 1; or*
  - (b) *the information received by the Commission, through the voluntary provision of information pursuant to paragraph 1, or from any other sources available during the contingency phase or internal market vigilance mode, is still insufficient for assessing whether the deployment of the measures laid down in Article 28 or Articles 34 to 39 would reduce the severe shortages of crisis-relevant goods or crisis-relevant services or the imminent threat of such shortages and whether any such measures should be taken.*
3. *Before adopting an implementing act as referred to in paragraph 2, and taking into consideration the opinion of the Board, the Commission shall:*
- (a) *assess the necessity and the proportionality of such an information request for the achievement of the objectives laid down in paragraph 1, point (b); and*
  - (b) *take due account of the administrative burden that such a request could entail for the economic operators concerned, in particular SMEs, and set the time limit for submitting the information accordingly.*

4. The information requests referred to in *paragraphs 1 and 2 shall be limited to targeted information about the following*:
- (a) ■ the production capacities and possible existing stocks of the crisis-relevant goods ■ in production facilities located in the Union or in countries outside the Union which the *relevant* economic operator *operates*, contracts with or purchases supply from, while fully respecting trade and business secrets ■ ;
  - (b) *where available, the schedule of the expected output of crisis-relevant goods in production facilities, located in the Union and in countries outside the Union which the relevant economic operator operates or contracts with, for the three months following receipt of the information request;*
  - (c) *any relevant disruptions to or shortages in supply chains of crisis-relevant goods or crisis-relevant services.*

5. *The implementing act providing for an information request by the Commission to economic operators pursuant to paragraph 2 shall:*

- (a) specify the crisis-relevant goods and services that are relevant for the information request;*
- (b) specify the relevant economic operators that operate along the supply chains of crisis-relevant goods or crisis-relevant services and that are concerned by the information request;*
- (c) specify the information that is sought, including providing, where necessary, a template with questions that could be addressed to the individual relevant economic operators;*
- (d) demonstrate the existence of the exceptional need referred to in paragraph 1, point (b), for which the information is requested and include the assessment referred to in paragraph 3, point (a);*
- (e) explain the purpose of the request, the intended use of the information requested, and the duration of that use; and*
- (f) specify the period during which the economic operator can ask the Commission to modify the request.*

*The information request provided for by the implementing act referred to in the first subparagraph shall be expressed in a clear, concise and understandable language and take into account the protection of trade secrets and the effort required on the part of the economic operator in order to make the information available on a voluntary basis, especially if it is an SME.*



6. Following the Commission's request for ■ information from the economic operators by means of an implementing act *pursuant to paragraph 2*, the Commission shall address an ■ individual decision to each of the economic operators concerned from the category specified in that implementing act, requesting them to *either* provide the information specified in that implementing act *or to explain why they cannot provide such information*. The Commission shall rely, where possible, on the relevant and available inventory of the relevant economic operators, compiled by the Member States *in accordance with Article 16(3)*. The Commission may *also, where relevant*, obtain the necessary information on the economic operators concerned from the Member States.
7. The Commission decisions containing individual information requests *adopted pursuant to paragraph 6* shall be duly justified and proportionate in terms of the volume, nature and granularity of the data requested, as well as the frequency of access to that data, and shall be necessary for the management of the emergency ■ .

Such decisions shall contain all of the following elements:

- (a) a reference to the implementing act referred to in paragraph 2 on which they are based;
- (b) a description of the situations of severe crisis-related shortages or an imminent threat thereof which has given rise to the decision;
- (c) safeguards for the protection of personal data in accordance with Article 42, for the non-disclosure of sensitive business information, *for the non-disclosure of trade secrets and for the protection of intellectual property* contained in the reply in accordance with Article 43;

- (d) information on the possibility of contesting the decision before the Court of Justice of the European Union in line with relevant Union law;
- (e) a reasonable time limit *not exceeding 20 working days* within which the information *or the justification for the refusal to supply such information is* to be provided.

*When setting the time limit referred to in point (e) of the second subparagraph, the Commission shall take into consideration, in particular, the size of the economic operator concerned in terms of employees and the effort necessary to collect and make information available.*

*The economic operator may request a one-time extension to the time limit until two days prior to its expiration in the event that the gravity of the situation requires such extension. The Commission shall respond, within one working day, to any such request for an extension to the time limit.*

- 8. *When the processing of an information request by an economic operator has the potential to significantly disrupt its operations, that economic operator may refuse to supply the requested information and shall provide the reasons for such refusal to the Commission. The Commission shall not disclose any such refusal to supply the requested information or the reasons for such refusal.*
- 9. *The Commission shall forward, without delay, a copy of any request for information referred to in paragraphs 1 and 2 to the relevant competent authority of the Member State in whose territory the economic operator is situated. If that competent authority so requests, the Commission shall transmit the information acquired from the respective economic operator in accordance with Union law.*

10. *The Commission, after receiving information pursuant to a request for information referred to in paragraphs 1 and 2, shall:*

- (a) *only use the information in a manner that is compatible with the purpose for which the information was requested;*
- (b) *ensure, insofar as the processing of personal data is necessary, the implementation of technical and organisational measures that preserve the confidentiality and integrity of the requested information, in particular personal data, and that safeguard the rights and freedoms of data subjects;*
- (c) *erase the information as soon as it is no longer necessary for the stated purpose and inform the economic operator and the relevant competent authority of the Member State concerned without undue delay that the information has been erased, unless archiving of the information is required for transparency purposes in accordance with national law.*

11. Each economic operator concerned, or *anyone duly* authorised to represent that economic operator, **■** shall provide the requested information on an individual basis in accordance with the Union competition rules governing the exchange of information. **■**

**■**

12. The implementing acts referred to in paragraph 2 of this Article shall be adopted in accordance with the *examination* procedure referred to in Article 45(2). On duly justified imperative grounds of urgency relating to the impact of the crisis on the *internal* market, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 45(3).

13. *The information requests issued pursuant to this Article shall not relate to information the disclosure of which would be contrary to the essential interests of Member States' national security.*

**Activation of emergency procedures in relevant Union product legislation**

1. When the **internal** market emergency mode has been activated by means of a Council implementing act adopted pursuant to Article 18 of this Regulation and there is a shortage of certain **crisis-relevant** goods, the Commission may activate by means of implementing acts the emergency procedures included in the Union legal acts amended by Regulation (EU) 2024/... of the European Parliament and of the Council<sup>+62</sup> and Directive (EU) 2024/... of the European Parliament and of the Council<sup>++63</sup> as regards those crisis-relevant goods. Those implementing acts shall indicate the crisis-relevant goods and emergency procedures that are subject to the activation, provide reasons for such activation and its proportionality, and indicate the duration of such activation.
2. **An activation of emergency procedures as referred to in paragraph 1 shall apply only for the duration of the internal market emergency mode.**
3. The implementing acts referred to in paragraph 1 of this Article shall be adopted in accordance with the examination procedure referred to in Article 45(2). On duly justified imperative grounds of urgency relating to the impact of the crisis on the **internal** market, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 45(3).

<sup>+</sup> **OJ: please insert in the text the number of the Regulation contained in document PE-CONS No 47/24 (2022/0279(COD)) and insert the number, date title and OJ reference and ELI reference of that Regulation in the footnote.**

<sup>62</sup> **Regulation (EU) .../... of the European Parliament and of the Council (...) amending Regulations (EU) No 305/2011, (EU) 2016/424, (EU) 2016/425, (EU) 2016/426, (EU) 2023/988 and (EU) 2023/1230 as regards emergency procedures for the conformity assessment, presumption of conformity, adoption of common specifications and market surveillance due to an internal market emergency (OJ, L, ...ELI: ...).**

<sup>++</sup> **OJ: please insert in the text the number of the Directive contained in document PE-CONS No 48/24 (2022/0280(COD)) and insert the number, date title and OJ reference and ELI reference of that Directive in the footnote.**

<sup>63</sup> **Directive (EU) .../... of the European Parliament and of the Council (...) amending Directives 2000/14/EC, 2006/42/EC, 2010/35/EU, 2014/29/EU, 2014/30/EU, 2014/33/EU, 2014/34/EU, 2014/35/EU, 2014/53/EU and 2014/68/EU as regards emergency procedures for the conformity assessment, presumption of conformity, adoption of common specifications and market surveillance due to an internal market emergency (OJ, L, ...ELI: ...).**

## Article 29

### *Priority-rated requests*

1. The Commission may, *in exceptional situations, after consulting the Member States in which the economic operators are established, and taking utmost account of their views, address a request to one or more economic operators* established in the Union to accept and prioritise the *production or supply* ■ of crisis-relevant goods (*‘priority-rated requests’*) where:
  - (a) *there is a severe and persistent shortage of the crisis-relevant goods subject to the request; and*
  - (b) *the production or supply of such goods could not be achieved by other measures provided for in this Regulation, including those referred to in Article 35 or in Title V.*
2. *The Commission shall demonstrate that the choice of the recipients and beneficiaries of the priority-rated requests referred to in this Article is non-discriminatory and complies with Union competition rules.*
3. *The Commission shall base the priority-rated requests referred to in this Article on objective, factual, measurable and substantiated data, showing that such prioritisation is indispensable in order to ensure the maintenance of vital societal functions or economic activities in the internal market, as well as having regard to the legitimate interests of the* ■ *economic operator and the cost and effort required for any change in the production sequence of the supply chain. The Commission shall explicitly indicate in the priority-rated request that the economic operator remains free to refuse that request.*

4. Where the economic operator to which the priority-rated *request* referred to in paragraph 1 is addressed *has expressly accepted that request, the Commission shall adopt an implementing act providing for:*
- (a) *the legal basis of the priority-rated request which has to be complied with by the economic operator;*
  - (b) *the goods subject to the priority-rated request and the quantity in which they are to be supplied;*
  - (c) *the time limits within which the priority-rated request is to be completed;*
  - (d) *the beneficiaries of the priority-rated request; and*
  - (e) *the waiver of contractual liability under the conditions laid down in paragraph 6.*
5. *The priority-rated request made pursuant to paragraph 4 shall be placed at a fair and reasonable price adequately taking into account the economic operator's opportunity costs when fulfilling the priority-rated request as compared to existing performance obligations. That priority-rated request shall take precedence over any prior performance obligation, under private or public law, related to the goods subject to the priority-rated request.*

6. *The economic operator subject to a priority-rated request pursuant to paragraph 4 shall not be liable for any breach of contractual obligation that is governed by the law of a Member State, provided that:*
- (a) the breach of contractual obligation is necessary for compliance with the required prioritisation;*
  - (b) the implementing act referred to in paragraph 4 has been complied with; and*
  - (c) the acceptance of the priority-rated request did not have the sole purpose of unduly avoiding a prior contractual obligation.*
7. *The priority-rated requests shall not include goods the production or supply of which would be contrary to the essential interests of Member States' national security or defence.*

■

8. *The Commission shall adopt the implementing act referred to in paragraph 4 in accordance with applicable Union law, including the principles of necessity and proportionality, and the Union's obligations under international law.*
9. The *implementing act* referred to in paragraph 4 of this Article shall *be adopted in accordance with the examination procedure referred to* in Article 45(2).
10. Where an economic operator, *after having expressly accepted a priority-rated request, does not comply, either intentionally or through gross negligence, with that request, the Commission may, by means of a decision, where deemed necessary and proportionate, impose a fine on the economic operator concerned. That fine shall not exceed 100 000 EUR. Fines imposed on SMEs shall not exceed 25 000 EUR.*



## Article 30

Imposition of fines on *economic* operators for failure to comply with *an expressly accepted priority-rated request*

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1. In fixing the amount of the fine referred to *in Article 29(10)*, the Commission shall take into consideration the size and economic resources of the economic operator concerned, as well as the nature, gravity and duration of the non-compliance with the expressly accepted priority-rated request , taking due account of the principles of proportionality and appropriateness.
2. The Court of Justice of the European Union shall have unlimited jurisdiction to review decisions whereby the Commission has fixed a fine *in accordance with Article 29(10)*. It may cancel, reduce or increase the fine imposed.

## Article 31

### Limitation period for the imposition of fines

1. The Commission's power to impose fines in accordance with Article **29(10)** shall be subject to *a two-year* limitation period.  
  
■
2. Time shall begin to run on the day on which the Commission becomes aware of non-compliance with the expressly accepted priority-rated request. However, in the event of continuous or repeated non-compliance, time shall begin to run on the day on which the non-compliance ceases.
3. Any action taken by the Commission or the competent authorities of the Member States for the purposes of ensuring compliance with the priority-rated request shall interrupt the limitation period.
4. The interruption of the limitation period shall apply for all parties which are held responsible for the participation in the non-compliance.
5. Each interruption shall restart the limitation period. However, the limitation period shall expire, at the latest, on the day on which a period equal to twice the limitation period has elapsed without the Commission having imposed a fine. That period shall be extended by the time during which the limitation period is suspended because the decision of the Commission is the subject of proceedings pending before the Court of Justice of the European Union.

## Article 32

### Limitation period for the enforcement of payment of fines

1. The power of the Commission to enforce decisions taken pursuant to Article **29(10)** shall be subject to a limitation period of five years.
2. Time shall begin to run on the day on which the decision becomes final.
3. The limitation period for the enforcement of payment of fines shall be interrupted:
  - (a) by notification of a decision varying the original amount of the fine or refusing an application for variation;
  - (b) by any action of the Commission or of a Member State, acting at the request of the Commission, designed to enforce payment of the fine.
4. Each interruption shall restart the limitation period.
5. The limitation period for the enforcement of payment of fines shall be suspended for as long as:
  - (a) time to pay is allowed;
  - (b) enforcement of payment is suspended pursuant to a decision of the Court of Justice of the European Union.

## Article 33

### Right to be heard for the imposition of fines

1. Before adopting a decision pursuant to Article **29(10)**, the Commission shall give the economic operator ■ concerned the opportunity of being heard on:
  - (a) preliminary findings of the Commission, including any matter to which the Commission has taken objections;
  - (b) measures that the Commission might take in view of the preliminary findings pursuant to point (a) of this paragraph.
2. **The** economic operators concerned may submit their observations on the Commission's preliminary findings pursuant to paragraph 1, point (a), within a time limit which shall be fixed by the Commission in its preliminary findings and which may not be less than 21 days.
3. The Commission shall base its decisions only on objections on which the economic operators ■ concerned have been able to comment.
4. The rights of defence of the economic operator ■ concerned shall be fully respected in any proceedings. The economic operator ■ concerned shall be entitled to have access to the Commission's file under the terms of a negotiated disclosure, subject to the legitimate interest of economic operators in the protection of their business secrets. The right of access to the file shall not extend to confidential information and internal documents of the Commission or the authorities of the Member States. In particular, the right of access shall not extend to correspondence between the Commission and the authorities of the Member States. Nothing in this paragraph shall prevent the Commission from disclosing and using information necessary to prove a non-compliance.

## Section II

Other measures for ensuring the availability of crisis-relevant goods and services

### Article 34

***Solidarity and*** coordinated distribution of ***crisis-relevant goods and services***

1. ***In the event of a shortage of crisis-relevant goods and services affecting one or more Member States, the Member States concerned may notify the Commission thereof and indicate the quantities needed and any other relevant information. The Commission shall transmit the information to the relevant competent authorities and streamline the coordination of Member States' responses.***
2. In the event that the Commission, ***pursuant to paragraph 1, is informed that crisis-relevant goods or crisis-relevant services are*** insufficient ***in a Member State*** to meet the needs related to the ***internal*** market emergency, the Commission may, taking into consideration the opinion provided by the ***Board and the information collected under this Regulation***, recommend to ***other*** Member States to distribute ***those goods or services*** in a targeted way, where possible, having regard to the need to prevent further disruptions to the ***internal*** market, including in geographical areas particularly affected by such disruptions and in accordance with the principles of necessity, proportionality and solidarity, by establishing the most efficient use of those ***goods or services*** with a view to ending the ***internal*** market emergency.

## Article 35

Measures to ensure the availability and supply of crisis-relevant goods *or* crisis-relevant services

1. ***Where the Commission is informed, pursuant to Article 34(1), that there is a risk that crisis-relevant goods or crisis-relevant services are insufficient in a Member State to meet the needs related to the internal market emergency, it may, taking into consideration the opinion of the Board, recommend Member States to take specific measures. Those measures shall, as quickly as possible, ensure the efficient re-organisation of supply chains and production lines and the use of existing stocks to increase the availability and supply of such goods or services.***
2. In particular, the measures referred to in paragraph 1 may include measures:
  - (a) facilitating the expansion or repurposing of existing or the establishment of new production capacities for crisis-relevant goods;
  - (b) facilitating the expansion of existing or the establishment of new capacities related to service activities;
  - (c) aiming to accelerate ***relevant approval and authorisation procedures, including environmental permits, regarding or affecting the production and distribution*** of crisis-relevant goods;
  - (d) ***aiming to accelerate authorisation and registration procedures for crisis-relevant services;***
  - (e) ***aiming to accelerate relevant product approval procedures in view of placing on the market crisis-relevant goods that are not subject to any Union legislation harmonising the conditions for the marketing of products.***

## Title V

### *Public procurement*

#### Chapter I

*Public* procurement by the Commission on behalf *of or in the name* of Member States during an internal market vigilance mode or an internal market emergency mode

#### Article 36

Request of Member States to the Commission to procure goods and services on their behalf *or in their name*

1. Two or more Member States may request that the Commission launch a procurement on behalf *of or in the name* of the Member States that wish to be represented by the Commission ('participating Member *States*'), for the *purchasing* of goods and services of *critical* importance or crisis-relevant goods and services.
2. The Commission *shall assess, without delay and in consultation with the Board, the* necessity and proportionality of the request *referred to in paragraph 1*. Where the Commission intends not to grant *that* request, it shall inform the Member States concerned and the *Board* and give reasons for its refusal.

3. Where the Commission agrees to procure on behalf of *or in the name of the participating* Member States, it shall:

(a) *inform all Member States and the Board of its intention to carry out the procurement procedure and invite the interested Member States to participate;*

(b) draw up a proposal for *an* agreement to be concluded with the participating Member States allowing the Commission to procure on their behalf *or in their name*.

The agreement based on the proposal referred to in point (b) of the first subparagraph shall lay down the detailed conditions for the procurement, *including practical arrangements, proposed maximum quantities, conditions of the common purchasing or renting on behalf of or in the name of the participating Member States, including prices and delivery timeframes*.

4. *Where the Commission cancels the procurement procedure in accordance with Article 171 of Regulation (EU, Euratom) 2018/1046 (the ‘Financial Regulation’), it shall immediately inform the participating Member States thereof, so that they can initiate their own procurement procedures without delay.*



## Article 37

Establishment and implementation of the negotiating mandate of the Commission

1. The agreement ■ referred to in Article 36(3), *second subparagraph*, shall establish a negotiating mandate for the Commission to *procure, on behalf of or in the name of the participating Member States*, the relevant goods and services of *critical* importance or crisis-relevant goods and services *through the conclusion of new contracts. That negotiating mandate shall include the award criteria.*
2. *The Commission shall invite participating Member States to nominate representatives to take part in the negotiation of the agreement referred to in Article 36(3), point (b), as well as in the preparation of the public procurement procedure.*
3. *Under that agreement, the Commission shall be entitled, when procuring on behalf of or in the name of the participating Member States, to enter into contracts with economic operators, including individual producers of goods and services of critical importance or crisis-relevant goods and services, concerning the provision of such goods or services.*
- 
4. *Without prejudice to Article 171 of the Financial Regulation, the Commission shall carry out the procurement procedures on behalf of or in the name of the participating Member States, including the adoption of the award decision and conclude the resulting contracts with the economic operators.*
5. *When implementing the resulting agreements and when carrying out the procurement procedures, the Commission shall ensure that participating Member States are treated in a non-discriminatory manner.*

## Article 38

Arrangements for procurement by the Commission on behalf of *or in the name of* the  
Member States

1. Procurement under this Regulation shall be carried out by the Commission in accordance with the rules set out in the Financial Regulation ■ for its own procurement.
2. *Where duly justified by extreme urgency or strictly necessary in order to adapt to unforeseen circumstances in the development of the internal market emergency, and provided the modification does not substantially alter the subject matter of the contract, the Commission may in agreement with the contractor:*
  - (a) *allow the contract which has been signed to be modified, above the threshold of 50 % and up to 100 % of the initial contract value; or*
  - (b) *in common agreement with the simple majority of the participating Member States, allow other Member States to join a contract that has been signed , or to sign an additional contract with the selected contractor.*
3. *A modification shall be considered to be substantially altering the subject matter of the contract where it renders the contract materially different in substance from the one initially concluded, namely where one or more of the following conditions are met:*
  - (a) *the modification introduces or removes significant conditions which, had they been part of the initial procurement procedure, would have allowed for the admission of other tenderers than those initially selected or for the acceptance of a tender other than that originally accepted, would have attracted additional participants in the procurement procedure, or would not have led to the selection of the winning tenderer;*
  - (b) *the modification significantly changes the economic balance of the contract in favour of the contractor in a manner which was not provided for in the initial contract;*
  - (c) *the modification significantly extends the scope of the contract.*

## Chapter II

### Joint procurement during internal market vigilance and internal market emergency modes

#### Article 39

##### Joint procurement procedure

1. **■** The Commission, and one or more contracting authorities or contracting entities as defined in Article 4 of Directive 2014/25/EU from *the participating* Member States, *may carry out a joint procurement procedure* in accordance with the rules set out in Article 165(2) of the Financial Regulation *with a view to the provision of goods and services of critical importance or crisis-relevant goods and services*. The Member States may acquire, rent or lease fully the capacities jointly procured.
2. *Participation in the joint procurement procedure shall be open to all Member States, EFTA States and Union candidate countries, as well as the Principality of Andorra, the Principality of Monaco, the Republic of San Marino and the Vatican City State. For the purposes of this Article and Article 41, those countries shall be considered participating Member States where they decide to participate in the joint procurement.*
3. *The joint procurement procedure shall be preceded by a joint procurement agreement between the Commission and the participating Member States in order to determine the practical arrangements governing the procurement and the award criteria, in accordance with relevant Union law.*
4. *The Commission shall inform the European Parliament about the joint procurement procedures conducted in accordance with this Article and, upon request, grant access to the contracts that are concluded as a result of those procedures, subject to the adequate protection of commercially sensitive information, including business secrets, commercial relations and the interests of the Union.*

### Chapter III

#### Procurement by the Member States during the internal market emergency mode

#### Article 40

##### Consultation and coordination regarding individual procurement by the Member States

When the *internal* market emergency mode has been activated pursuant to Article 18, Member States shall *make best efforts to inform* each other and the Commission *about the ongoing procurement procedures of crisis-relevant goods and services*.

*Prior to launching any new procurement procedures in accordance with Directives 2014/24/EU and 2014/25/EU, Member States shall:*

- (a) *inform each other about the intention of any of their contracting authorities or contracting entities to launch* procurement procedures for crisis-relevant goods and services;
- (b) *consult the other Member States and the Commission about the most appropriate manner of procurement; and*
- (c) *coordinate their procurement procedures at the time of internal market emergency in the spirit of solidarity between Member States.*

## Article 41

### *Exclusivity clause*

1. *During an internal market emergency mode, the agreement governing the Commission's procurement on behalf of or in the name of one or more participating Member States or the joint procurement between the Commission and one or more participating Member States shall, where appropriate, provide for an exclusivity clause, under which participating Member States commit to not procuring the crisis-relevant goods or crisis-relevant services in question through other channels and to not running parallel negotiations.*

*Where an exclusivity clause is provided for, it shall stipulate that the participating Member States are allowed to launch their own procurement procedure for the acquisition of additional quantities of crisis-relevant goods or crisis-relevant services that are subject to the ongoing joint procurement or procurement by the Commission on behalf of or in the name of the Member States in a manner that does not undermine the ongoing procurement, subject to the agreement of the Commission and after consulting all other participating Member States. The request for such an agreement shall be addressed to the Commission, who shall forward it to the other participating Member States for their consideration.*

2. *The exclusivity clause shall apply in relation to any new contracts, including specific contracts in framework contracts, that the contracting authorities or contracting entities of the participating Member States would consider concluding during the activation of the internal market emergency mode.*



## Title VI

### Data protection, confidentiality, security rules and digital tools

#### Article 42

##### Personal data protection

1. This Regulation shall be without prejudice to the obligations of Member States relating to their processing of personal data under Regulation (EU) 2016/679 and Directive 2002/58/EC of the European Parliament and of the Council<sup>64</sup> on privacy and electronic communications, or the obligations of the Commission and, where appropriate, other Union institutions, bodies, offices and agencies relating to their processing of personal data under Regulation (EU) 2018/1725, when fulfilling their responsibilities.
2. Personal data shall not be processed or communicated except in cases where it is strictly necessary for the purposes of this Regulation. In such cases, the conditions of Regulations (EU) 2016/679 and (EU) 2018/1725 shall apply as appropriate.
3. Where processing of personal data is not strictly necessary for the application of the mechanisms established by this Regulation, personal data shall be rendered anonymous in such a manner that the data subject is not identifiable.

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<sup>64</sup> Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).

## **Article 43**

### ***Confidentiality and security rules on the protection of the information received***

- 1. Information received as a result of the application of this Regulation shall be used only for the purpose for which it was requested.***
- 2. Member States and the Commission shall ensure the protection of trade and business secrets and other sensitive and confidential information acquired and generated in application of this Regulation, including in relation to recommendations and measures to be taken, in accordance with Union and national law.***
- 3. The Commission shall not share any information that it has received under this Regulation in a way that can lead to the identification of an individual economic operator where the sharing of the information would result in potential commercial or reputational damage to that economic operator or in the divulgence of trade secrets.***
- 4. The Board shall be bound by the Commission's security rules for protecting European Union classified information and sensitive non-classified information.***
- 5. Member States and the Commission shall ensure that classified information provided or exchanged under this Regulation is not downgraded or declassified without the prior written consent of the originator of that information.***

## Article 44

## Digital tools

1. ***By ... [18 months from the date of entry into force of this Regulation], the Commission and the Member States shall, where there are no suitable existing tools or IT infrastructures, set up, maintain and regularly update interoperable digital tools or IT infrastructures supporting the objectives of this Regulation. Such tools or infrastructures shall be developed outside the duration of an internal market emergency mode in order to respond to possible future emergencies in a timely and efficient manner. They shall include, inter alia, standardised, secure and effective digital tools for the secure collection and exchange of information, as well as a dedicated single digital portal or website where citizens and businesses can find and submit declaration, registration or authorisation forms.***
2. The Commission shall, by means of implementing acts, set out the technical aspects of such tools or infrastructures ***using, where possible, existing IT tools or portals***. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 45(2).



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**Title VII**  
**Final provisions**

Article 45  
Committee

1. The Commission shall be assisted by a committee named ***the ‘Internal Market Emergency and Resilience Committee’***. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.
3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

I

Report, *review and evaluation*

1. By ... [five years from the *date of* entry into force of this Regulation], and every five years thereafter, **■** the Commission shall *carry out an evaluation of, and submit* a report to the European Parliament and the Council on, the functioning *and effectiveness of this Regulation*.
2. *In addition, by four months after the deactivation of the internal market vigilance mode or the internal market emergency mode, as applicable, the Commission shall carry out an evaluation of, and submit a report to, the European Parliament and the Council on the measures implemented under this Regulation in relation to the crisis that led to the activation of that mode, in particular on the effectiveness of those measures.*
3. *The reports referred to in paragraphs 1 and 2 shall be* accompanied, where appropriate, by relevant legislative proposals.
4. *The reports referred to in paragraphs 1 and 2 shall include, in particular, an evaluation of the following:*
  - (a) *the contribution of this Regulation to the smooth and efficient functioning of the internal market, in particular as regards the free movement of goods, services and persons and the avoidance of divergent national measures which would create cross-border restrictions;*

- (b) *the measures implemented under this Regulation, including an assessment of the principles of non-discrimination and proportionality, in particular:*
- (i) *the impact of the measures implemented under the contingency phase, in particular measures regarding stress tests, training and crisis protocols, digital tools, resilience and availability of goods;*
  - (ii) *the impact of the measures implemented under the internal market vigilance mode;*
  - (iii) *the impact of the measures implemented during the internal market emergency mode, and in particular on the fundamental rights enshrined in the Charter, namely as regards the freedom to conduct business, the freedom to seek employment and to work, and on the right to collective bargaining and action, including the right to strike;*
- (c) *the work of the Board, including its work in relation to the work of other relevant crisis-relevant bodies at Union level, in particular the IPCR, the Health Emergency Preparedness and Response Authority and UCPM;*
- (d) *the appropriateness of the criteria for the activation of the internal market vigilance mode or the internal market emergency mode, as appropriate.*

5. *For the purpose of paragraphs 1 and 2, the competent authorities of the Member States and the Board shall provide the Commission with information upon its request.*

*Where necessary, the Commission may also request and obtain any relevant specialised or scientific knowledge from relevant Union bodies, offices and agencies.*

Article 47

*Amendments to Regulation (EC) No 2679/98*

Regulation (EC) No 2679/98 is amended as follows:

(1) *Article 2 is replaced by the following:*

*‘Article 2*

*This Regulation shall not in any way affect the exercise of fundamental rights as recognised in the Member States and at Union level, including the right or freedom to strike or to take other action covered by the specific industrial relation systems in Member States, in accordance with national law or practice. It shall not affect the right of workers and employers, in accordance with national law or practice, to negotiate and conclude collective agreements and, in cases of conflicts of interest, to take collective action to defend their interests, including strike action.’;*

(2) *the following Article is added:*

*‘Article 5a*

- 1. Where the internal market emergency mode defined in Article 3, point (3), of Regulation (EU) 2024/... of the European Parliament and of the Council<sup>+</sup> has been activated in accordance with Article 18 of that Regulation, Articles 3, 4 and 5 of this Regulation shall cease to apply in respect to the crisis-relevant goods listed in an implementing act adopted pursuant to Article 18(4) of that Regulation for the duration of the internal market emergency mode.*
- 2. Where paragraph 1 of this Article applies, obligations arising from this Regulation prior to the activation of the internal market emergency mode in accordance with Regulation (EU) 2024/...<sup>+</sup> remain unaffected.*

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*\* Regulation (EU) 2024/... of the European Parliament and of the Council of ... establishing a framework of measures related to an internal market emergency and to the resilience of the internal market and amending Council Regulation (EC) No 2679/98 (Internal Market Emergency and Resilience Act) (OJ, L, ...ELI: ...).*

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<sup>+</sup> *OJ: please insert in the text the number of this Regulation.*

Article 48

Entry into force *and application*

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

*It shall apply from ... [18 months from the date of entry into force of this Regulation].*

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ...,

*For the European Parliament*

*For the Council*

*The President*

*The President*

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