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General Secretariat

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NOTE

From:	Presidency
To:	Delegations
Subject:	SMEI: Consolidated comments on articles 13-26

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
2022/0278 (COD)		
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		
(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 114, 21 and 45 thereof,		BE (Comments): BE questions the proposed legal basis and would like the Commission to explain its decision to choose those articles and waits for the Council Legal Service to give its opinion on it.
Having regard to the proposal from the European Commission,		

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
After transmission of the draft legislative act to the national parliaments,		
Having regard to the opinion of the European Economic and Social Committee ¹ ,		
Having regard to the opinion of the Committee of the Regions ² ,		
Acting in accordance with the ordinary legislative procedure,		
Whereas:		
		LU (Comments): <i>Comments on recitals are preliminary.</i>
(1) Past crises, especially the early days of the COVID-19 pandemic, have shown that the internal market (also referred to as the Single Market and its supply chains can be severely affected by such crises, and appropriate crisis management tools and coordination mechanisms	BE (Drafting): (1) Past crises, especially the early days of the COVID-19 pandemic, have shown that the internal market (also referred to as the Single Market) and its supply chains can be severely affected by such crises, particularly at cross-	BE (Comments): The most obvious difficulties during the COVID crisis were cross-border and are not reflected in the text

¹ OJ C , , p. .

² OJ C , , p. .

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
are either lacking, do not cover all aspects of the Single market or do not allow for a timely response to such impacts.	border level, and appropriate crisis management tools and coordination mechanisms are either lacking, do not cover all aspects of the Single market or do not allow for a timely response to such impacts.	
(2) The Union was not sufficiently prepared to ensure efficient manufacturing, procurement and distribution of crisis-relevant non-medical goods such as personal protective equipment, especially in the early phase of the COVID-19 pandemic and the ad-hoc measures taken by the Commission in order to re-establish the functioning of the Single Market and to ensure the availability of crisis-relevant non-medical goods during the COVID-19 pandemic were necessarily reactive The pandemic also revealed insufficient overview of manufacturing capacities across the Union as well as vulnerabilities related to the global supply chains.		
(3) Actions by the Commission were delayed by several weeks due to the lack of any Union wide contingency planning measures and of clarity as to which part of the national administration to contact to find rapid solutions to the impact on the Single Market being cause		

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by the crisis. In addition it became clear that uncoordinated restrictive actions taken by the Member States would further aggravate the impacts of the crisis on the Single market. It emerged that there is a need for arrangements between the Member States and Union authorities as regards contingency planning, technical level coordination and cooperation and information exchange.		
(4) Representative organisations of economic operators have suggested that economic operators did not have sufficient information on the crisis response measures of the Member States during the pandemics, partly due to not knowing where to obtain such information, partly due to language constraints and the administrative burden implied in making repeated inquiries in all the Member States, especially in a constantly changing regulatory environment. This prevented them from making informed business decisions as to what extent they may rely on their free movement rights or continue cross-border business operations during the crisis. It is necessary to improve the availability of information on national and Union level crisis response measures		

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(5) These recent events have also highlighted the need for the Union to be better prepared for possible future crises, especially as we consider the continuing effects of climate change and resulting natural disasters as well as global economic and geopolitical instabilities. Given the fact that it is not known which kind of crises could come up next and produce severe impacts on the Single Market and its supply chains in the future, it is necessary to provide for an instrument that would apply with regards to impacts on the Single Market of a wide range of crises.		
(6) The impact of a crisis on the Single Market can be two-fold. On the one hand, a crisis can lead to obstacles to free movement within the Single Market, thus disrupting its normal functioning. On the other hand, a crisis can amplify shortages of crisis-relevant goods and services on the Single Market. The Regulation should address both types of impacts on the Single Market.		IT (Comments): It is necessary to align the text with Article 3.
(7) Since any specific aspects of future crises that would impact the Single Market and its supply chains are hard to predict, this		

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Regulation should provide for a general framework for anticipating, preparing for, mitigating and minimising the negative impacts which any crisis may cause on the Single Market and its supply chains. .		
(8) The framework of measures set out under 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, meaning including public security, safety, public order, or public health respecting, 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.		
(9) To this end, this Regulation provides:		
– the necessary means to ensure the continued functioning of the Single Market, the businesses that operate on the Single Market and its strategic supply chains, including the free circulation of goods, services and persons in times of crisis and the availability of crisis		

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relevant goods and services to citizens, businesses and public authorities at the time of crisis;		
– a forum for adequate coordination, cooperation and exchange of information; and		
– the means for the timely accessibility and availability of the information which is needed for a targeted response and adequate market behaviour by businesses and citizens during a crisis.		
(10) Where possible, this Regulation should allow for anticipation of events and crises, building on on-going analysis concerning strategically important areas of the Single Market economy and the Union's continuous foresight work.		
		BE (Comments): BE recalls the importance of consistency between this new proposal and pre-existing or future instruments, especially sectorial emergency instruments, as well as ongoing initiatives. A specific provision should be inserted in the text, notably in the recitals,

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		specifying the articulation between the SMEI and the other emergency instruments.
(11) This Regulation should not duplicate the existing framework for medicinal products, medical devices or other medical counter-measures under the EU Health Security Framework, including Regulation (EU) .../... on serious cross-border health threats [SCBTH Regulation (COM/2020/727)], Council Regulation (EU) .../... on a framework of measures for ensuring the supply of crisis-relevant medical counter-measures [Emergency Framework Regulation (COM/2021/577)], Regulation (EU) .../... on the extended mandate of the ECDC [ECDC Regulation (COM/2020/726)] and Regulation (EU) 2022/123 on the extended mandate of the EMA [EMA Regulation]. Therefore, medicinal products, medical devices or other medical counter-measures, when they have been placed on the list referred to in Article 6(1) of the Emergency Framework Regulation, shall be excluded from the scope of this Regulation, except in relation to the provisions relating to free movement during the Single Market emergency, and in particular those designed to re-establish and facilitate free movement as well as the notification mechanism.		AT (Comments): Misleading, unclear and too broad phrasing of the conditions when the exemption clause for medicinal products etc does not apply. This exemption from the exemption leaves too much room for interpretation as to the applicability of the regulation for medicinal products. Needs to be reformulated to allow only very strict case by case basis of an exemption for an exemption. Otherwise the initial problem of too much overlap with other regulations and a confusion as to which applies where and when will remain. BE (Comments): Recitals 11 to 15 do not really clarify the SMEI's relationship with pre-existing and future EU emergency mechanisms, such as the Green Lanes Initiative, the Solidarity Corridors, the Chips Act, and the Raw Materials Act. BE would like to see a specific reference to coherence with both pre-existing and future mechanisms in the text and would welcome further clarifications in this regard in the recitals. For example, is it possible to build up semiconductor reserves on the basis of the SMEI when this is not foreseen by the Chips

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		Act?
(12) This Regulation should complement the Integrated Political Crisis Response mechanism operated by the Council under Council Implementing Decision (EU) 2018/1993 as regards its work on Single Market impacts of cross-sectoral crises that require political decision-making.		BE (Comments): BE would like to see a specific reference to coherence with both pre-existing and future mechanisms in the text and would welcome further clarifications in this regard in the recitals. For more details, see full comment on recital 11.
(13) This Regulation should be without prejudice to the Union Civil Protection Mechanism ('UCPM'). This Regulation should be in complementarity with the UCPM and should support it, where necessary, as regards availability of critical goods and free movement of civil protection workers, including their equipment, for crises that fall into the remit of that mechanism.		BE (Comments): BE would like to see a specific reference to coherence with both pre-existing and future mechanisms in the text and would welcome further clarifications in this regard in the recitals. For more details, see full comment on recital 11.
(14) This Regulation should be without prejudice to Articles 55 to 57 of Regulation (EC) No 178/2002 on the general plan on crisis management in the area of food and feed, implemented by Commission Decision (EU) 2019/300.		BE (Comments): BE would like to see a specific reference to coherence with both pre-existing and future mechanisms in the text and would welcome further clarifications in this regard in the recitals. For more details, see full comment on

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		recital 11.
(15) The Regulation should be without prejudice to the European Food Security Crisis preparedness and response Mechanism (EFSCM). Nevertheless, food products should be governed by the provisions of this Regulation, including those concerning the notification mechanism and concerning restrictions to free movement rights . The measures concerning food products notified under this Regulation may be also reviewed for their compliance with any other relevant provisions of EU law.		BE (Comments): BE would like to see a specific reference to coherence with both pre-existing and future mechanisms in the text and would welcome further clarifications in this regard in the recitals. For more details, see full comment on recital 11.
(16) In order to account for the exceptional nature of and potential far-reaching consequences for the fundamental operation of the Singe Market of a Single Market emergency, implementing powers should exceptionally be conferred on the Council for the activation of Single Market emergency mode pursuant to Article 281(2) of the Treaty on the Functioning of the European Union.	CZ (Drafting): (16) In order to account for the exceptional nature of and potential far-reaching consequences for the fundamental operation of the Singe Market of a Single Market emergency, implementing powers should exceptionally be conferred on the Council for the activation of Single Market emergency mode pursuant to Article 291(2) of the Treaty on the Functioning of the European Union. DK (Drafting):	DE (Comments): We welcome the central role of the Council in the decision on whether to activate the emergency mode. However, there seems to be an editorial mistake. Art. 281 refers to the statutes of the Court of Justice. This should be corrected. CZ (Comments): Reference to the correct Article of the TFEU. DK (Comments):

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	(16) In order to account for the exceptional nature of and potential far-reaching consequences for the fundamental operation of the Single Market of a Single Market emergency, implementing powers should exceptionally be conferred on the Council for the activation of Single Market <u>vigilance and</u> emergency mode pursuant to Article 298281(2) of the Treaty on the Functioning of the European Union. BE (Drafting): (16) In order to account for the exceptional nature of Single Market emergency and potential far-reaching consequences for the fundamental operation of the Single Market, implementing powers should exceptionally be conferred on the Council for the activation of Single Market vigilance and emergency modes pursuant to Article 281(2) of the Treaty on the Functioning of the European Union. EE (Drafting): (16) In order to account for the exceptional nature of and potential far-reaching consequences for the fundamental operation of the Single Market of a Single Market emergency, implementing powers should exceptionally be conferred on the Council for the activation of Single Market emergency mode pursuant to	Recital on Council implementing acts updated to reflect suggestions on the activation of vigilance mode in article 9(1) – 9(1a). Proposal references wrong TFEU article. BE (Comments): To ensure that the Member States are adequately involved in important decisions, BE considers there is a need for a Council Implementing Decision in order to activate the vigilance mode and delineate its scope. Such a Council Implementing Decision can be also objectively justified on the basis of the far-reaching consequences of the vigilance mode with regard to strategic reserves (Article 12). EE (Comments): Art 281 TFEU is the Statute of the ECJ

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	Article 291(2) of the Treaty on the Functioning of the European Union. IT (Drafting): 16) In order to account for the exceptional nature of and potential far-reaching consequences for the fundamental operation of the Single Market of a Single Market emergency, implementing powers should exceptionally be conferred on the Council for the activation of Single Market emergency mode pursuant to Article 281(2) 291(2) of the Treaty on the Functioning of the European Union	
(17) Article 21 TFEU lays down the right of EU 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 are laid down in Directive 2004/38/EC. This Directive sets out the general principles applicable to these limitations and the grounds that may be used to justify such measures. These grounds are public policy, public security or public health. In this context, restrictions to freedom of movement can be justified if they are proportionate and non-discriminatory. This Regulation is not intended to provide for		

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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.		
(18) As regards the measures for re-establishing and facilitating free movement of persons and any other measures affecting the free movement of persons provided under this Regulation, they are based on Article 21 TFEU and complement Directive 2004/38/EC without affecting its application at the time of Single Market emergencies. Such measures should not result in authorising or justifying restrictions to free movement contrary to the Treaties or other provisions of Union law.		DE (Comments): According to this and the previous recital the SMEI Regulation is meant to be without prejudice to Directive 2004/38/EC. This should also include the Member States' capability to restrict the right of free movement based on the grounds of public policy, public security or public health in line with Chapter VI of the Directive. However, the recitals only emphasise that the regulation does not provide additional grounds for limitations or authorisation contrary to the existing Union law. Does the SMEI Regulation, especially Art. 16 and 17, affect the application of restrictions to the right of free movement in line with Chapter VI of Directive 2004/38/EC at the time of Single Market emergencies?
(19) Article 45 TFEU lays down the right to free movement of workers, subject to the limitations and conditions laid down in the	CZ (Drafting): (19) Article 45 TFEU lays down the right to free movement of workers, subject to the	DE (Comments): According to this recital the SMEI Regulation

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Treaties and the measures adopted to give them effect. This Regulation contains provisions which complement the existing measures in order to reinforce free movement of persons, increase transparency and provide administrative assistance during Single Market emergencies. Such measures include setting up and making available of the single points of contact to workers and their representatives in the Member States and at Union level during the Single Market vigilance and emergency modes under this regulation.	limitations and conditions laid down in the Treaties and the measures adopted to give them effect. This Regulation contains provisions which complement the existing measures in order to reinforce free movement of persons, increase transparency and provide administrative assistance during Single Market emergencies. Such measures include setting up and making available of the single points of contact to workers and their representatives in the Member States and at Union level during the Single Market vigilance and emergency modes under this regulation. Member States and the Commission are encouraged to use existing instruments for the set up and operation of these contact points.	complements the existing measures in order to reinforce free movement of workers during Single Market emergencies. However, the right out of Article 45 TFEU is subject to limitations justified on grounds of public policy, public security or public health. Does the SMEI Regulation, especially Articles 16 and 17, affect the application of restrictions to the right of free movement of workers in line with Article 45 TFEU at the time of Single Market emergencies? CZ (Comments): According to this recital, single points of contact both at national and Union level should provide information and assistance during vigilance and emergency modes. However, stemming from the wording of Arts. 21 and 22, and the fact that these Articles are part of the Title II (Free movement during the Single Market Emergency), they might not be operational outside the Single Market Emergency. For CZ, this would be undesirable. We see the merit in having them operational even outside the Single Market Emergency and thus would like to see this recital appropriately reflected in the operational part. Furthermore, it seems desirable to state in the

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		recital that existing Single Market instruments should be used for the contact points to avoid duplication. BE (Comments): Recital 19 is the only recital dealing with the Single Point of Contact and seems to only target workers and their representatives. BE would like the Single Point of Contact to be available also for service providers, consumers and citizen.
(20) If Member States adopt measures affecting free movement of goods or persons, goods or the freedom to provide services in preparation for and during Single Market emergencies, they should limit such measures to what is necessary and remove them as soon as the situation allows it. Such measures should respect the principles of proportionality and non-discrimination and should take into consideration the particular situation of border regions.	EE (Drafting): (20) If Member States adopt measures affecting free movement of goods or persons, goods or the freedom to provide services in preparation for and during Single Market emergencies, they should limit such measures to what is necessary and remove them as soon as the situation allows it but no later than the end of the Emergency mode. Such measures should respect the principles of proportionality and non-discrimination and should take into consideration the particular situation of border regions. LU (Drafting): (20) If Member States adopt measures	DE (Comments): Does this recital enumerate requirements for restrictions to the right of free movement beyond those applying in line with Directive 2004/38/EC or Article 45 TFEU or is it meant to be interpreted in accordance with the existing CJEU-jurisprudence concerning these provisions? EE (Comments): To limit the time of temporary restrictions. LU (Comments): <i>See comments on related articles.</i>

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	affecting free movement of goods or persons, goods or the freedom to provide services in preparation for and during Single Market emergencies, they should limit such measures to what is necessary and remove them as soon as the situation allows it. Such measures should respect the principles of proportionality and non-discrimination and should take into consideration the particular situation of border regions.	
(21) The activation of the Single Market emergency mode should trigger an obligation for the Member States to notify crisis-relevant free movement restrictions.	DE (Drafting): (21) The activation of the Single Market emergency mode should trigger an obligation for the Member States to notify <u>any</u> crisis-relevant free movement restrictions <u>draft measure restricting free movement of goods, any crisis-relevant draft measure that specifically regulates or affects the freedom to provide services for a provider established in another Member State, as well as crisis-relevant restrictions that specifically regulate or affect the free movement of persons, including, workers, in the internal market among Member States, together with the reasons for those measures.</u>	DE (Comments): “Crisis-relevant free movement restrictions” could also include measures that apply indiscriminately to all residents under national legislation without endangering the functioning of the single market in particular (e.g. compulsory wearing of face masks at work). Therefore, the recital and/ or Article 19 should specify that the obligation to notify only affects those crisis-relevant free movement restrictions that specifically regulate or affect the free movement of services and persons, including workers, in the internal market among Member States.

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(22) When examining the compatibility of any notified draft or adopted measures with the principle of proportionality, the Commission should pay due regard to the evolving crisis situation and often limited information that is at the disposal of the Member States when they seek to reduce the emerging risks in the context of the crisis. Where justified and necessary in the circumstances, the Commission may consider based on any available information, including specialised or scientific information, the merits of Member State arguments relying on the precautionary principle as a reason for adoption of free movement of persons restrictions. It is the task of the Commission to ensure that such measures comply with Union law and do not create unjustified obstacles to the functioning of the Single Market. The Commission should react to the notifications of Member States as quickly as possible, taking into account the circumstances of the particular crisis, and at the latest within the time-limits set out by this Regulation.		
(23) In order to ensure that the specific Single Market emergency measures provided for in this Regulation are used only where this is	CZ (Drafting): (23) In order to ensure that the specific Single	CZ (Comments): We would be open to the NL suggestion to

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indispensable for responding to a particular Single Market emergency, such measures should require individual activation by means of Commission implementing acts, which indicate the reasons for such activation and the crisis-relevant goods or services that such measures apply to.	Market emergency measures provided for in this Regulation are used only where this is indispensable for responding to a particular Single Market emergency, implementing powers should exceptionally be conferred on the Council for the individual activation of such measures pursuant to Article 291(2) of the Treaty on the Functioning of the European Union, which indicate the reasons for such activation and the crisis-relevant goods or services that such measures apply to. IT (Drafting): (23) In order to ensure that the specific Single Market emergency measures provided for in this Regulation are used only where this is indispensable for responding to a particular Single Market emergency, such measures should require individual activation by means of Commission a Council's implementing act, which indicate the reasons for such activation and the crisis-relevant goods or services that such measures apply to.	activate these measures by means of Council implementing acts on a basis of Commission's proposal. IT (Comments): Since it is the Council that may activate the Single Market Emergency mode, it should be for the Council, and not for the Commission, to indicate the crisis-relevant goods or services to which the emergency measures apply.
(24) Furthermore, in order to ensure the proportionality of the implementing acts and due respect for the role of economic operators in crisis management, the Commission should only resort to the activation of the Single Market	AT (Drafting): (24) Furthermore, in order to ensure the proportionality of the implementing acts and due respect for the role of economic operators in	AT (Comments): See Art. 13 (1). CZ (Comments):

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emergency mode, where economic operators are not able to provide a solution on a voluntary basis within a reasonable time. Why this is the case should be indicated in each such act, and in relation to all particular aspects of a crisis.	crisis management, the Commission should only resort to propose the activation of the Single Market emergency mode, where economic operators are not able to provide a solution on a voluntary basis within a reasonable time and after consulting the Member States and the advisory group in an appropriate manner. Why this is the case should be indicated in each such act, and in relation to all particular aspects of a crisis. CZ (Drafting): (24) Furthermore, in order to ensure the proportionality of the implementing acts and due respect for the role of economic operators in crisis management, the Council should only resort to the activation of the Single Market emergency mode, where economic operators are not able to provide a solution on a voluntary basis within a reasonable time. Why this is the case should be indicated in each such act, and in relation to all particular aspects of a crisis. EE (Drafting): (24) Furthermore, in order to ensure the proportionality of the implementing acts and due respect for the role of economic operators in crisis management, the Council should only resort to the activation of the Single Market emergency mode, where economic operators are	Nevertheless if the individual measures are activated through Council or Commission Implementing Acts, it is the Council who activates the Single Market Emergency mode. EE (Comments): The Council activates the esmergency mode.

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	not able to provide a solution on a voluntary basis within a reasonable time. Why this is the case should be indicated in each such act, and in relation to all particular aspects of a crisis.	
(25) Information requests to economic operators should be used by the Commission only where the information which is necessary for responding adequately to the Single Market emergency, such as information necessary for procurement by the Commission on behalf of the Member States or estimating the production capacities of manufacturers of crisis-relevant goods the supply chains of which have been disrupted, cannot be obtained from publicly available sources or as a result of information provided voluntarily.	DE (Drafting): (25) Information requests to economic operators should be used by the Commission only where the information which is necessary for responding adequately to the Single Market emergency, such as information necessary for procurement by the Commission on behalf of the Member States or estimating the production capacities of manufacturers of crisis-relevant goods the supply chains of which have been disrupted, <u>is not yet available to the Commission and</u> cannot be obtained from publicly available sources or as a result of information provided voluntarily. LU (Drafting): (25) — Information requests to economic operators should be used by the Commission only where the information which is necessary for responding adequately to the Single Market emergency, such as information necessary for procurement by the Commission on behalf of the Member States or estimating the production	DE (Comments): EU law already knows certain duties to provide information. We suggest that recital 25 also makes clear that double duties of disclosure in any form should be avoided. This is of particular importance since SMEI sets up the possibility of fines. CZ (Comments): This recital will need to properly reflect the outcome of the discussion concerning Art. 24. LU (Comments): <i>See comments on related articles.</i> IT (Comments): The principle of proportionality should be mentioned together with the principle of necessity. Moreover, the recital should clarify that these principles must be applied not only to the mandatory information requests but also when the Commission invites the economic operators to provide information on a voluntary

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	capacities of manufacturers of crisis-relevant goods the supply chains of which have been disrupted, cannot be obtained from publicly available sources or as a result of information provided voluntarily. IT (Drafting): (25) Information requests to economic operators by means of an invitation or of a formal decision should be used by the Commission only where the information which is necessary and proportionate for responding adequately to the Single Market emergency, such as information necessary for procurement by the Commission on behalf of the Member States or estimating the production capacities of manufacturers of crisis-relevant goods the supply chains of which have been disrupted, cannot be obtained from publicly available sources or as a result of information provided voluntarily.	basis.
(26) The activation of the Single Market emergency mode, where needed, should also trigger 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	BE (Drafting): (26) The activation of the Single Market emergency mode, where needed, should also trigger the application of certain crisis-response procedures which introduce adjustments to the rules governing the design, manufacture,	CZ (Comments): The logic of limited application of an authorisation to place certain crisis-relevant on the national markets (“Such authorisations shall be only valid on the territory of the issuing Member State and limited to the duration of the

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rules. These crisis-response procedures should enable products, designated as crisis-relevant goods to be placed swiftly on the market in an emergency context. The conformity assessment bodies should prioritise the conformity assessment of crisis-relevant goods over any other ongoing applications for other products. On the other hand, in cases, where there are undue delays in the conformity assessment procedures, the national competent authorities should be able to issue authorisations for products, 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 shall be only valid on the territory of the issuing Member State and limited to the duration of the Single Market emergency. In addition, in order to facilitate the increase in supply of crisis-relevant products, certain flexibilities should be introduced with respect to the mechanism of presumption of conformity. In the context of a Single Market emergency, the manufacturers of crisis-relevant goods should be able to rely also on national and international standards, which provide an equivalent level of protection to the harmonised European standards. In cases where the later do not exist or the compliance with	conformity assessment and the placing on the market of goods subject to Union harmonised rules. These crisis-response procedures should enable products, designated as crisis-relevant goods to be placed swiftly on the market in an emergency context. The conformity assessment bodies should prioritise the conformity assessment of crisis-relevant goods over any other ongoing applications for other products. On the other hand, in cases, where there are undue delays in the conformity assessment procedures, the competent authorities of the Member States should be able to issue authorisations for products, 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 shall be only valid on the territory of the issuing Member State and limited to the duration of the Single Market emergency. In addition, in order to facilitate the increase in supply of crisis-relevant products, certain flexibilities should be introduced with respect to the mechanism of presumption of conformity. In the context of a Single Market emergency, the manufacturers of crisis-relevant goods should be able to rely also on national and international standards, which provide an equivalent level of	Single Market emergency”) is potentially very problematic. The goods placed on the markets will probably remain there even after the Single Market Emergency but the free movement of such goods will be prohibited. It will therefore become an obstacle on the Single Market, especially after the Single Market Emergency ends. The aim of this proposal is, however, to dismantle such barriers, not to introduce new ones. Nevertheless, this discussion has to take place in the Workin Party for Technical Harmonisation and only then we can reflect it in this recital and in Art. 26. BE (Comments): The term “National competent authorities” should be replaced by the term “competent authorities of the Member States”, in order to reflect the complex division of powers in many Member States regarding this matter. LU (Comments): <i>See comments on related articles.</i>

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
them is rendered excessively difficult by the disruptions to the Single Market, the Commission should be able to issue common technical specifications of voluntary or of mandatory application in order to provide ready-to-use technical solutions to the manufacturers.	protection to the harmonised European standards. In cases where the later do not exist or the compliance with them is rendered excessively difficult by the disruptions to the Single Market, the Commission should be able to issue common technical specifications of voluntary or of mandatory application in order to provide ready-to-use technical solutions to the manufacturers.	
(27) The introduction of these crisis-relevant adjustments to the relevant sectorial Union harmonised rules requires targeted adjustments to the following 19 sectorial frameworks: Directive 2000/14/EC, Directive 2006/42/EU, Directive 2010/35/EU, Directive 2013/29/EU, Directive 2014/28/EU, Directive 2014/29/EU, Directive 2014/30/EU, Directive 2014/31/EU, Directive 2014/32/EU, Directive 2014/33/EU, Directive 2014/34/EU, Directive 2014/35/EU, Directive 2014/53/EU, Directive 2014/68/EU, Regulation (EU) 2016/424, Regulation (EU) 2016/425, Regulation (EU) 2016/426, Regulation (EU) 2019/1009 and Regulation (EU) 305/2011. The activation of the emergency procedures should be conditional upon the activation of the Single Market emergency and should be limited to the products designated as	PL (Drafting): (27) The introduction of these crisis-relevant adjustments to the relevant sectorial Union harmonised rules requires targeted adjustments to the following 19 sectorial frameworks: Directive 2000/14/EC, Directive 2006/42/EU, Directive 2010/35/EU, Directive 2013/29/EU, Directive 2014/28/EU, Directive 2014/29/EU, Directive 2014/30/EU, Directive 2014/31/EU, Directive 2014/32/EU, Directive 2014/33/EU, Directive 2014/34/EU, Directive 2014/35/EU, Directive 2014/53/EU, Directive 2014/68/EU, Regulation (EU) 2016/424, Regulation (EU) 2016/425, Regulation (EU) 2016/426, Regulation (EU) 2019/1009 and Regulation (EU) 305/2011. The activation of the emergency procedures should be conditional upon the activation of the Single Market emergency and	DE (Comments): It is questionable whether Regulation (EU) 2019/1009 needs the envisaged adjustments for crises. Many instruments are already available to the Commission today on the basis of this regulation, which is only optionally applicable (for example the setting common specifications). Moreover, only a few Member States probably have the structures in place to allow conformity assessment of EU fertiliser products by public authorities in the event of a crisis. In principle, Member States can regulate market access for fertiliser products anyway on the basis of national fertiliser regulations that are still in force. PL (Comments): Directives 2013/29/EU and 2014/28/EU, due to

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
crisis-relevant goods.	should be limited to the products designated as crisis-relevant goods.	the specific characteristics of the these group of products, should be deleted from the list of the relevant sectorial Union harmonised rules which will require targeted adjustments and introduction of the emergency procedures. No simplified procedure should be adopted for the conformity assessment for the group of products the above directives relate to. LU (Comments): <i>See comments on related articles.</i>
(28) In cases where there are substantial risks to the functioning of the Single Market or in cases of severe shortages or an exceptionally high demand of goods of strategic importance, measures at Union level aimed to ensure the availability of crisis-relevant products, such as priority rated orders, may prove to be indispensable for the return to the normal functioning of the Single Market.		
(29) In order to leverage the purchasing power and negotiating position of the Commission during the Single Market vigilance mode and the Single Market emergency mode, Member States should be able to request the		

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
Commission to procure on their behalf.		
(30) Where there is a severe shortage of crisis-relevant products or services on the Single market during a Single Market emergency, and it is clear that the economic operators that operate on the Single market do not produce any such goods, but would in principle be able to repurpose their production lines or would have insufficient capacity to provide the goods or services needed, the Commission should be able to recommend to the Member States as a last resort to take measures to facilitate or request the ramping up or repurposing of production capacity of manufacturers or the capacity of the service providers to provide crisis-relevant services. In doing so the Commission would inform the Member States as to the severity of the shortage and the type of the crisis-relevant goods or services that are needed and would provide support and advice in relation to the flexibilities in the EU acquis for such purposes.		
(31) The measures ensuring regulatory flexibility would allow the Commission to recommend that Member States accelerate the procedures for granting permits that would be necessary for enhancement of the capacity to		

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
produce crisis-relevant goods or provide crisis-relevant services.		
(32) Additionally, to ensure that crisis-relevant goods are available during the Single Market emergency, the Commission may invite the economic operators that operate in crisis-relevant supply chains to prioritise the orders of inputs necessary for the production of final goods that are crisis relevant, or the orders of such final goods themselves. Should an economic operator refuse to accept and prioritise such orders, following objective evidence that the availability of crisis-relevant goods is indispensable, the Commission may decide to invite the economic operators concerned to accept and prioritise certain orders, the fulfilment of which will then take precedence over any other private or public law obligations. In the event of failure to accept, the operator in question should explain its legitimate reasons for declining the request. The Commission may make such reasoned explanation or parts of it public, with due regard to business confidentiality.		
(33) Furthermore, to ensure availability of crisis-relevant goods during the Single Market		

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
emergency, the Commission may recommend that Member States distribute strategic reserves, having with due regard to the principles of solidarity, necessity and proportionality.		
(34) 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 Regulation (EU) 2018/1725 of the European Parliament and of the Council³ and Regulation (EU) 2016/679 of the European Parliament and of the Council⁴.		
(35) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission as regards the possibility to adopt supportive measures for facilitating free movement of persons, for establishing a list of individual targets (quantities and deadlines) for		

³ 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).

⁴ Regulation (EU) 2016/769 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).

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
those strategic reserves that the Member States should maintain, so that the objectives of the initiative are achieved. Furthermore, implementing powers should be conferred on the Commission as regards activating the vigilance mode and vigilance measures in order to carefully monitor the strategic supply chains and coordinate the building up of strategic reserves for goods and services of strategic importance. Moreover, implementing powers should be conferred on the Commission as regards activation of specific emergency response measures at the time of a Single Market emergency, to allow for a rapid and coordinated response. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.		
(36) 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, right to data protection set out in Article 8 of the Charter, the freedom to conduct business and the freedom of contract, which are	DE (Drafting): (36) 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, right to data protection set out in Article 8 of the Charter, the freedom to conduct	DE (Comments): Article 26 addresses the integration of persons with disabilities; the right to collective bargaining and action is laid down in Article 28. BE (Comments): BE finds that this recital does not sufficiently precise whether this regulation does not affect the right to strike, due to the repealing of

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
protected by Article 16 of the Charter, the right to property, protected by Article 17 of the Charter, right to collective bargaining and action protected by Article 26 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. Since the objective of this Regulation cannot be sufficiently achieved by the Member States and 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. 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. The Regulation should not affect the autonomy of the social partners as recognised by the TFEU.	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, right to collective bargaining and action protected by Article 268 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. Since the objective of this Regulation cannot be sufficiently achieved by the Member States and 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. 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. The Regulation should not affect the autonomy of the social partners as recognised by the TFEU. BE (Drafting): (36) 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, right to data protection set out in Article 8 of the Charter, the freedom to conduct business and the freedom of contract, which are	Council Regulation (EC) 2679/98. This recital should at least mention that the right to strike is included in the art 28 of the Charter. For a better guarantee, it should be integrated in the articles of the proposal. Moreover the reference is incorrect: The right to collective bargaining and action is protected by Article 28 and not 26 of the Charter.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	protected by Article 16 of the Charter, the right to property, protected by Article 17 of the Charter, right to collective bargaining and action, including the right to strike, 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. Since the objective of this Regulation cannot be sufficiently achieved by the Member States and 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. 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. The Regulation should not affect the autonomy of the social partners as recognised by the TFEU.	
(37) 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 WTO obligations.		

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
(38) The Union framework shall include interregional elements to establish coherent, multi-sectoral, cross-border Single Market vigilance and emergency response measures, in particular considering the resources, capacities and vulnerabilities across neighbouring regions, specifically border regions.		
(39) The Commission shall also where appropriate enter into consultations or cooperation, on behalf of the Union, with relevant third countries, with particular attention paid to developing countries, with a view to seeking cooperative solutions to address supply chain disruptions, in compliance with international obligations. This shall involve, where appropriate, coordination in relevant international fora.		
(40) In order to put in place a framework of crisis protocols the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement the regulatory framework set out in this Regulation by further specifying the modalities of cooperation of the Member States and Union		IT (Comments): It would be helpful to clarify this point, in order to provide more detail on the type of delegated acts referred to.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
authorities during the Single Market vigilance and emergency modes, secure exchange of information and risk and crisis communication. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making . In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.		
(41) Council Regulation (EC) 2679/98 which provides for a mechanism for bilateral discussions of obstacles to the functioning of the Single Market has been rarely used and is outdated. Its evaluation demonstrated that the solutions provided by that Regulation are not able to cater for the realities of complex crises, which are not limited to incidents happening at the borders of two neighbouring Member States. It should therefore be repealed.		BE (Comments): The repeal of Regulation (EC) No 2679/98 must not affect the right to strike. The inclusion of a reference to Article 28 of the Charter of Fundamental Rights in Recital 36 is in no way sufficient to guarantee the protection of the right to strike. Therefore BE requests that the right to strike be guaranteed by an article in the proposed regulation.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
HAVE ADOPTED THIS REGULATION:		
		AT (Comments): General comment: In order to create a well-functioning instrument in practice, the proposed provisions and the scope of such an instrument has to be clear. Unfortunately, this is not the case here yet. As the discussions in the WP meetings show, most of the provisions contain unclear terms and its application in practice is questionable. In our view, further in-depth discussions as well as an appropriate involvement of the MS needs to be foreseen in this Regulation.
Title I Emergency mode		BE (Comments): BE would like a framework to be defined that would allow for more transparency and predictability when triggering the different modes and measures.
Article 13 Criteria for activation		SI (Comments): We would prefer a clearer outline of the criteria to allow for more legal certainty.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
1. When assessing the severity of a disruption for the purposes of ascertaining whether the impact of a crisis on the Single Market qualifies as a Single Market emergency, the Commission shall, based on concrete and reliable evidence, taking into account at least the following indicators:	AT (Drafting): 1. When assessing the severity of a disruption for the purposes of ascertaining whether the impact of a crisis on the Single Market qualifies as a Single Market emergency, the Commission shall, based on concrete and reliable evidence, taking into account at least the following indicators and shall consult the Member States and the advisory group: CZ (Drafting): 1. When assessing the severity of a disruption for the purposes of ascertaining whether the impact of a crisis on the free movement of goods, persons and services on the Single Market qualifies as a Single Market emergency, the Commission shall, based on concrete and reliable evidence, take into account at least the following indicators: DK (Drafting): 1. When assessing the severity of a disruption for the purposes of ascertaining whether the impact of a crisis <u>on the free movement of goods, services and persons</u> on the Single Market qualifies as a Single Market emergency, the Commission shall, based on concrete and reliable evidence, taking into	AT (Comments): It is questionable, if the EC should carry out such an assessment on its own. MS should be consulted. Furthermore, the indicators should be described more in detail. What would be a “<i>concrete and reliable evidence</i>”? CZ (Comments): It is important to assess whether the crisis affects the free movement on the Single Market because this proposal should have been an answer to the barriers enacted for the free movement by MSs during the covid pandemic. IE (Comments): The focus of the SMEI should be on ensuring free movement of goods, persons and services. PL (Comments): The assessment should be carried out together with the advisory group. BE (Comments): Typo LU (Comments): <i>The disruption of supply chains should not be</i>

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	account at least the following indicators: FI (Drafting): 1. When assessing the severity of a disruption for the purposes of ascertaining whether the impact of a crisis <u>on the free movement of goods, services and persons</u> on the Single Market qualifies as a Single Market emergency, the Commission shall, based on concrete and reliable evidence, taking into account at least the following indicators: IE (Drafting): 1. When assessing the severity of a disruption for the purposes of ascertaining whether the impact of a crisis <u>on the free movement of goods, persons and services in</u> the Single Market qualifies as a Single Market emergency, the Commission shall, based on concrete and reliable evidence, taking into account at least the following indicators: NL (Drafting): 1. When assessing the severity of a disruption for the purposes of ascertaining whether the impact of a crisis on the free movement of goods, persons and services on the Single Market qualifies as a Single Market emergency, the Commission shall, based on concrete and reliable evidence, taking into	<i>the sole criterion to trigger the emergency mode. Indeed, the disruption of a supply chain does not necessarily mean that there is a failure of the Single Market, it may simply indicate a shortage in the availability of the product.</i> <i>The focus should be on the disruption of the Single Market as a whole, how the 4 freedoms have been or may be impacted. This would ensure better consistency with the legal basis Art 114 TFEU and align with the objective of the proposal to ensure a fully functioning Single Market.</i> IT (Comments): Our modifications intend to better align the criteria for activation to the definitions of “crisis” and “emergency”. Moreover, we think that to activate the “emergency mode” it is not sufficient to “take into consideration” certain criteria, but they should be “fulfilled”. Finally, as there is no definition of “vital societal or economic activities” and to create more coherence in the text, we suggest modifying the definition of ‘Single Market emergency’ in article 3 inserting the reference to “strategically importance areas” (in

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	account at least the following indicators: PL (Drafting): 1. When assessing the severity of a disruption for the purposes of ascertaining whether the impact of a crisis on the Single Market qualifies as a Single Market emergency, the Commission and the advisory group shall, based on concrete and reliable evidence, taking into account at least the following indicators: BE (Drafting): 1. When assessing the severity of a disruption for the purposes of ascertaining whether the impact of a crisis on the Single Market qualifies as a Single Market emergency, the Commission shall, based on concrete and reliable evidence, take into account at least the following indicators: LU (Drafting): 1. When assessing <u>the severity of a disruption for the purposes of ascertaining</u> whether the impact of a crisis <u>on the free movement of goods, persons and services</u> on the Single Market qualifies as a Single Market emergency, the Commission shall, based on concrete and reliable evidence, taking into account at least the following indicators:	replacement to the (not defined) “vital societal or economic activities”). See below: Article 3 para 1 3) Commission proposal: “Single Market emergency”: means a wide-ranging impact of a crisis on the Single Market that severely disrupts the free movement on the Single Market or the functioning of the supply chains that are indispensable in the maintenance of vital societal or economic activities in the Single Market; Article 3 para 1 3) Modification: “Single Market emergency”: means a wide-ranging impact of a crisis on the Single Market that severely disrupts the free movement on the Single Market or the functioning of the supply chains that are indispensable in the maintenance of “strategically importance areas” in the Single Market We think that the word “sectors” is too generic and need to be specified. As we have modified the “Single Market emergency” definition inserting a reference to “strategically important areas”, we have modified the criteria accordingly. SK (Comments): It is questionable whether the criteria are clear

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	IT (Drafting): 1. When assessing the the severity of a disruption impact of a crisis on the Single Market for the purposes of ascertaining whether it qualifies as a Single Market emergency, the Commission shall, based on concrete and reliable evidence, taking into account at least verify the fulfilment of several of the following indicators: SI (Drafting): 1. When assessing the severity of a disruption for the purposes of ascertaining whether the impact of a crisis on the free movement of goods, services or persons in the Single Market qualifies as a Single Market emergency, the Commission shall, based on concrete and reliable evidence, taking into account at least the following indicators: LT (Drafting): 1. When assessing the severity of a disruption for the purposes of ascertaining whether the impact of a crisis on the free movement of goods, persons and services on the Single Market qualifies as a Single Market emergency, the Commission shall, based on concrete and reliable evidence, take into account at least the following indicators:	and precise to be used to assess the seriousness of the disruption in order to determine whether the impact of the crisis on the single market is considered an emergency. The criteria could be ambiguous and subjective, which could lead to different interpretations and applications among Member States. We would welcome more clarification on the concept of “concrete and reliable evidence” the assessment of the EC should be based on PT (Comments): Followig the COM’clarification at the SMEI Experts Workshop on 10th of February that the indicators are not cumulative (one is sufficient to activate the emergency mode) and that the disruption can happen on one Member State as long as it affects others, we consider important that this clarification is included in the correspondent recital. LT (Comments): We support LU comments that the focus should be not on the disruption of supply chains but on the impact on the free movement in the Single Market. Technical suggestion to change “taking into account”.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		In our view, either in the operational part or in the recitals a better explanation on how these indicators are to be assessed should be provided, e.g. explaining the prioritisation of the indicators. In addition each of the indicators requires elaboration (what has been meant by one or other indicator).
(a) the crisis has caused activation of any relevant Council crisis response mechanism, Union Civil Protection Mechanism or the mechanisms set up within the EU Health Security Framework, including [the proposal for] Regulation (EU) .../... on serious cross-border health threats and [the proposal for] Council Regulation (EU) .../... on a framework of measures for ensuring the supply of crisis-relevant medical countermeasures;	CZ (Drafting): (a) the crisis has caused activation of any relevant Council crisis response mechanism, including Integrated Political Crisis Response, Union Civil Protection Mechanism or the mechanisms set up within the EU Health Security Framework, including [the proposal for] Regulation (EU) .../... on serious cross-border health threats and [the proposal for] Council Regulation (EU) .../... on a framework of measures for ensuring the supply of crisis-relevant medical countermeasures in case the free movement of goods, persons or services is affected; DK (Drafting): (a) the crisis has caused activation of any relevant Council crisis response mechanism, Union Civil Protection Mechanism or the mechanisms set up within the EU Health	DE (Comments): The Integrated Political Crisis Response (IPCR) should be explicitly listed in Article 13(1)(a). As a central instrument of the EU's crisis coordination and response, it is expected that the IPCR will also be regularly activated in cases covered by Article 13(1) in conjunction with Article 3(1) and (3) of the draft regulation. With regard to the activation of the crisis response mechanism in art. 13 para 1 lit. a referring to SCBHT (EU) 2022/2372 we would like to know which activation is meant here? We assume that it concerns the recognition of public health emergencies at Union level (Art. 23 SCBHT). The recognition of a public health emergency at Union level may trigger enhanced coordination and may allow for monitoring, procurement, purchase and manufacturing of crisis-relevant medical countermeasures under Council Regulation (EU) 2022/2372 (8).

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	Security Framework, including [the proposal for] Regulation (EU) .../... on serious cross-border health threats and [the proposal for] Council Regulation (EU) .../... on a framework of measures for ensuring the supply of crisis-relevant medical countermeasures <u>in case the free movement of goods, persons or services is affected</u>; FI (Drafting): (a) the crisis has caused activation of any relevant Council crisis response mechanism, Union Civil Protection Mechanism or the mechanisms set up within the EU Health Security Framework, including [the proposal for] Regulation (EU) .../... on serious cross-border health threats and [the proposal for] Council Regulation (EU) .../... on a framework of measures for ensuring the supply of crisis-relevant medical countermeasures <u>in case the free movement of goods, persons or services is affected</u>; IE (Drafting): (a) the crisis has caused activation of any relevant Council crisis response mechanism, Union Civil Protection Mechanism or the mechanisms set up within the EU Health Security Framework, including [the proposal for] Regulation (EU) .../... on serious cross-	CZ (Comments): We need to ensure that the Single Market perspective is also taken into consideration when other crisis response mechanisms are activated, in order to avoid that events without any link to a disruption of free movement will lead to activation of a Single Market Emergency mode. Moreover, the IPCR should be specifically mentioned as well, it cannot be just implicit. DK (Comments): We need to ensure that the Single Market perspective is also taken into consideration when other crisis response mechanisms are activated, in order to avoid that events without any link to a disruption of free movement will lead to activation of a Single Market emergency. FI (Comments): <i>We need to ensure that the Single Market perspective is also taken into consideration when other crisis response mechanisms are activated, in order to avoid that events without any link to a disruption of free movement will lead to activation of a Single Market emergency.</i> IE (Comments): There is a need to ensure that the Single Market

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	border health threats and [the proposal for] Council Regulation (EU) .../... on a framework of measures for ensuring the supply of crisis-relevant medical countermeasures in case the free movement of goods, persons or services is impacted; NL (Drafting): (a) the crisis has caused activation of any relevant Council crisis response mechanism, Union Civil Protection Mechanism or the mechanisms set up within the EU Health Security Framework, including [the proposal for] Regulation (EU) .../... on serious cross-border health threats and [the proposal for] Council Regulation (EU) .../... on a framework of measures for ensuring the supply of crisis-relevant medical countermeasures in case the free movement of goods, persons or services is affected; PL (Drafting): (a) the crisis has caused activation of any relevant Council crisis response mechanism, Union Civil Protection Mechanism or IPCR or the mechanisms set up within the EU Health Security Framework, including [the proposal for] Regulation (EU) .../... on serious cross-border health threats and [the proposal for] Council Regulation (EU) .../... on a framework	perspective is also taken into consideration when other crisis response mechanisms are activated, in order to avoid that events without any link to a disruption of free movement will lead to activation of a Single Market emergency NL (Comments): We need to ensure that the Single Market perspective is also taken into consideration when other crisis response mechanisms are activated, in order to avoid that events without any link to a disruption of free movement will lead to activation of a Single Market emergency. PL (Comments): IPCR as the political crisis response mechanism should be added in accordance with the recite (12) “This Regulation should complement the Integrated Political Crisis Response mechanism operated by the Council under Council Implementing Decision (EU) 2018/1993 as regards its work on Single Market impacts of cross-sectoral crises that require political decision-making” as well as other targeted crisis specific legislation i.e. EE (Comments): IPCR should be mentioned as it covers all types of crisis. We also suggest leaving the list open in case there is another crisis response

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	of measures for ensuring the supply of crisis-relevant medical countermeasures; in the sector of food, transport and [the Chips Act], [Data Act], [Critical Raw Materials Act] EE (Drafting): (a) the crisis has caused activation of any relevant Council crisis response mechanism, such as Integrated Political Crisis Response, Union Civil Protection Mechanism or the mechanisms set up within the EU Health Security Framework, including [the proposal for] Regulation (EU) .../... on serious cross-border health threats and [the proposal for] Council Regulation (EU) .../... on a framework of measures for ensuring the supply of crisis-relevant medical countermeasures; LU (Drafting): (a) the crisis has caused activation of any relevant Council crisis response mechanism, Union Civil Protection Mechanism or the mechanisms set up within the EU Health Security Framework, including [the proposal for] Regulation (EU) .../... on serious cross-border health threats and [the proposal for] Council Regulation (EU) .../... on a framework of measures for ensuring the supply of crisis-relevant medical countermeasures <u>in case the free movement of goods, persons or services</u>	mechanism or there will be in the future. LV (Comments): Latvia is of view that indicators for activation of the Single Market emergency mode should also include crisis response mechanisms mentioned in IPCR and Regulation 178/2002 (food and feed). SI (Comments): IPCR should be mentioned while the relation between SMEI and IPCR as well as other crisis mechanisms is still not clear. We believe that a mapping outlining the interaction between SMEI and the rest of the crisis mechanisms should clearly portray the logistics of such interactions. LT (Comments): The amendments are included to include the the Single Market aspect. MT (Comments): The Council has a single set of arrangements to respond to crises at political level, the EU Integrated Political Crisis Response Arrangements. For the sake of clarity, the text should refer to the mechanism by its proper title, as per Council Implementing Decision (EU) 2018/1993.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	<u>is impacted</u>; LV (Drafting): (a) the crisis has caused activation of any relevant Council crisis response mechanism, Union Civil Protection Mechanism, Integrated Political Crisis Response Mechanism, Regulation (EC) No 178/2002 of the European Parliament and of the Council 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, or the mechanisms set up within the EU Health Security Framework, including [the proposal for] Regulation (EU) .../... on serious cross-border health threats and [the proposal for] Council Regulation (EU) .../... on a framework of measures for ensuring the supply of crisis-relevant medical countermeasures; LT (Drafting): (a) the crisis has caused activation of any relevant Council crisis response mechanism, Union Civil Protection Mechanism or the mechanisms set up within the EU Health Security Framework, including [the proposal for] Regulation (EU) .../... on serious cross-border health threats and [the proposal for] Council Regulation (EU) .../... on a framework	

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	of measures for ensuring the supply of crisis-relevant medical countermeasures <u>in case the free movement of goods, persons or services is impacted</u>; MT (Drafting): (a) the crisis has caused activation of any relevant Council crisis response mechanism, the Integrated Political Crisis Response Arrangements Union Civil Protection Mechanism or the mechanisms set up within the EU Health Security Framework, including [the proposal for] Regulation (EU) .../... on serious cross-border health threats and [the proposal for] Council Regulation (EU) .../... on a framework of measures for ensuring the supply of crisis-relevant medical countermeasures;	
(b) an estimation of the number of economic operations or users relying on the disrupted sector or sectors of the Single Market for the provision of the goods or services concerned;	CZ (Drafting): (b) an estimation of the number or market share of economic operations or users relying on the disrupted sector or sectors of the Single Market for the free movement of or the provision of the goods or services concerned; DK (Drafting): (b) an estimation of the number of economic operations, <u>market shares</u> or users	CZ (Comments): Despite the letter f) below, it is important to reflect also here both the number of economic operations and their market share since there might be a smaller number of essential operators/users who rely on the disrupted sector. DK (Comments): Amended following suggestion in Article 8a. FI (Comments):

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	<u>significantly</u> relying on the disrupted sector or sectors of the Single Market for <u>the free movement of or</u> the provision of the goods or services concerned; FI (Drafting): (b) an estimation of the number of economic operations, <u>market shares</u> or users <u>significantly</u> relying on the disrupted sector or sectors of the Single Market for <u>the free movement of or</u> the provision of the goods or services concerned; NL (Drafting): (b) an estimation of the number or market shares of economic operations or users significantly relying on the disrupted sector or sectors of the Single Market for the free movement of or the provision of the goods or services concerned; PL (Drafting): (b) an estimation of the number of economic operations or users relying on the disrupted sector or sectors of the Single Market for the provision of the crisis relevant goods or services concerned; BE (Drafting): (b) an estimation of the number and/or	<i>Amended following suggestion in Article 8a.</i> PL (Comments): It must be specified which goods and services the provision is referring to, as the word “concerned” does not make it clear. EE (Comments): In case of consolidated markets, such as energy, aviation, pharmaceuticals or banking, the number of affected operators might be small, but the impact on the functioning of the single market can be major. In fragmented markets, high number of affected economic operators could have a low market share, but the impact on the free movement of services/goods or people could be huge and cause an unnatural market distortion. Point f could then be deleted because depending on the market structure, number or market share as an “and/or” importance when assessing the existence of a crisis. LU (Comments): <i>The number of economic operators is not a reliable indicator. There can be economic operators who by their size or by their area of activity will be crucial, even if they are very limited in numbers. However, including any economic operator will defy the relevance of</i>

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	strategic importance of economic operators or users relying on the disrupted sector or sectors of the Single Market for the provision of the goods or services concerned; EE (Drafting): (b) an estimation of the number of economic operations, market share or users relying on the disrupted sector or sectors of the Single Market for the provision of the goods or services concerned; LU (Drafting): (b) — an estimation of the number of economic operations or users relying on the disrupted sector or sectors of the Single Market for the provision of the goods or services concerned; IT (Drafting): b) an estimation of the number the high number of economic operations or users relying on the disrupted sector or sectors of the Single Market for the provision of the goods or services concerned SI (Drafting): (b) an estimation of the number or market share of economic operations or users relying on the disrupted sector or sectors of the Single	<i>this criterion and should therefore be deleted.</i> <i>Plus, it is unclear what is meant under "goods and services concerned" and to what extent it constitutes a different list than "crisis-relevant goods" and "strategic goods and services"?</i> LT (Comments): We do see a need for a better formulation of this indicator as the <i>number</i> of economic operations might not be relevant/ appropriate in all the cases.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	Market from the perspective of free movement or for the provision of the goods or services concerned; LT (Drafting): (b) an estimation of the number of economic operations or users relying on the disrupted sector or sectors of the Single Market for the free movement of or the provision of the goods or services concerned;	
(c) the importance of the goods or services concerned for other sectors;	DK (Drafting): (c) the <u>critical</u> importance of the goods or services concerned for other sectors <u>the functioning of the Single Market, especially the free movement of goods, persons, and services</u>; FI (Drafting): (c) the <u>critical</u> importance of the goods or services concerned for other sectors <u>the functioning of the Single Market, especially the free movement of goods, persons, and services</u>; IE (Drafting): (c) the <u>critical</u> importance of the goods or services concerned for other sectors <u>the</u>	AT (Comments): What “<i>other sectors</i>” are meant here? DK (Comments): Amended following suggested changes in Article 3. FI (Comments): <i>Amended following suggested changes in Article 3.</i> IE (Comments): Amended following suggested changes in Article 3. PL (Comments): It must be specified which goods and services the provision is referring to, as the word

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	<u>functioning of the Single Market, especially the free movement of goods, persons and services;</u> NL (Drafting): (c) the importance of the goods or services concerned for the functioning of the Single Market, especially the free movement of goods, persons and services; PL (Drafting): (c) the importance of the crisis relevant goods or services concerned for other sectors; LU (Drafting): (c) — the importance of the goods or services concerned for other sectors; IT (Drafting): (c) the importance of the goods or services concerned for other sectors strategically important areas FR (Drafting): (c) the strategic importance of the goods or services concerned for other sectors;	“concerned” does not make it clear. FR (Comments): Matter of coherence with the definition of “goods and services of strategic importance”
	PL (Drafting): (ca) estimated shortage of goods and services in the Single Market	PL (Comments): If disrupted supply chains result in shortages, it seems necessary to add an indicator specifying the shortage of goods and services

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(d) the impacts in terms of degree and duration on economic and societal activities, the environment and public safety;	CZ (Drafting): (d) the impacts in terms of degree and duration on economic and vital societal activities, the environment and public safety; DK (Drafting): (d) the <u>expected</u> impacts in terms of degree and duration on economic and societal activities, the environment and public safety; FI (Drafting): (d) the <u>expected</u> impacts in terms of degree and duration on economic and societal activities, the environment and public safety; IE (Drafting): (d) the <u>expected</u> impacts in terms of degree and duration on economic and societal activities, the environment and public safety; NL (Drafting): (d) the expected impacts in terms of degree and duration on economic and societal activities, the environment and public safety; BE (Drafting): (d) the impacts in terms of degree and duration on economic and societal activities, the environment, public safety and education;	CZ (Comments): To unify the provision with letter g). However, the term “(vital) societal activities” is not defined. DK (Comments): It isn’t plausible to have a precise indication on the impact of the situation in terms of degree and duration, whereby referring to an “expected impact” would be a more appropriate. FI (Comments): <i>It isn’t plausible to have a precise indication on the impact of the situation in terms of degree and duration, whereby referring to an “expected impact” would be a more appropriate.</i> IE (Comments): It is not plausible to have a precise indication on the impact of the situation in terms of degree and duration, whereby referring to an “expected impact” would be a more appropriate. BE (Comments): The impact on education should also be taken into account: indeed education was particularly affected during the Covid crisis. SK (Comments):

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	IT (Drafting): (d) the high impacts in terms of degree and duration on economic and societal activities, the environment and public safety strategically important areas FR (Drafting): (d) the impacts in terms of degree and duration on economic and societal activities, public security, the environment and public safety, public order or public health;	In our view this point is not in line with the definition of emergency mode, in which there is no reference to the environment and public safety FR (Comments): Matther of coherence with the definition of “strategically important areas”
(e) the economic operators affected have not been able to provide a solution in a reasonable time to the particular aspects of the crisis on a voluntary basis.	NL (Drafting): (e) the economic operators affected have not been able to provide a solution in a reasonable time to the particular aspects of the crisis on a voluntary basis. FR (Drafting): (e) the economic operators affected have not been able to provide a solution within 36 hours in a reasonable time to resume the functioning of the supply chain the particular aspects of the erisis on a voluntary basis.	AT (Comments): Art. 13 para. 1 lit. e: what is a "<i>reasonable time</i>" for economic operators affected to provide a solution to the particular aspects of the crisis on a voluntary basis? DK (Comments): If economic operators have been consulted on providing a solutation <i>voluntarily</i>, what ground would the Commission have to repeat such a request pursuant to Article 24 and 27? FI (Comments): If economic operators have been consulted on providing a solutation <i>voluntarily</i>, what ground would the Commission have to repeat such a

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		request pursuant to Article 24 and 27? BE (Comments): This indicator should be a <i>sine qua non</i> condition for activating the emergency mode: if another indicator is met but economic operators have been able to provide a solution, is there still an emergency? Whether the economic operators have found a solution is the first step to check before assessing the mode. LV (Comments): Article 13 paragraph 1 subparagraph (e) should set out specific time period during which economic operators should provide a solution to the particular aspects of the crisis. FR (Comments): “Reasonable time” and “particular aspects” are too abstract
(f) the market position of affected economic operators in the concerned sector or sectors;	DK (Drafting): (f) the market position of affected economic operators in the concerned sector or sectors; FI (Drafting): (f) the market position of affected economic operators in the concerned sector or sectors;	DK (Comments): Too similar with paragraph (b). Also, indicators should be based on Single Market impact, not the impact on specific companies. FI (Comments):

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	NL (Drafting): LU (Drafting): (f) — the market position of affected economic operators in the concerned sector or sectors; IT (Drafting): f) the market position of affected economic operators in the concerned sector or sectors strategically important areas;	<i>Too similar to paragraph (b).</i> <i>Also, indicators should be based on Single Market impact, not the impact on specific companies.</i> IE (Comments): Would like clarification on why the Commission has included this text. NL (Comments): Too similar to paragraph b. Also, indicators should be based on Single Market impact, not the impact on specific companies. BE (Comments): Will European Commission look to the market position in a specific member state or only in the European Union? LU (Comments): <i>We wonder why the market position should be taken into account? This is not a relevant factor, what matters is any disruption creating barriers to cross-border trade inside the EU, irrespective of market power of an economic operator.</i> PT (Comments):

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		• The concept of market position of affected economic operators should be explained in more detail. LT (Comments): The concept of <i>market position</i> should be explained in more detail. MT (Comments): Request to flesh out and explain what CION had in mind when it comes to the indicator of ‘market position’ (point f), notably in CION’s understanding of market position, and on how, and the kind of bearing that the affected operator’s market position would have on CION’s assessment
(g) the geographic area that is and could be affected, including any cross-border impacts on the functioning of supply chains that are indispensable in the maintenance of vital societal or economic activities in the Single Market;	DE (Drafting): (g) the geographic area that is and could be affected, including any cross-border impacts on the functioning of supply chains that are <u>of systemic importance and thus</u> indispensable in the maintenance of vital societal or economic activities in the Single Market; CZ (Drafting): (g) the geographic area that is and could be affected, including any cross-border impacts on	DE (Comments): With regard to the declaration of the emergency mode, it is important to make reference to supply chains that are of a systemic nature in the single market (see also Germany’s comments on the Commission's proposal for a Single Market Emergency Instrument (SMEI) from November 2022). CZ (Comments): It is important to narrow down the supply chains

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	the functioning of systemic supply chains that are indispensable in the maintenance of vital societal or economic activities in the Single Market; DK (Drafting): (g) the geographic area <u>proportion of the Single Market</u> that is and could be <u>significantly</u> affected <u>by the disruption</u>, including any cross-border impacts on the functioning of supply chains that are indispensable in the maintenance of vital societal or economic activities in the Single Market; FI (Drafting): (g) the geographic area <u>proportion of the Single Market</u> that is and could be <u>significantly</u> affected <u>by the disruption</u>, including any cross-border impacts on the functioning of supply chains that are indispensable in the maintenance of vital societal or economic activities in the Single Market; NL (Drafting): (g) the geographic proportion of the Single Market that is and could be significantly affected by the disruption;	which are to be assessed when deciding on the activation of the Single Market Emergency. DK (Comments): Amended following proposed Article 8a. FI (Comments): <i>Amended following proposed Article 8a.</i> IE (Comments): This language needs to be more precise- too vague currently. LU (Comments): <i>Geographical area is an unclear indicator. If size is what is meant, then this is not relevant: any disruption creating barriers to cross-border trade inside the EU should be treated equally.</i>

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	BE (Drafting): (g) the geographic area that is and could be affected, including any cross-border impacts on the functioning of systemic supply chains that are indispensable in the maintenance of vital societal or economic activities in the Single Market; IT (Drafting): (g) the large geographic area that is and could be affected, including any cross-border impacts on the functioning of supply chains that are indispensable in the maintenance of vital societal or economic activities in the Single Market strategically important areas;	
(h) the importance of the affected economic operator 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	DK (Drafting): (h) the critical importance of the affected economic operator in maintaining a sufficient necessary 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 FI (Drafting): (h) the critical importance of the affected economic operator in maintaining a sufficient necessary level of supply of the goods or	DE (Comments): Could struggles of one economic operator already be an important indicator for the activation of the emergency mode? We suspect that the wording contains an editorial mistake and that it means to say “operators.” AT (Comments): Will economic operators be consulted? Which benchmarks will be taken into account when assessing the importance of economic

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	services, taking into account the availability of alternative means for the provision of those goods or services; and NL (Drafting): (h) the critical importance of the affected economic operator in maintaining a necessary 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	operators? DK (Comments): Amended following suggested changes in Article 3. FI (Comments): Amended following suggested changes in Article 3. IE (Comments): Should problems one economic operator is having be enough to trigger the emergency mode? LU (Comments): <i>Could a single economic operator be sufficient to activate the emergency mode, even if there is no cross-border trade that is impacted?</i>
(i) the absence of substitute goods, inputs or services.	DK (Drafting): (i) the absence of <u>non-diversifiable and non-substitutable of</u> goods, inputs or services <u>of critical importance</u>. FI (Drafting): (i) the absence of <u>non-diversifiable and non-substitutable of</u> goods, inputs or services <u>of</u>	DK (Comments): It need to be defined to a greater extent which goods, inputs and service should be considered. Otherwise, the absence of just any substitute good, input or service will weigh positively into the potential triggering of the emergency mode. Furthermore, the term “input” is too ambiguous and therefor not considered appropriate as an

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	<u>critical importance.</u> NL (Drafting): (i) the absence of non-diversifiable and non-substitutable goods, inputs or services of critical importance. PL (Drafting): (i) the absence of substitute the crisis-relevant goods, inputs or services LU (Drafting): (i) — the absence of substitute goods, inputs or services. SI (Drafting): (i) the absence of substitute goods, inputs or services.	indicator. “Non-diversifiable” and “non-substituable” refers to the amended changes proposed in Article 3(5). FI (Comments): <i>It need to be defined to a greater extent which goods, inputs and service should be considered. Otherwise, the absence of just any substitute good, input or service will weigh positively into the potential triggering of the emergency mode.</i> <i>Furthermore, the term “input” is too ambiguous and therefore not considered appropriate as an indicator.</i> “Non-diversifiable” and “non-substituable” refers to the amended changes proposed in Article 3(5). NL (Comments): It needs to be defined to a greater extent which goods, inputs and service should be considered. Otherwise, the absence of just any substitute good, input or service will weigh positively into the potential triggering of the emergency mode. Furthermore, the term “input” is too ambiguous and therefore not considered appropriate as an indicator.

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		“Non-diversifiable” and “non-substituable” refers to the amended changes proposed in Article 3(5). PL (Comments): It must be specified which goods and services the provision is referring to. SI (Comments): The expression "inputs" is unclear and could be removed if aiming for more legal certainty.
	FI (Drafting): <u>(i) (new) the effect on the free movement of goods, services and persons</u> IE (Drafting): <u>(j) the effect on the free movement of goods, services and persons</u> NL (Drafting): j. the effect on the free movement of goods, services and persons.	FI (Comments): <i>A very important indicator is missing in the form of “general” effects of the crisis on the functioning of Single Market, i.e. the free movement of goods, services and persons.</i> IE (Comments): A very important indicator is missing in the form of “general” effects of the crisis on the functioning of Single Market, i.e. the free movement of goods, services and persons. NL (Comments): A very important indicator is missing in the form of “general” effects of the crisis on the functioning of Single Market, i.e. the free movement of goods, services and persons.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
Article 14 Activation	DK (Drafting): <u>(i) the effect on the free movement of goods, services and persons</u>	DK (Comments): A very important indicator is missing in the form of “general” effects of the crisis on the functioning of Single Market, i.e. the free movement of goods, services and persons. BE (Comments): BE understands the need for the different time criteria but reminds the Commission that this article is about activating the emergency mode, i.e. there is an emergency. BE asks COM to carry-out a reality check. This could for example be based on the hypothesis of a cyber-attack by a hostile power or a solar flare which would render IT systems inoperative. LV (Comments): Latvia is of view that Advisory group should have more significant role during emergency mode and at least 3 members of the Advisory group should have the rights to come up with a proposal to activate, review or deactivate emergency mode and these rights should be included in Article 4. LT (Comments): We support a greater role of the MSs/Advisory group in the activation process.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		ES (Comments): <i>The procedural elements should be revised, in order to set up a “checks and balances” system that contemplates, for each specific scenario, the concrete powers and measures that could be applied.</i> <i>The involvement of Member States during the activation and implementation of the emergency mode should be reinforced.</i>
1. The Single Market Emergency mode may be activated without the Single Market vigilance mode having previously been activated with regard to the same goods or services. Where the vigilance mode has previously been activated, the emergency mode may replace it partially or entirely.	NL (Drafting): 1. The Single Market Emergency mode may be activated without the Single Market vigilance mode having previously been activated with regard to the same goods or services. Where the vigilance mode has previously been activated, the emergency mode may replace it partially or entirely to the extent in which the criteria of article 13 apply. PL (Drafting): 1. The Single Market Emergency mode may be activated without the Single Market vigilance mode having previously been activated with regard to the same goods or services. Where the vigilance mode has previously been activated, the emergency mode	NL (Comments): There is a lack of substantive criteria for determining the extent to which one of the modes applies PL (Comments): We suggest deleting the entire paragraph because it relates to the Single Market vigilance mode which we proposed to delete. BE (Comments): When the vigilance mode has been activitated, it should not replace the emergency mode as such. Those modes work completely separate from each other.(see also article 14, (4)). LV (Comments):

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	may replace it partially or entirely. BE (Drafting): 1. The Single Market Emergency mode may be activated without the Single Market vigilance mode having previously been activated with regard to the same goods or services. LV (Drafting): 1. The Single Market Emergency mode may be activated without the Single Market vigilance mode having previously been activated with regard to the same goods or services. Where the vigilance mode has previously been activated, the emergency mode may shall replace it partially or entirely.	It is unclear to us why vigilance and emergency modes should operate at the same time?
	DK (Drafting): 1a. Where the Commission, taking into consideration the opinion provided by the advisory group, considers there is a Single Market emergency, it shall propose to the Council to activate the Single Market emergency mode. <u>Where the consideration of the Commission diverges from the opinion of the advisory group, the Commission shall provide a valid justification.</u>	DK (Comments): Amended following changes in Article 9.
2. Where the Commission, taking into	AT (Drafting):	AT (Comments):

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
consideration the opinion provided by the advisory group, considers there is a Single Market emergency, it shall propose to the Council to activate the Single Market emergency mode.	2. Where the Commission, taking into consideration the opinion provided by the advisory group, considers there is a Single Market emergency, it shall propose to the Council to activate the Single Market emergency mode. <u>In its proposal, Commission shall include, on the basis of its assessment pursuant to Article 13, a list of crisis-relevant goods and services with regard to which it proposes Council to activate the Single Market emergency mode.</u> NL (Drafting): 2. Where the Commission, taking into consideration the opinion provided by the advisory group, considers there is a Single Market emergency, it shall propose to the Council to activate the Single Market emergency mode. PL (Drafting): 2. Where the Commission, taking into consideration consideration account the opinion provided by the advisory group, considers there is a Single Market emergency, it shall propose to the Council to activate the Single Market emergency mode. BE (Drafting): 2. Where the Commission, taking into	It is appropriate that the emergency mode is to be activated by means of an implementing act of the Council. Only then, the MS are sufficiently involved. AT is sceptic towards horizontal Single Market emergencies being declared, without limitation either to areas or goods and services needed. In ATs view, a Single Market emergency mode declared should always relate to (a list of) specific crisis-relevant goods and/or services the EU is in need of in the particular emergency at hand (that may be subject to subsequent modifications). E.g. during COVID-19, masks and respiratory equipment were goods that were needed in many countries. IE (Comments): The advisory group must have a stronger role at all stages of the SMEI. PL (Comments): The role of the advisory group should be strengthened. BE (Comments): It is important that the advisory group is able to work as an effective steering body for cooperation between the Commission and the Member States, to better reflect the fact that

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	consideration the opinion provided by the steering committee, considers there is a Single Market emergency, it shall propose to the Council to activate the Single Market emergency mode. FR (Drafting): 2. Where the Commission, taking into consideration the opinion provided by the advisory group, considers there is a Single Market emergency, it shall propose to the Council to activate the Single Market emergency mode. The Council can also take the initiative to activate the Single Market emergency mode.	steering is done under the leadership of COM, but in close coordination with the MS. FR (Comments): Member States should be able at least to activate the emergency mode (without proposition from the Commission) on its own initiative. SI (Comments): The expression "taking into consideration" should be strengthened in order to allow for a stronger and more decisive role of the Advisory Group in the decision-making process. Something along the lines of "building upon" or similar could be used.
		DK (Comments): Why is reference made to “with regard to the same goods and services”? The wording is confusing in that it sounds like that the modes are activated <i>with regards to</i> certain goods and services, which is not the case. Instead, they are activated with regards to a specific crisis or a threat hereof. Hence, it could be considered to instead include the formulation “with regard to the same crisis or threat hereof”. Furthermore, it is somewhat peculiar to refer to

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		scenarios where the goods and services considered in the two modes are the same, since there is a difference in the definition of which goods and services can be considered in the vigilance mode and emergency mode, respectively (goods and services of strategic importance vs. crisis-relevant goods).
3. The Council may activate the Single Market emergency mode by means of a Council implementing act. The duration of the activation, shall be specified in the implementing act, and shall be a maximum of six months.	DE (Drafting): 3. The Council may activate the Single Market emergency mode by means of a Council implementing act. <u>In this regard, the participation and approval of the Council's preparatory bodies, which are technically competent according to the nature of the crisis, shall be ensured.</u> The duration of the activation, <u>which shall be a maximum of six months, and the factual scope of the emergency mode, such as the areas of crisis-relevant goods and services,</u> shall be specified in the implementing act, and shall be a maximum of six months. AT (Drafting): 3. The Council may activate the Single Market emergency mode by means of a Council implementing act. <u>The Council shall adopt the implementing act acting by a qualified</u>	DE (Comments): DE proposes a new sentence 2: The participation and approval of the Council's technical preparatory bodies (Working Party and Coreper) ensure that, depending on the nature of the crisis, technical expertise for the relevant area, such as public health, is adequately drawn upon and considered alongside internal market expertise. Germany very much welcomes activation by means of the Council's implementing act as proposed by the Commission. This will address the potential far-reaching consequences of the emergency mode and also ensures quick measures. In addition to activating the emergency level ("0/1 decision"), the Council should also, however, have to approve the scope (e.g. the areas of crisis-relevant goods and

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	<u>majority. The Council, acting by a qualified majority, may amend the Commission's proposal.</u> The duration of the activation, shall be specified in the implementing act, and shall be a maximum of six months. CZ (Drafting): 3. The Council may activate the Single Market emergency mode by means of a Council implementing act. The duration of the activation, shall be specified in the implementing act, and shall be a maximum of six months. NL (Drafting): 3. The Council may activate the Single Market emergency mode by means of a Council implementing act. The duration of the activation, hall be specified in the implementing act, and shall be a maximum of six months. PL (Drafting): 3. The Council may activate the Single Market emergency mode by means of a Council implementing act: It will contain a list of crisis-relevant goods and services. The duration of the activation, hall be specified in the implementing act, and shall be a maximum of six months.	services). AT (Comments): AT drafting to include qualified majority as a voting rule in Council for Council implementing powers according to 291(2) TFEU to activate Single Market emergency mode. AT does not see this as a binary decision (activation/non-activation). In AT's view, the Single Market emergency mode should relate to specific crisis-relevant goods and/or services the EU is in need of in the particular emergency at hand. Therefore, AT drafting includes the possibility for Council to amend EC proposal. CZ (Comments): Typo correction. PL (Comments): Time is crucial during crisis and it is of utmost importance to act fast. Since there would be no time to adopt several implementing acts, the Council implementing act should already contain the list od crisis-relevant goods and services. BE (Comments): Suggestion to change "the activation" to "the emergency mode", as the time limit of 6 months

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	BE (Drafting): 3. The Council may activate the Single Market emergency mode by means of a Council implementing act. The duration of the emergency mode, shall be specified in the implementing act, and shall be a maximum of six months. LU (Drafting): 3. The Council may activate the Single Market emergency mode by means of a Council implementing act. <u>This implementing act shall include a list of crisis relevant goods and services.</u> The duration of the activation, shall be specified in the implementing act, and shall be a maximum of six months. LT (Drafting): 3. The Council may activate the Single Market emergency mode by means of a Council implementing act. <u>This implementing act shall include a list of crisis relevant goods and services.</u> The duration of the emergency mode, shall be specified in the implementing act, and shall be a maximum of six months.	refers to the mode. + Typo LU (Comments): <i>The Council should be closely involved in establishing the list of crisis-relevant goods and services.</i> <i>Moreover, including the list of goods and services in the first implementing act - without having to go through a second one - speeds up the procedure, which is vital in a crisis.</i> LT (Comments): We support other MSs that the Council should be closely involved in establishing the list of crisis-relevant goods and services; this in addition would ensure a speedier process. Technical remark: we suggest changing a word <i>activation</i> to the <i>emergency mode</i>: the time limit of 6 months applies to the <i>mode</i> activated and not to the activation process (the latter ends up when implementing act is adopted). ES (Comments): <i>As mentioned above, ES considers that the involvement of Member States during the activation procedure should be reinforced in order to allow them more participation than a</i>

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		<i>mere procedural implication such as is the case with the current wording. In this sense, the current wording limits the role of Member States to a very preliminary and formal intervention, as paragraph 6 envisages the adoption of immediately applicable implementing acts (Article 8 Regulation EU 182/2011).</i> <i>In order to increase their participation, Member States should be empowered to assess the list of crisis-relevant good and services or to evaluate the range of measures to be adopted during the emergency mode.</i>
	DK (Drafting): 2. Where the Commission, taking into consideration the opinion provided by the advisory group, considers there is a Single Market emergency, it shall propose to the Council to activate the Single Market emergency mode.	DK (Comments): Moved to paragraph 1. Important that the first paragraph of the Article on activating the emergency mode, actually refers to the activation. Additionally, the proposed change will provide a similar structure to the activation of the vigilance mode in Article 9.
4. The activation of the Single Market emergency mode regarding certain goods and services does not prevent the activation or continued application of the vigilance mode and deployment of the measures laid down in Articles 11 and 12 regarding the same goods and services.	NL (Drafting): 4. The activation of the Single Market emergency mode regarding certain goods and services does not prevent the activation or continued application of the vigilance mode and deployment of the measures laid down in Articles 11 and 12 regarding the same goods	AT (Comments): How will this work in practice for economic operators? PL (Comments): We suggest deleting the entire paragraph because it relates to the Single Market vigilance

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	and services. PL (Drafting): 4. The activation of the Single Market emergency mode regarding certain goods and services does not prevent the activation or continued application of the vigilance mode and deployment of the measures laid down in Articles 11 and 12 regarding the same goods and services. LU (Drafting): 4. The activation of the Single Market emergency mode <u>identifying the crisis-relevant goods and services in accordance with paragraph 3</u> regarding certain goods and services does not prevent the activation or continued application of the vigilance mode and deployment of the measures laid down in Articles 11 and 12 regarding the same goods and services. LV (Drafting): 4. The activation of the Single Market emergency mode regarding certain goods and services does not prevent the activation or continued application of the vigilance mode and deployment of the measures laid down in Articles 11 and 12 regarding the same goods and services.	mode which we proposed to delete. LU (Comments): <i>See above.</i> LV (Comments): We do not support Article 12 because we have concerns about the obligation to build strategic reserves, because no information has been provided on such important aspects as: a) where the Member States should stockpile goods that are identified as strategic and crisis-relevant b) what should be done with stockpiled goods when the emergency mode is not activated or is deactivated? and c) by which criteria the Commission will set individual targets for quantities of goods that the Member States should maintain? Considering that certain goods are stockpiled through other crisis mechanisms such as UCPM and RescEU, and there are too many uncertainties and questions regarding strategic reserves, Latvia is of view that obligation to build strategic reserves of goods identified as crisis-relevant should rather be part of existing horizontal crisis mechanism, either UCPM or IPCR. LT (Comments):

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	LT (Drafting): 4. The activation of the Single Market emergency mode <u>identifying the crisis-relevant goods and services in accordance with paragraph 3 of this Article</u> regarding certain goods and services does not prevent the activation or continued application of the vigilance mode and deployment of the measures laid down in Articles 11 and 12 regarding the same goods and services.	See comments above. ES (Comments): <i>ES would welcome more clarity on the need for two separate implementing acts to trigger vigilance and emergency measures in cases where the activation of the emergency mode is not preceded by the vigilance mode.</i>
	DK (Drafting): 3. The Council may activate the Single Market emergency mode by means of a Council implementing act. The duration of the activation, <u>shall</u> be specified in the implementing act, and shall be a maximum of six months.	DK (Comments): Typo.
5. As soon as the Single Market emergency mode is activated, the Commission shall, without delay, adopt a list of crisis-relevant goods and services by means of an implementing act. The list may be amended by means of implementing acts.	AT (Drafting): 5. As soon as the Single Market emergency mode is activated, the Commission shall, without delay, adopt a list of crisis-relevant goods and services by means of an implementing act. The list may be amended by means of implementing acts. CZ (Drafting): 2a. When proposing the activation of the	DE (Comments): Question: Is this Art. relevant to medical products according to Art. 2 para. 2 lit. a-c? The reference of Art. 2 para. 3 refers only to the applicability of Art. 16-20 and not to Art. 14. However, in the context of e.g. Art. 17, the list according to Art. 14 para. 5 is repeatedly referred to. AT (Comments):

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	Single Market emergency according to paragraph 2, the Commission shall propose a list of crisis-relevant goods and services which will be included in the implementing act as referred to in paragraph 3. The list may be amended by means of implementing acts. NL (Drafting): 5. As soon as the Single Market emergency mode is activated, the Commission shall, without delay, adopt a list of crisis-relevant goods and services by means of an implementing act. The list may be amended by means of implementing acts. PL (Drafting): 5. — As soon as the Single Market emergency mode is activated, the Commission shall, without delay, adopt a list of crisis-relevant goods and services by means of an implementing act. The list may be amended by means of implementing acts. EE (Drafting): 5. Prior to the activation of the Single Market emergency mode, the Commission shall, without delay, present a list of crisis-relevant goods and services to the Council. LU (Drafting):	AT takes the preliminary view that “<i>list of crisis-relevant goods and services</i>” should be adopted by Council according to Article 291(2) in the same implementing act in which Council activates the Single Market emergency mode. Therefore, the conferral to EC here of implementing powers to draw up the “<i>list of crisis-relevant goods and services</i>” may be deleted. → See AT comment on Article 14(3). CZ (Comments): The list of crisis-relevant goods and services will be essential for all the measures which are inherent to the Single Market Emergency. It is therefore necessary to include MSs to the process, especially when the Commission shall adopt the list “without delay” which implies the use of the urgent procedure according to Art. 42(3). This list could be part of the Council Implementing Act activating the Single Market Emergency. Thus, the Commission would propose this list when proposing to the Council the activation of the Single Market emergency. This of course does not in any way limit the Commission’s right of initiative.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	5. — As soon as the Single Market emergency mode is activated, the Commission shall, without delay, adopt a list of crisis-relevant goods and services by means of an implementing act. The list may be amended by means of implementing acts. IT (Drafting): 5. As soon as the Single Market emergency mode is activated, the Commission Council shall, without delay, adopt a list of crisis-relevant goods and services by means of an implementing act. The list may be amended by means of implementing acts. FR (Drafting): 5. As soon as the Single Market emergency mode is activated and the advisory group consulted, the Commission shall, without delay, adopt a list of crisis-relevant goods and services by means of an implementing act. The list may be amended by means of implementing acts. LT (Drafting):	PL (Comments): The list of crisis-relevant goods and services should be included in the Council implementing act which will activate the Single Market emergency mode. BE (Comments): BE wants the feasibility of the Council adopting the list of crisis-relevant goods and services be examined. Moreover, freight transport should always be included as a crisis-relevant service in the implementing act. EE (Comments): This list is the necessary proof in order to assess if there is a need for an emergency mode activation or not. The Council can add this list to the implementing act activating the mode. Maybe it could be together with or after para 2. LU (Comments): <i>See above.</i> IT (Comments): The power to adopt a list of crisis-relevant goods or services, should stay on the Council SK (Comments):

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		We are questioning why do we need second step to adopt a list of crisis-relevant goods and services by an implementing act of the EC. We would prefer if this list was already part of the Council implementing act. LV (Comments): Article 14 paragraph 5 should set out specific time period during which the Commission adopts a list of crisis-relevant goods and services by means of an implementing act. FR (Comments): The definition of the list of crisis-relevant goods and services should be subject, <i>a minima</i>, to a consultation of the advisory group Alternatively, the implementing act listing the crisis relevant goods and services could be adopted by the Council LT (Comments): See comments above. ES (Comments): <i>See comment on Article 14(3).</i>
		DK (Comments): In line with the comment made for paragraph 1, it is unclear what is to be understood by the

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		references to specific goods and services. Regarding the reference in the first part of the paragraph (“certain goods and services”), the wording is confusing in that it sounds like that the emergency mode is activated <i>with regards to</i> certain goods and services. Strictly speaking, this is however not the case. Considering the current structure of article 14 on activating the emergency mode, as a first step, the emergency mode is activated based on an assesment of a given crisis. And then only as a second and seperate step, a list of crisis-relevant goods and services is adopted. And regarding the reference in the final part of the paragraph (“same goods and services”), it is – as also highlighted for paragraph 1 - somewhat peculiar to refer to scenarios where the goods and services considered in the two modes are the same, since there is a difference in the definition of which goods and services can be considered in the vigilance mode and emergency mode, respectively.
6. The Commission implementing act referred to in paragraph 5 shall be adopted in accordance with the examination procedure referred to in Article 42(2). On duly justified imperative grounds of urgency relating to the impacts of the crisis on the Single Market, the	AT (Drafting): 6. The Commission implementing act referred to in paragraph 5 shall be adopted in accordance with the examination procedure referred to in Article 42(2). On duly justified imperative grounds of urgency relating to the	AT (Comments): In any case, AT fails to see a need for a conferral to EC of the power to adopt “<i>list of crisis-relevant goods and services</i>” via immediately an applicable implementing act.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 42(3).	impacts of the crisis on the Single Market, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 42(3). CZ (Drafting): <i>Deleted</i> NL (Drafting): 6. The Commission implementing act referred to in paragraph 5 shall be adopted in accordance with the examination procedure referred to in Article 42(2). On duly justified imperative grounds of urgency relating to the impacts of the crisis on the Single Market, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 42(3). PL (Drafting): 6. — The Commission implementing act referred to in paragraph 5 shall be adopted in accordance with the examination procedure referred to in Article 42(2). On duly justified imperative grounds of urgency relating to the impacts of the crisis on the Single Market, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 42(3).	→ See AT comment on Article 14(3). CZ (Comments): If the amendment suggested in para 5 is accepted, this paragraph will become redundant. PL (Comments): There will be no need to adopt the Commission implementing act if the list of crisis-relevant goods and services is included in the Council implementing act. EE (Comments): Due to para 5. Having everything in one act would also make reacting easier and faster. LU (Comments): <i>For the sake of operational and legal clarity, we suggest to delete the urgency procedure. We should avoid exceptional procedures in an already exceptional situation.</i> SK (Comments): In case to keep two steps approach, it is necessary to clarify para. 6, whether the second sentence applies only to the urgent adoption of the list of relevant goods and services for the crisis in para. 5 or even to activate the emergency mode itself. In addition, the emergency regime may replace or partially

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	EE (Drafting): Deleted LU (Drafting): 6. — The Commission implementing act referred to in paragraph 5 shall be adopted in accordance with the examination procedure referred to in Article 42(2). On duly justified imperative grounds of urgency relating to the impacts of the crisis on the Single Market, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 42(3). IT (Drafting): Delete LT (Drafting):	replace the previously activated vigilance regime, so this change must be properly justified and urgent. The activation of the emergency mode should be transparent and a response to the specific needs of the market, even with regard to its maximum duration of six months. PT (Comments): It raises the question of when "duly justified imperative grounds of urgency" exist. It needs clarification. LT (Comments): See comments above. ES (Comments): <i>We consider necessary to clarify the concept of “duly justified imperative grounds of urgency relating to the impacts of the crisis on the Single Market”, and to specify the cases in which the urgency will be considered to be justified, as we cannot forget we would be already dealing with an urgent procedure, and additionally, in these cases the comitology procedure provided for in Article 5 of Regulation (EU) No 182/2011, which allows the Member States to participate in the process of this implementing act, would no longer apply, but the Commission would be allowed to have wide-ranging powers of action.</i>

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		<i>On the other hand, from a joint analysis of this paragraph and Article 38 of the proposal, it remains unclear the nature of the coordination between the Commission and the MS, given that from the literal wording of this article it appears that any procurement in emergency mode requires some sort of prior validation within this consultative group, regardless of whether the MS in question is a participating MS in the EC framework agreement under which it will buy on behalf of the MS.</i>
	DK (Drafting): 5. As soon as the Single Market emergency mode is activated, the Commission shall, without delay <u>and following consultation of the advisory group</u>, adopt a list of crisis-relevant goods and services by means of an implementing act. The list may be amended by means of implementing acts.	DK (Comments): Considering the vital importance of scope, we are considering whether the adoption of the crisis-relevant goods and services should be part of the Council implementing act pertinent to paragraph 3.
Article 15 Extension and deactivation		BE (Comments): BE would like more information on the processes for extending and deactivating the emergency mode. In particular: - How many time can the emergency mode be extended? If this is restrictive, it should be clarified as such in the text. - How will the deactivation be followed

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		up? Will there be any form of monitoring? Who can refer an extension or deactivation project to the steering committee? LV (Comments): Latvia is of view that Advisory group should have more significant role during emergency mode. Please see comment regarding Article 14. LT (Comments): We support a greater role of the MSs/Advisory group in the extension and deactivation process.
	DK (Drafting): 6. The Commission implementing act referred to in paragraph 5 shall be adopted in accordance with the examination procedure referred to in Article 42(2). On duly justified imperative grounds of urgency relating to the impacts of the crisis on the Single Market, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 42(3).	DK (Comments): Considering the broad-reaching and potentially burdensome consequences of activating the emergency mode and identifying crisis-relevant goods and services through an implementing act, it is important that the Member States are included in the adoption of such implementing act.
1. Where the Commission considers, taking into consideration the opinion provided by the advisory group, that an extension of the Single Market emergency mode is necessary, it shall	AT (Drafting): 1. Where the Commission considers, taking duly into consideration the opinion provided by	AT (Comments): It is necessary to ensure, that the opinion of the advisory group is taken into account in an

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
propose to the Council to extend the Single Market emergency mode. Subject to urgent and exceptional changes in circumstances, the Commission shall endeavour to do so no later than 30 days before the expiry of the period for which the Single Market emergency mode has been activated. The Council may extend the Single Market emergency mode by no more than six months at a time by means of an implementing act.	the advisory group, that an extension of the Single Market emergency mode is necessary, it shall propose to the Council to extend the Single Market emergency mode. Subject to urgent and exceptional changes in circumstances, the Commission shall endeavour to do so no later than 30 days before the expiry of the period for which the Single Market emergency mode has been activated. The Council may extend the Single Market emergency mode by no more than six months at a time by means of an implementing act. NL (Drafting): 1. Where the Commission considers, taking into consideration the opinion provided by the advisory group, that an extension of the Single Market emergency mode is necessary, it shall propose to the Council to extend the Single Market emergency mode. Subject to urgent and exceptional changes in circumstances, the Commission shall endeavour to do so no later than 30 days before the expiry of the period for which the Single Market emergency mode has been activated. The Council may extend the Single Market emergency mode by no more than six months at a time by means of an implementing act. PL (Drafting):	appropriate manner. PL (Comments): The role of the advisory group should be strengthened. BE (Comments): Both to extend and to deactivate the emergency mode, the Commission as well as the Steering committee must ascertain whether or not the activation criteria set out in art. 13 still apply. Moreover, BE supports the idea that the steering committee may develop an opinion on its own initiative about extending the emergency mode and send it to the Commission. LU (Comments): <i>Similarly as above, we suggest a parallelism in form and would advocate a Council implementing act for any extension or deactivation of the emergency procedure.</i> SK (Comments): Can the emergency mode be extended repeatedly? Each time by 6 months? LV (Comments): Wording of Article 15 paragraph 1 should be improved to clearly indicate that the emergency mode can be extended for unlimited number of

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	1. Where the Commission considers, taking into consideration account the opinion provided by the advisory group, that an extension of the Single Market emergency mode is necessary, it shall propose to the Council to extend the Single Market emergency mode. Subject to urgent and exceptional changes in circumstances, the Commission shall endeavour to do so no later than 30 days before the expiry of the period for which the Single Market emergency mode has been activated. The Council may extend the Single Market emergency mode by no more than six months at a time by means of an implementing act. BE (Drafting): 1. Where the Commission considers, taking into consideration the opinion provided by the steering committee and the criteria listed in Article 13, that an extension of the Single Market emergency mode is necessary, it shall propose to the Council to extend the Single Market emergency mode. Subject to urgent and exceptional changes in circumstances, the Commission shall endeavour to do so no later than 30 days before the expiry of the period for which the Single Market emergency mode has been activated. The Council may extend the Single Market emergency mode by no more	times (according to the provided information by the Commission in the meetings). PT (Comments): •Following the COM's clarification at the SMEI Experts Workshop on 10th of February that there is no limitation to the number of times the emergency mode can be extended, we believe that this clarification as well as the reasons justifying such an extension should be included in the corresponding recital.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	than six months at a time by means of an implementing act.	
2. Where the advisory group has concrete and reliable evidence that the Single Market emergency 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 advisory group, considers a Single Market emergency no longer exists, it shall propose to the Council without delay the deactivation of the Single Market emergency mode.	AT (Drafting): 2. Where the advisory group has concrete and reliable evidence that the Single Market emergency should be deactivated, it may formulate an opinion to that effect and transmit it to the Commission. Where the Commission, taking duly into consideration the opinion provided by the advisory group, considers a Single Market emergency no longer exists, it shall propose to the Council without delay the deactivation of the Single Market emergency mode. The Council may also deactivate the emergency mode by means of an implementing act without a proposal of the Commission. NL (Drafting): 2. Where the advisory group has concrete and reliable evidence that the Single Market emergency 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 advisory group, considers a Single Market emergency no longer exists, it shall	DE (Comments): It seems unclear whether the Commission needs to wait for an opinion presented by the advisory group. We welcome the idea of strongly including advice and steering from the group, but think that the Commission should also be able to make this decision on its own since the continuance of the emergency mode brings far-reaching consequences. AT (Comments): See above. Furthermore, it is necessary to ensure that the Council has the power to deactivate the emergency mode even if the Commission does not propose to do so. A sentence is missing to confer implementing powers to Council to deactivate the Single Market emergency mode. PL (Comments): The role of the advisory group should be strengthened. BE (Comments): Both to extend and to deactivate the emergency

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	propose to the Council without delay the deactivation of the Single Market emergency mode. PL (Drafting): 2. Where the advisory group has concrete and reliable evidence that the Single Market emergency should be deactivated, it may formulate an opinion to that effect and transmit it to the Commission. Where the Commission, taking into consideration account the opinion provided by the advisory group, considers a Single Market emergency no longer exists, it shall propose to the Council without delay the deactivation of the Single Market emergency mode. BE (Drafting): 2. Where the steering committee has concrete and reliable evidence that the Single Market emergency should be deactivated, on the basis of the criteria listed in Article 13, 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 steering committee, considers a Single Market emergency no longer exists, it shall propose to the Council without delay the deactivation of the Single Market emergency	mode, the Commission as well as the Steering committee must ascertain whether or not the activation criteria set out in art. 13 still apply. LV (Comments): The first sentence of Article 15 paragraph 2 should be attached to Article 4 because it determines the functions of the Advisory Group.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	mode.	
3. The measures taken in accordance with Articles 24 to 33 and pursuant to the emergency procedures introduced in the respective Union legal frameworks by means of the amendments to sectorial product legislation set out in Regulation of the European Parliament and of the Council amending Regulation (EU) 2016/424, Regulation (EU) 2016/425, Regulation (EU) 2016/426, Regulation (EU) 2019/1009 and Regulation (EU) No 305/2011 and introducing emergency procedures for the conformity assessment, adoption of common specifications and market surveillance in the context of a Single Market emergency and Directive of the European Parliament and of the Council amending Directives 2000/14/EC, 2006/42/EC, 2010/35/EU, 2013/29/EU, 2014/28/EU, 2014/29/EU, 2014/30/EU, 2014/31/EU, 2014/32/EU, 2014/33/EU, 2014/34/EU, 2014/35/EU, 2014/53/EU, and 2014/68/EU and introducing as regard emergency procedures for the conformity assessment, adoption of common specifications and market surveillance in the context of due to a Single Market shall cease to apply upon deactivation of the duration of the Single	CZ (Drafting): 3. The measures taken in accordance with Articles 24 to 33 and pursuant to the emergency procedures introduced in the respective Union legal frameworks by means of the amendments to sectorial product legislation set out in Regulation of the European Parliament and of the Council amending Regulation (EU) 2016/424, Regulation (EU) 2016/425, Regulation (EU) 2016/426, Regulation (EU) 2019/1009 and Regulation (EU) No 305/2011 and introducing emergency procedures for the conformity assessment, adoption of common specifications and market surveillance in the context of a Single Market emergency and Directive of the European Parliament and of the Council amending Directives 2000/14/EC, 2006/42/EC, 2010/35/EU, 2013/29/EU, 2014/28/EU, 2014/29/EU, 2014/30/EU, 2014/31/EU, 2014/32/EU, 2014/33/EU, 2014/34/EU, 2014/35/EU, 2014/53/EU, and 2014/68/EU and introducing emergency procedures for the conformity assessment, adoption of common specifications and market surveillance in the context of a Single Market emergency shall cease to apply upon	CZ (Comments): Correction of some typos. If the measures taken in accordance with Articles 24 to 33 and pursuant to the omnibuses will cease to apply upon deactivation of the Single Market Emergency mode, will it mean that the free movement of goods introduced under the emergency procedure during the Single Market Emergency mode will be reinstated? In other words, will it be possible to market them even outside the MS where they were placed on the market? In our opinion, the wording of this Article might go against the explanation provided by the Commission on February 3rd. PL (Comments): We have serious doubts regarding the introduction of emergency procedures for the conformity assessment of 2 groups of products, the simplification of which may unintentionally increase the threat to the safety of people, property and the environment: Directive 2013/29/EU pyrotechnic articles and Directive 2014/28/EU explosives for civil uses.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
Market emergency mode. The Commission shall submit to the Council an assessment on the effectiveness of the measures taken in addressing the Single Market emergency no later than three months after the expiry of the measures, on the basis of the information gathered via the monitoring mechanism foreseen by Article 11.	deactivation of the duration of the Single Market emergency mode. The Commission shall submit to the Council an assessment on the effectiveness of the measures taken in addressing the Single Market emergency no later than three months after the expiry of the measures, on the basis of the information gathered via the monitoring mechanism foreseen by Article 11. NL (Drafting): 3. The measures taken in accordance with Articles 24 to 33 and pursuant to the emergency procedures introduced in the respective Union legal frameworks by means of the amendments to sectorial product legislation set out in Regulation of the European Parliament and of the Council amending Regulation (EU) 2016/424, Regulation (EU) 2016/425, Regulation (EU) 2016/426, Regulation (EU) 2019/1009 and Regulation (EU) No 305/2011 and introducing emergency procedures for the conformity assessment, adoption of common specifications and market surveillance in the context of a Single Market emergency and Directive of the European Parliament and of the Council amending Directives 2000/14/EC, 2006/42/EC, 2010/35/EU, 2013/29/EU, 2014/28/EU, 2014/29/EU, 2014/30/EU, 2014/31/EU, 2014/32/EU, 2014/33/EU,	BE (Comments): This paragraph states that the Commission “<i>shall submit [...] an assessment [...] on the basis of the information gathered via the monitoring mechanism foreseen by Article 11</i>”, however art.14 § 1 clearly states “<i>The Single Market Emergency mode may be activated without the Single Market vigilance mode having previously been activated</i>”. In this regard, how is COM supposed to carry out this assessment? IT (Comments): It should be determined what happen to products introduced in the Single market pursuant to emergency procedures once the emergency is over SK (Comments): We propose to also cover the situation when the vigilance mode does not precede the emergency mode and the EC will not be able to assess the effectiveness of the measures taken, based on the information from the monitoring (of Article 11), which can only be carried out in the vigilance mode. LV (Comments): There seems to be a technical error because

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	2014/34/EU, 2014/35/EU, 2014/53/EU, and 2014/68/EU and introducing as regard emergency procedures for the conformity assessment, adoption of common specifications and market surveillance in the context of due to a Single Market shall cease to apply upon deactivation of the duration of the Single Market emergency mode. The Commission shall submit to the Council an assessment on the effectiveness of the measures taken in addressing the Single Market emergency no later than three months after the expiry of the measures, on the basis of the information gathered via the monitoring mechanism foreseen by Article 11. PL (Drafting): 3. The measures taken in accordance with Articles 24 to 33 and pursuant to the emergency procedures introduced in the respective Union legal frameworks by means of the amendments to sectorial product legislation set out in Regulation of the European Parliament and of the Council amending Regulation (EU) 2016/424, Regulation (EU) 2016/425, Regulation (EU) 2016/426, Regulation (EU) 2019/1009 and Regulation (EU) No 305/2011 and introducing emergency procedures for the conformity assessment, adoption of common specifications and market surveillance in the	words “of due” are written together. PT (Comments): It is important to better understand how cessation would work in practice. It needs clarification. SI (Comments): The following passage needs redrafting: "and introducing as regard emergency procedures for the conformity assessment, adoption of common specifications and market surveillance in the context of due to a Single Market shall cease to apply upon deactivation of the duration of the Single Market emergency mode." LT (Comments): We still need a better understanding how <i>cessation</i> would work in practice, especially regarding Art 25 (Confidentiality – does it mean that an obligation to safeguard business secrets is no longer applicable after the deactivation of emergency?), Art 27 (Priority rated orders – the whole process requires building an infrastructure, proving investments, etc.; in other words it is not easy to just shut down the production line), Art 28 (Fines – does it mean that this article will not be applicable after the deactivation of emergency?).

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	context of a Single Market emergency and Directive of the European Parliament and of the Council amending Directives 2000/14/EC, 2006/42/EC, 2010/35/EU, 2013/29/EU, 2014/28/EU, 2014/29/EU, 2014/30/EU, 2014/31/EU, 2014/32/EU, 2014/33/EU, 2014/34/EU, 2014/35/EU, 2014/53/EU, and 2014/68/EU and introducing a regard emergency procedures for the conformity assessment, adoption of common specifications and market surveillance in the context of due to a Single Market shall cease to apply upon deactivation of the duration of the Single Market emergency mode. The Commission shall submit to the Council an assessment on the effectiveness of the measures taken in addressing the Single Market emergency no later than three months after the expiry of the measures, on the basis of the information gathered via the monitoring mechanism foreseen by Article 11. LV (Drafting): 3. The measures taken in accordance with Articles 24 to 33 and pursuant to the emergency procedures introduced in the respective Union legal frameworks by means of the amendments to sectorial product legislation set out in Regulation of the European Parliament and of the Council amending Regulation (EU)	A remark regarding an assessment on the effectiveness of the measures. Monitoring under Art 11 is only applied during <i>Vigilance</i> mode. However, the emergency mode could be activated separately/in parallel. In addition, Art 11 only concentrates on monitoring of <i>supply chains and their disruption</i>. Having in mind the aforementioned and the fact that the list of possible measures is very broad (Articles 24 to 33+Omnibus), we suggest <u>expanding</u> the channels via which information will be gathered for an evaluation.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	2016/424, Regulation (EU) 2016/425, Regulation (EU) 2016/426, Regulation (EU) 2019/1009 and Regulation (EU) No 305/2011 and introducing emergency procedures for the conformity assessment, adoption of common specifications and market surveillance in the context of a Single Market emergency and Directive of the European Parliament and of the Council amending Directives 2000/14/EC, 2006/42/EC, 2010/35/EU, 2013/29/EU, 2014/28/EU, 2014/29/EU, 2014/30/EU, 2014/31/EU, 2014/32/EU, 2014/33/EU, 2014/34/EU, 2014/35/EU, 2014/53/EU, and 2014/68/EU and introducing as regard emergency procedures for the conformity assessment, adoption of common specifications and market surveillance in the context of due due of due to a Single Market shall cease to apply upon deactivation of the duration of the Single Market emergency mode. The Commission shall submit to the Council an assessment on the effectiveness of the measures taken in addressing the Single Market emergency no later than three months after the expiry of the measures, on the basis of the information gathered via the monitoring mechanism foreseen by Article 11.	
	DK (Drafting): 2. Where the advisory group has concrete	DK (Comments): Amended following proposed changes in Article

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	and reliable evidence that the Single Market emergency 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 advisory group, considers a Single Market emergency no longer exists, it shall <u>without delay</u> propose to the Council without delay the deactivation of the Single Market emergency mode.	10(1). BE (Comments): Art 15 § 4 does not exist although it is referenced in several articles (Articles XXd §1 (b)) of the omnibus directive (<i>Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directives 2000/14/EC, 2006/42/EC, 2010/35/EU, 2013/29/EU, 2014/28/EU, 2014/29/EU, 2014/30/EU, 2014/31/EU, 2014/32/EU, 2014/33/EU, 2014/34/EU, 2014/35/EU, 2014/53/EU and 2014/68/EU as regard emergency procedures for the conformity assessment, adoption of common specifications and market surveillance due to a Single Market emergency</i>). ES (Comments): <i>In some Emergencies, conformity assessment requirements for some products can be reduced or repealed, to avoid shortage. Thus, there could be stock of this products when the emergency measures have to be ceased. This should be taken into account for legal certainty.</i> <i>ES would propose a new paragraph with the following wording: When measures taken to address the Single Market Emergency have to be ceased, an adequate transitional period shall</i>

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		<i>be clearly established, if appropriate, for the products that are in stock within the EU or have been placed on the market under emergency conditions, as well as their free circulation conditions post- emergency.</i>
Title II free movement during the Single Market emergency		MT (Comments): General comment: Greater flexibility should be afforded to Member States to take into account national specificities when responding to a crisis.
		DK (Comments): The Omnibus proposals state that the <i>mandatory</i> common specifications shall continue even after deactivation. Therefore the statement provided in the paragraph isn't completely correct.
Chapter I Measures for re-establishing and facilitating free movement		DE (Comments): Articles 16 and 17: We welcome that the preconditions for admissible crisis measures for Member States and a catalogue of prohibited measures will be more specifically stipulated by drawing upon experiences made during the COVID-19 crisis in particular. According to Article 2 (8), the SMEI Regulation is without prejudice to the responsibility of the Member States to safeguard national security or

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		their power to safeguard essential state functions (cf. also Article 4 (2) TEU). How is the relationship between Articles 16 and 17 and the measures taken by Member States in the exercise of their power under Article 4 (2) of the TEU structured? And between Articles 16 and 17 and the measures taken by Member States in accordance with the Schengen Borders Code? From our point of view, the conditions for the temporary reintroduction of internal border controls may be based solely on the provisions of the Schengen Borders Code. And the relationship with restrictions to free movement in line with the Free Movement Directive (public policy reservation of Article 27 (1))? In the Commission's view, should Article 16 and 17 also apply to crisis-related restrictions to free movement coordinated by Council recommendations or by any other means of IPCR? NL (Comments): Redrafted suggestion to move articles 17-18 to Part I. General provisions and insert them in a title with the following name:

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		Title III. Measures for safeguarding free movement The articles should apply in all modes as foreseen in the proposal. BE (Comments): Following the CLS's opinion about the legal uncertainty of articles 16 and 17, a majority of Member States seemed to be in favor of deleting both articles. BE supports the CLS's opinion and therefore does not oppose their deletion. However, BE is aware that without articles 16 and 17 the known issues may not be solved. In this regard, BE invites to keep the meaning of these 2 articles in guidelines, as it exists in competition law. Nevertheless, if both articles are maintained, BE wants the following comments to be taken into consideration. IT (Comments): Italy largely shares the objectives aimed at guaranteeing free movement as well as greater transparency and coordination in times of crisis (administrative cooperation), also to coordinate public procurement, anticipate conformity assessment and improve market surveillance. The measures of Part IV, Title II "Free

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		movement during emergencies in the single market" are therefore acceptable, even if the permissive setting of the entire art. 16 could be interpreted ambiguously and paradoxically open the door to restrictions not allowed in the Treaty. The logic should be reversed so that national measures restricting freedom of movement are prohibited in principle unless they meet the strict exceptions provided by the Treaties and the additional conditions provided by the SMEI (prohibitive wording). MT (Comments): This chapter may need to be better aligned with the Schengen Borders Code that provides a procedure for the temporary reintroduction of border controls (i.e. restriction to free movement), and an obligation to notify of the controls/restriction.
	NL (Drafting): Add new Article Article 5a Any restriction on the free movement of goods, persons and services is prohibited between Member States, unless when allowed by the Treaty and Union law.	NL (Comments): In order to avoid any misunderstanding that the Treaty and case-law with regard to free movement are not affected.
Article 16	CZ (Drafting):	CZ (Comments):

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
General requirements for measures restricting free movement to address a Single Market emergency	<i>Deleted</i> IE (Drafting): Article 16 General requirements for measures restricting free movement to address a Single Market emergency NL (Drafting): PL (Drafting): Article 16 General requirements for measures restricting free movement to address a Single Market emergency EE (Drafting): Delete LU (Drafting): Article 16 General requirements for measures restricting free movement to address a Single Market emergency LT (Drafting):	Also based on the CLS intervention on January 26th, this Article does not provide any added value since no regulation can go beyond the Treaties. Therefore we strongly suggest to delete the Article and specify these requirements more in the eventual guidelines. IE (Comments): This Article does not seem to add value to the proposal. It seems to reiterate obligations that already exist in the Treaties and Union law. NL (Comments): Suggestion to delete this article and insert this text in guidelines with regard to restrictive measures which Member States may take in times of crisis. PL (Comments): We propose to delete the entire article as in our opinion it has no added value. We have doubts whether provisions specifying the obligations of Member States, which are already set out in the Treaties, can be legitimately included in the regulation. In our opinion, there is no need to duplicate provisions even in the regulations to be applied during the crisis. Preventing Member States from imposing restrictions seems incompatible with the TFEU. Member States can restrict the marketing of goods that have

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		been lawfully marketed in another Member State, where such restrictions are justified on the grounds set out in Article 36 TFEU or on the basis of other overriding reasons of public interest, recognised by the case-law of the Court of Justice of the European Union in relation to the free movement of goods, and where those restrictions are proportionate to the aim pursued. Moreover, the rules resulting from the Treaty cannot be modified by a lower-order provisions of the regulation. EE (Comments): We propose deleting this article to avoid any misunderstanding that there are acceptable justifications to the restriction of free movement in times of a crisis that go beyond the Treaties. As was also confirmed by the CLS on 26.01.23. We do not see the added value of this article as we are rather fond of the Treaties. LU (Comments): <i>Although this article aims to reiterate well-established principles, the provisions are unclear and could be understood as being contrary to the provisions of the Treaty.</i> <i>We should avoid any provision that has even the hint of a margin of discretion for Member States to introduce restrictions in times of crisis.</i>

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		<i>For the sake of legal certainty, we therefore propose to delete this article.</i> <i>When it comes to areas of non-harmonised EU law, the criteria from the Treaty apply – these are not mentioned in this article.</i> <i>When it comes to areas of harmonised EU law, the legislator has made an assessment as to when such restrictions, if any, may be introduced and with the necessary safeguards established on a case-by-case basis. This Article disregards these safeguards and conditions and therefore carries the risk for Member States to de-harmonise and roll back the level of harmonisation and undermine the basic principles of the Treaty.</i> IT (Comments): Article 16 should have the purpose of dissuading the Member States from introducing restrictions on the freedoms of the single market but as it is now, it risks legitimizing discretionary measures on the part of the Member States. Further clarifications should be introduced on the fact that the restrictions indicated can be adopted only exceptionally or better to reset the entire paragraph, avoiding mentioning the permitted restrictions. SK (Comments):

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		We share the view of the CLS on the Article 16 and 17 provided at the WP and also questioning the added value of these Articles. In our view it would be more usefull to clarify these requirements more precisely in the guideline. PT (Comments): Article 16° in general seems to open the door for the introduction of restrictions in the Single Market by discretionary measures from Member States. Our understanding is that the whole article needs full clarification. SI (Comments): We have a reservation regarding such articles as they could introduce confusion. The proposal should be clearly building on the idea of any restrictions of free movement of goods, persons and services between Member States being prohibited if the Union law does not state differently. In order to avoid any such cofusions, this should also be clearly stated in the general introductory part of the proposal. As mentioned by the Council Legal Service, particular reference to the Treaty is not needed if Union law is being refered to already. We are also not certain whether it is necessary to be recalling the Union Law within the legislative

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		act as that should be generally applicable and as such does not provide added value as well as could introduce a legal technique that would bring lengthy legislative proposals. We are also awaiting the legal opinion of the Council Legal Service on articles 16 and 17. LT (Comments): In our view, this article does not bring added value in ensuring the free movement in the Single Market but creates uncertainty and may even encourage Member States to impose restrictions during the time of crisis. Therefore, we propose deleting this article. As a compromise we could suggest to include a general requirement at the beginning of the Regulation stating that <i>When applying the provisions of this Regulation [, including when adopting and applying national measures in response to a Single Market emergency,] Member States shall ensure full compliance with the Treaties and Union Law.</i> Other provisions, e.g. on the information, could be included in the crisis protocols or the guidelines.
1. When adopting and applying national measures in response to a Single Market	CZ (Drafting):	FI (Comments):

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
emergency and the underlying crisis, Member States shall ensure that their actions fully comply with the Treaty and Union law and, in particular, with the requirements laid down in this Article.	<i>Deleted</i> FI (Drafting): <u>deleted</u> IE (Drafting): 1. — When adopting and applying national measures in response to a Single Market emergency and the underlying crisis, Member States shall ensure that their actions fully comply with the Treaty and Union law and, in particular, with the requirements laid down in this Article. NL (Drafting): PL (Drafting): 1. — When adopting and applying national measures in response to a Single Market emergency and the underlying crisis, Member States shall ensure that their actions fully comply with the Treaty and Union law and, in particular, with the requirements laid down in this Article. EE (Drafting): Delete LU (Drafting):	<i>The paragraph is unnecessary, as Member States always should ensure that their actions fully comply with the Treaty and the Union law.</i> LU (Comments): <i>The wording "and, in particular with the requirements laid down in this Article" raises doubts and provides no legal certainty especially with respect to paragraph 2. It suggests that the requirements of this article may take precedence over the provisions of the Treaty: "any restriction" (as per paragraph 2) may be allowed, if limited in time and removed when possible, because this Article explicitly allows it (paragraph 1 read together with paragraph 2).</i> <i>We understand that these provisions are meant to complement the provisions of the Treaty; however the principles of secondary legislation must obviously respect the provisions of the Treaty.</i> IT (Comments): Article 16(1) deviates from strict definition of the "emergency mode" as per implementing decisions and adds a reference to "the underlying crisis", which expands the grounds for adoption of national measures. Coupled with a broad definition of "crisis", it may even

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	1. — When adopting and applying national measures in response to a Single Market emergency and the underlying crisis, Member States shall ensure that their actions fully comply with the Treaty and Union law and, in particular, with the requirements laid down in this Article. IT (Drafting): 1. When adopting and applying national measures in response to a Single Market emergency and the underlying crisis During the Single Market emergency mode, Member States shall ensure that their actions fully comply with the Treaty and Union law and, in particular, with the requirements laid down in this Article. LT (Drafting):	become an article for inspiration on restrictions. As minimum, the “emergency mode” notion should be used as it is the case in Article 17(1). PT (Comments): • What is the meaning of “underlying crisis” here? It does not bring clarity and promotes ambiguities. ES (Comments): <i>ES would like to raise some doubts about the implications of this proposal in the implementation of two recent EU regulations on public procurement: Regulation of 23 June 2022 on access of economic operators, goods and services from third countries to the Union public procurement and concessions markets, (International Procurement Instrument-IPC), which allows to initiate the exclusion of economic operators participating in a public procurement procedures, and Regulation of 14 December 2022 on foreign subsidies that distort the internal market, which allows for the exclusion of tenders in public procurement procedures of economic operators from third countries that have received foreign subsidies that distort the internal market. It is understood that measures applied in relation to these regulations will not be altered in application of the SMEI, and in particular when dealing with</i>

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		<i>strategic goods/services in the emergency activation mode of the single market, but an explicit response from the legal EC services would be appropriate.</i>
2. Any restriction shall be limited in time and removed as soon as the situation allows it. Additionally, any restriction should take into account the situation of border regions.	CZ (Drafting): <i>Deleted</i> IE (Drafting): 2. — Any restriction shall be limited in time and removed as soon as the situation allows it. Additionally, any restriction should take into account the situation of border regions. NL (Drafting): PL (Drafting): 2. — Any restriction shall be limited in time and removed as soon as the situation allows it. Additionally, any restriction should take into account the situation of border regions. EE (Drafting): Delete LU (Drafting): 2. — Any restriction shall be limited in time and removed as soon as the situation allows it.	LU (Comments): <i>This paragraph appears to allow MS to adopt restrictions, if these are “limited in time and removed as soon as the situation allows it”: given the sentence “and, in particular with the requirements laid down in this Article”, it means that this provision will stand on par with “Treaty and Union law”. It can therefore be interpreted as as opening the door to restrictions beyond what is foreseen by the Treaty and possibly could to introduce restrictions.</i> <i>In order to avoid any doubt, to preserve the hierarchy of norms and to limit the possibiliy to introduce restrictions, we suggest deletion.</i> IT (Comments): “as soon as the situation allows” is too vague and risks creating legal uncertainty PT (Comments): • “as soon as the situation allows it” is a vague concept.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	Additionally, any restriction should take into account the situation of border regions. IT (Drafting): 2. Any restriction shall be limited in time and removed as soon as the situation allows it at the earliest possible stage. Additionally, any restriction should take into account the situation of border regions. LT (Drafting):	What is the meaning of the situation in border regions? It is not clear.
3. Any requirement imposed on citizens and businesses shall not create an undue or unnecessary administrative burden.	CZ (Drafting): <i>Deleted</i> IE (Drafting): 3. — Any requirement imposed on citizens and businesses shall not create an undue or unnecessary administrative burden. NL (Drafting): PL (Drafting): 3. — Any requirement imposed on citizens and businesses shall not create an undue or unnecessary administrative burden.	LU (Comments): <i>This provision is purely declaratory and does not carry any meaningful or legal value.</i> IT (Comments): undue or unnecessary administrative burden is too vague and risks creating legal uncertainty. Member States shall justify the adoption of requirements on the basis of the transparency provisions laid down in Articles 19 to 22. PT (Comments): “undue or unnecessary administrative burden” is a vague concept.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	EE (Drafting): Delete LU (Drafting): 3. — Any requirement imposed on citizens and businesses shall not create an undue or unnecessary administrative burden. LT (Drafting):	
4. Member States shall inform citizens, consumers, businesses, workers and their representatives about measures that affect their free movement rights in a clear and unambiguous manner.	CZ (Drafting): <i>Deleted</i> IE (Drafting): 4. — Member States shall inform citizens, consumers, businesses, workers and their representatives about measures that affect their free movement rights in a clear and unambiguous manner. NL (Drafting): PL (Drafting): 4. — Member States shall inform citizens, consumers, businesses, workers and their representatives about measures that affect their	DE (Comments): Could “measures that affect free movement rights” also include measures that apply indiscriminately to all residents under national legislation without endangering the functioning of the single market in particular (e.g. compulsory wearing of face masks at work)? CZ (Comments): Should the Article eventually stay in the text, it would be useful to specify a channel through which the citizens, consumers, businesses, workers and their representatives are informed. This could be done centrally through the Your Europe portal where the MSs would keep their respective national information in English and

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	free movement rights in a clear and unambiguous manner. EE (Drafting): Delete LU (Drafting): 4. — Member States shall inform citizens, consumers, businesses, workers and their representatives about measures that affect their free movement rights in a clear and unambiguous manner. LT (Drafting):	their national language and up to date. It is not necessary and not desirable to develop a new portal. Therefore the Your Europe portal should be specifically mentioned in this paragraph. See also comment above on the existing instruments. BE (Comments): BE asks for clarification: does “their representatives” refer to only “workers” or also to “citizens, consumers, economic operators”? LU (Comments): <i>Information of citizens, consumers, businesses, workers and their representatives shall be included in the crisis protocols, coordinated by the Commission, as per Article 6(2)(d).</i> SK (Comments): We welcome this para in order to increase transparency of the measures that affect the SM. However, it says that the information provided by the member states is also relevant for the citizens of other member states, but there is no requirement for the language in which this information should be provided. The language should be readable and understandable for citizens, consumers... or translations must be provided.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		ES (Comments): <i>After COVID experience, it has been identified that it is of paramount importance to inform consumers, not only about the measures taken in general, but when those measures affect to types of products. Consumers should also have the right to identify through the label and webpages which products have been placed on the market under exceptional conditions.</i> <i>ES would like to add the following paragraph:</i> <i>When conformity assessment procedures applicable to products are modified or temporary repealed according to article 26, that information must be expressly indicated on all affected products so that it is visible to consumers on the label, including online sales. Member States shall establish the minimum conditions for this warning about the exceptional procedure that is applied for making those affected products available on the market, the period of time for said procedure, and other relevant information for the consumer depending on the product.</i>
5. Member States shall ensure that all affected stakeholders are informed of measures restricting free movement of goods, services and persons, including workers and service	CZ (Drafting): <i>Deleted</i> IE (Drafting):	DE (Comments): Could “measures restricting free movement of persons” also include measures that apply indiscriminately to all residents under national

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
providers, before their entry into force. Member States shall ensure a continuous dialogue with stakeholders, including communication with social partners and international partners.	5. — Member States shall ensure that all affected stakeholders are informed of measures restricting free movement of goods, services and persons, including workers and service providers, before their entry into force. Member States shall ensure a continuous dialogue with stakeholders, including communication with social partners and international partners. NL (Drafting): PL (Drafting): 5. — Member States shall ensure that all affected stakeholders are informed of measures restricting free movement of goods, services and persons, including workers and service providers, before their entry into force. Member States shall ensure a continuous dialogue with stakeholders, including communication with social partners and international partners. EE (Drafting): Delete LU (Drafting): 5. — Member States shall ensure that all affected stakeholders are informed of measures restricting free movement of goods, services and persons, including workers and service	legislation without endangering the functioning of the single market in particular (e.g. compulsory wearing of face masks at work)? CZ (Comments): Should the Article stay, it would be useful to specify a channel through which the citizens, consumers, businesses, workers and their representatives are informed. This could be done centrally through the Your Europe portal where the MSs would keep their respective national information in English and their national language and up to date. It is not necessary and not desirable to develop a new portal. Therefore the Your Europe portal should be specifically mentioned in this paragraph. See also comment above on the existing instruments. LU (Comments): <i>The urgency of a crisis may make it difficult to duly inform ahead of an adopted measure. An ongoing dialogue with all stakeholders will ensure that planned measures will be shared. This can be included in the crisis protocols under Article 6.</i> LV (Comments): Competent authorities of the Member States should not ensure that each economic operator

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	providers, before their entry into force. Member States shall ensure a continuous dialogue with stakeholders, including communication with social partners and international partners. LV (Drafting): 5. Member States shall ensure that all affected stakeholders are informed of measures restricting free movement of goods, services and persons, including workers and service providers are publicly available, before their entry into force. Member States shall ensure a continuous dialogue with stakeholders, including communication with social partners and international partners. LT (Drafting): MT (Drafting): Member States shall ensure that all affected stakeholders are informed of measures restricting free movement of goods, services and persons, including workers and service providers, before their entry into force, <u>where possible</u>. Member States shall ensure a continuous dialogue with stakeholders, including communication with social partners and international partners.	or service provider is informed of national measures restricting free movement of goods, services and persons, including workers and service providers. MT (Comments): With reference to the free movement of persons, the Schengen Borders Code provides that where a serious threat to public policy or internal security in a Member State is unforeseeable and requires immediate action, the Member State may, on an exceptional basis, immediately reintroduce border controls at internal borders.

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	AT (Drafting): 6. Labour and social law provisions can under no circumstances constitute a restriction of free movement.	AT (Comments): Addition of new paragraph: As “restriction of free movement” can potentially be interpreted in a broad sense, it must be ensured that labour and social law provisions are excluded from the scope of application of Article 16 and 17.
Article 17 Prohibited restrictions of free movement rights during a Single Market emergency	CZ (Drafting): <i>Deleted</i> NL (Drafting): Article 17 Prohibited restrictions of free movement rights during a Single Market emergency PL (Drafting): Article 17 Prohibited restrictions of free movement rights during a Single Market emergency EE (Drafting): Delete	AT (Comments): General scrutiny reservation CZ (Comments): Again, similarly to the Art. 16, the added value of this Article is questionable with possible adverse effects. Although we strongly support the need to adhere to the Treaties, especially during the crisis, and not to enact new barriers on the Single Market, we fear that this Article does not fulfil the desired intention. On the contrary, because by establishing a “grey list” in paragraph 2, MSs could attempt to enact such barriers during the crisis. Moreover, the principles mentioned in this Article should not be limited to the Single Market emergency only as stated in the acquis. Therefore, we would suggest a deletion of this Article. Should the Article eventually stay, we would support further redrafting of the text aiming at ensuring that the “thresholds” for the

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		MSs to enact new barriers are not lowered (compared to the Treaties). Furthermore, the existence of the “grey list” is a redline to us. FI (Comments): The article could be reworded in a more succinct way and also ensure to create overlapping rules with the current legislation. IE (Comments): The current text of this article could cause legal ambiguity. We suggest the deletion of a number of parts of the article. NL (Comments): The article could be reworded in a more succinct way. The details of the text of which deletion is suggested, could be part of guidelines. PL (Comments): We propose to delete the entire article as in our opinion it has no added value. We have doubts whether provisions specifying the obligations of Member States, which are already set out in the Treaties, can be legitimately included in the regulation. In our opinion, there is no need to duplicate provisions even in the regulations to be applied during the crisis. Preventing Member States from imposing restrictions seems

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		incompatible with the TFEU. Member States can restrict the marketing of goods that have been lawfully marketed in another Member State, where such restrictions are justified on the grounds set out in Article 36 TFEU or on the basis of other overriding reasons of public interest, recognised by the case-law of the Court of Justice of the European Union in relation to the free movement of goods, and where those restrictions are proportionate to the aim pursued. Moreover, the rules resulting from the treaty cannot be modified by a lower-order provisions of the regulation. BE (Comments): To what extent is there an overlap between the prohibited restrictions in Art. 17 and those imposed by Union law? EE (Comments): Similarly to art 16, we are afraid this Article will open a Pandoras box. The treaties forbid all restrictions that don't fall under the exceptions. Here, however, we list forbidden restrictions, which indicates that other restrictions are allowed. Moreover, as it is a "grey list" due to article 19, which allows these restrictions, SMEI would, essentially, also allow restrictions in articles 16 and 17 beyond the exceptions in the

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		Treaties. LU (Comments): <i>As the title indicates, this article should only contain restrictions which are prohibited without any justification or nuance.</i> <i>However, the grey lists under Articles 17.2, 17.3 and 17.4 provide for measures that may be allowed in times of crisis when “to do so is inherent to the nature of the crisis”. This is contrary to the principles of the Treaty and existing secondary legislation, which consider many of these measures as prohibited.</i> <i>The SMEI would therefore open the door for authorising - and even inviting - the introduction of national barriers during any type of crisis, which is in contradiction with the legal basis 114 TFUE. We therefore strongly question the compatibility of these provisions with the objective of the SMEI to ensure a fully functioning Single Market in times of crisis.</i> <i>Beyond legal concerns, these provisions also give Member States room for interpretation and should therefore be deleted.</i> IT (Comments): Article 17 on restrictions aims to define the blacklist of restrictions and thus reassure on the

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		indisputable freedoms of the single market during the crisis. However, the blacklist of restrictions on the free movement of goods, services and persons gives MS the possibility to derogate from these bans, based on vague and uncertain requirements/conditions "<i>inherent in the nature of the single market crisis/emergency</i>". This approach leaves a large margin of discretion to the MS which could adopt additional interpretations on single market restrictions, probably introduced outside the scope of the emergency/SMEI in general. Any possible derogations should be limited and fully justified. SK (Comments): Same comment as on Article 16 FR (Comments): Article 17 could be deleted as it partly takes over the provisions of the Treaty. This would avoid creating a legal risk, in particular where certain Treaty provisions are not included in this Regulation ES (Comments): <i>ES welcomes all measures aimed at strengthening the internal market during a</i>

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		<i>period of crisis. However, more clarity would be desirable on the interaction between this Article and all the ordinary legal frameworks governing the 'four freedoms'.</i> <i>Since these frameworks already provide for exceptions for periods of crisis that allow Member States may introduce restrictions to the "four freedoms" (art. 25 and 28 Schengen Border Code or arts. 52(1) and 36 TFEU), there seems to be a contradiction with this Article 17.</i> <i>In particular, it is not sufficiently clear whether Article 17 restricts Member States' ability to limit the four freedoms for reasons of public order, public security or public health recognised under the previously existing legal frameworks governing the four freedoms. If so, this Article could be contrary to that existing acquis.</i>
1. During the Single Market emergency mode and when responding to a Single Market emergency, Member States shall refrain from introducing any of the following:	CZ (Drafting): <i>Deleted</i> NL (Drafting): 1. Member States shall refrain from introducing any of the following: PL (Drafting): 1. During the Single Market emergency	IT (Comments): We prefer maintaining the reference to the formally defined “emergency mode”, refraining from any supplementary wording that risk to expand the scope of the article LT (Comments): We do agree with the aim of the Art 17 – listed restrictions were prominent during the COVID

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	mode and when responding to a Single Market emergency, Member States shall refrain from introducing any of the following: EE (Drafting): Delete LU (Drafting): 1. During the Single Market emergency mode and when responding to a Single Market emergency, Member States shall refrain from introducing any of the following: IT (Drafting): During the Single Market emergency mode and when responding to a Single Market emergency, Member States shall refrain from introducing any of the following: MT (Drafting): During the Single Market emergency mode and when responding to a Single Market emergency, Member States shall refrain from introducing any of the following, <u>unless to do so is inherent to the nature of the crisis:</u>	times. However we have some doubts regarding the method where and how these restrictions are proposed. In all times Member States should refrain from imposing such restrictions according to the art. 26 of TFEU. The current wording could create misleading interpretation that <u>only during the emergency mode</u> prohibition to introduce the restrictions should apply (meaning that in non-emergency times restrictions can be introduced). In addition, a proposed wording, e.g. “<i>unless to do so is inherent to the nature of the crisis</i>” or “<i>when responding to a Single Market emergency</i>” might allow MSs to go beyond what is allowed under the TFEU and ECJ jurisprudence when considering restrictions. Having said that, we would suggest deleting restrictions, listed in the Art, and including a provision that they will be listed in the COM guidelines/recommendations (in our opinion, the COM recommendations during COVID has proven to be effective). If the debate on Art 17 were to continue, the text should be amended in such a way that it could in no way be interpreted differently from the TFEU / ECJ jurisprudence (e.g. by deleting <i>unless to do so is inherent to the nature of the</i>

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		<i>crisis</i>; reconfirming the hierarchy of EU law). MT (Comments): Greater flexibility should be afforded to Member States to take into account national specificities, as long as any restrictions to free movement of persons are justified, temporary and proportionate to the threat.
		DK (Comments): We find that the current draft of the Commission risks creating more confusion about what prohibitions are possible, especially pertaining to legislations that falls under Article 2(3). For example: Can the Commission elaborate on whether Article 17 applies to intermediate products used in the manufacturing of e.g., critical products used in the healthcare sector, and if so, how do you distinguish between products with and without restrictions? Can the Commission elaborate on how the proposed Article 17(1) is supposed to be interpreted in light of Article 36 TFEU which allows restrictions on the free movement of goods that are justified on e.g., the protection of the health and life of humans? Can the Commission elaborate on whether the

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		adoption of the proposed Article 17(4) potentially determines entry and exist restrictions of Member States e.g., in relation to healthcare staff?
(a) intraUnion export bans or other measures having equivalent effect on crisis-relevant goods or services listed in an implementing act adopted pursuant to Article 14, paragraph 5;	CZ (Drafting): <i>Deleted</i> IE (Drafting): (a) intraUnion export bans or other measures having equivalent effect on crisis-relevant goods or services listed in an implementing act adopted pursuant to Article 14, paragraph 5; NL (Drafting): (a) intraUnion export bans or other measures having equivalent effect on goods or services; PL (Drafting): (a) intraUnion export bans or other measures having equivalent effect on crisis-relevant goods or services listed in an implementing act adopted pursuant to Article 14, paragraph 5; EE (Drafting): Delete	DE (Comments): See above (Art. 14 parag. 5): Question: Is this Art. relevant to medical products according to Art. 2 para. 2 lit. a-c? The reference of Art. 2 para. 3 refers only to the applicability of Art. 16-20 and not to Art. 14. However, in the context of e.g. Art. 17, the list according to Art. 14 para. 5 is repeatedly referred to. LU (Comments): <i>Any intra-Union export ban is prohibited. This should not only be limited to crisis-relevant goods or services.</i> LT (Comments): We support LU comments that any intra-Union export ban is prohibited. This should not only be limited to crisis-relevant goods or services.

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	LU (Drafting): (a) intraUnion export bans or other measures having equivalent effect on erisis-relevant goods or services listed in an implementing act adopted pursuant to Article 14, paragraph 5; LT (Drafting): (a) intraUnion export bans or other measures having equivalent effect on goods or services;	
(b) restrictions on the intra-EU export of goods or provision or receipt of services, or measures having equivalent effect, where those restrictions do any of the following	CZ (Drafting): <i>Deleted</i> IE (Drafting): (b) restrictions on the intra-EU export of goods or provision or receipt of services, or measures having equivalent effect, where those restrictions do any of the following NL (Drafting): (b) restrictions on the intra-EU export of goods or provision or receipt of services, or measures having equivalent effect PL (Drafting): (b) restrictions on the intra EU export of	

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	goods or provision or receipt of services, or measures having equivalent effect, where those restrictions do any of the following EE (Drafting): Delete LU (Drafting): (b) restrictions on the intra-EU export of goods or provision or receipt of services, or measures having equivalent effect, where those restrictions do any of the following LT (Drafting): (b) restrictions on the intra-EU export of goods or provision or receipt of services, or measures having equivalent effect;	
(i) disrupt supply chains of crisis-relevant goods and services that are listed in an implementing act adopted pursuant to Article 14, paragraph 5, or	CZ (Drafting): <i>Deleted</i> IE (Drafting): (i) disrupt supply chains of crisis-relevant goods and services that are listed in an implementing act adopted pursuant to Article 14, paragraph 5, or NL (Drafting):	LU (Comments): <i>The focus should be on cross-border intra-EU trade, not on supply chains. Furthermore, the details listed here do not need to be enshrined in legislation and could have counterproductive effects.</i>

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	PL (Drafting): (i) disrupt supply chains of crisis relevant goods and services that are listed in an implementing act adopted pursuant to Article 14, paragraph 5, of EE (Drafting): Delete LU (Drafting): (i) disrupt supply chains of crisis relevant goods and services that are listed in an implementing act adopted pursuant to Article 14, paragraph 5, of LT (Drafting):	
(ii) create or increase shortages of such goods and services in the single market;	CZ (Drafting): Deleted IE (Drafting): (ii) create or increase shortages of such goods and services in the single market; NL (Drafting):	

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	PL (Drafting): (ii) create or increase shortages of such goods and services in the single market; EE (Drafting): Delete LU (Drafting): (ii) create or increase shortages of such goods and services in the single market; LT (Drafting):	
(c) discrimination between Member States or between citizens, including in their role as service providers or workers, based directly on nationality or, in the case of companies, the location of the registered office, central administration or principal place of business;	CZ (Drafting): <i>Deleted</i> <i>or</i> (c) discrimination between Member States or between citizens, including in their role as service providers or workers, based directly or indirectly on nationality or, in the case of companies, the location of the registered office, central administration or principal place of business; FI (Drafting):	CZ (Comments): Should the Article eventually stay as it stands now, it is important to ensure that also an indirect discrimination is prohibited. FI (Comments): <i>FI sees that the proposed ban to Member States problematic as according to the Finnish national law, our citizens always have a right to come back to Finland. In other words, the prohibition is clearly in conflict with the Constitution Act of Finland.</i>

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	<u>deleted</u> IE (Drafting): (c) — discrimination between Member States or between citizens, including in their role as service providers or workers, based directly on nationality or, in the case of companies, the location of the registered office, central administration or principal place of business; NL (Drafting): PL (Drafting): (c) — discrimination between Member States or between citizens, including in their role as service providers or workers, based directly on nationality or, in the case of companies, the location of the registered office, central administration or principal place of business; BE (Drafting): (c) discrimination between Member States or between natural and legal persons, including in their role as service providers or workers, based directly on nationality or, in the case of companies, the location of the registered office, central administration or principal place of business;	BE (Comments): BE asks for clarification: the term “citizen” seems to cover companies. In this regard, BE would like this term to be replaced by “natural and legal persons”.

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	EE (Drafting): Delete LU (Drafting): (c) — discrimination between Member States or between citizens, including in their role as service providers or workers, based directly on nationality or, in the case of companies, the location of the registered office, central administration or principal place of business; LT (Drafting):	
(d) restrictions on the free movement of persons involved in the production of crisis-relevant goods that are listed in an implementing act adopted pursuant to Article 14, paragraph 5 and their parts or in provision of crisis-relevant services that are listed in an implementing act adopted pursuant to Article 14 paragraph 5, or other measures having equivalent effect, that:	CZ (Drafting): <i>Deleted</i> IE (Drafting): (d) — restrictions on the free movement of persons involved in the production of crisis-relevant goods that are listed in an implementing act adopted pursuant to Article 14, paragraph 5 and their parts or in provision of crisis-relevant services that are listed in an implementing act adopted pursuant to Article 14 paragraph 5, or other measures having equivalent effect, that:	DE (Comments): Could “restrictions on the free movement of persons” also include measures that apply indiscriminately to all residents under national legislation without endangering the functioning of the single market in particular (e.g. compulsory wearing of face masks at work)?

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	NL (Drafting): PL (Drafting): (d) — restrictions on the free movement of persons involved in the production of crisis-relevant goods that are listed in an implementing act adopted pursuant to Article 14, paragraph 5 and their parts or in provision of crisis-relevant services that are listed in an implementing act adopted pursuant to Article 14 paragraph 5, or other measures having equivalent effect, that: EE (Drafting): Delete LU (Drafting): (d) — restrictions on the free movement of persons involved in the production of crisis-relevant goods that are listed in an implementing act adopted pursuant to Article 14, paragraph 5 and their parts or in provision of crisis-relevant services that are listed in an implementing act adopted pursuant to Article 14 paragraph 5, or other measures having equivalent effect, that: LT (Drafting):	

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
(i) cause shortages of necessary workforce on the Single Market and thus disrupt supply chains of crisis-relevant goods and services or create or increase shortages of such goods and services in the Single market or	CZ (Drafting): <i>Deleted</i> IE (Drafting): (i) — cause shortages of necessary workforce on the Single Market and thus disrupt supply chains of crisis-relevant goods and services or create or increase shortages of such goods and services in the Single market or NL (Drafting): PL (Drafting): (i) — cause shortages of necessary workforce on the Single Market and thus disrupt supply chains of crisis-relevant goods and services or create or increase shortages of such goods and services in the Single market or EE (Drafting): Delete LU (Drafting): (i) — cause shortages of necessary workforce on the Single Market and thus disrupt supply	

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	chains of crisis-relevant goods and services or create or increase shortages of such goods and services in the Single market or LT (Drafting):	
(ii) are directly discriminatory based on nationality of the person.	CZ (Drafting): <i>Deleted</i> <i>or</i> (ii) are directly or indirectly discriminatory based on nationality of the person. FI (Drafting): <u>deleted</u> IE (Drafting): (ii) are directly discriminatory based on nationality of the person. NL (Drafting): PL (Drafting): (ii) are directly discriminatory based on nationality of the person. EE (Drafting):	CZ (Comments): Should the eventually Article stay as it is, it is important to ensure that also an indirect discrimination is prohibited. FI (Comments): <i>FI sees that the proposed ban to Member States problematic as according to the Finnish national law, our citizens always have a right to come back to Finland. In other words, the prohibition is clearly in conflict with the Constitution Act of Finland.</i> LU (Comments): <i>If retained, for the sake of completeness, the provision should also prohibit indirect discrimination.</i>

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	Delete LU (Drafting): (ii) — are directly discriminatory based on nationality of the person. LT (Drafting):	
2. During the Single Market emergency mode and when responding to the Single Market emergency, Member States shall refrain from any of the following, unless to do so is inherent to the nature of the crisis:	CZ (Drafting): <i>Deleted</i> IE (Drafting): 2. During the Single Market emergency mode and when responding to the Single Market emergency, Member States shall refrain from any of the following, unless to do so is inherent to the nature of the crisis: NL (Drafting): 2. Member States shall refrain from any of the following, unless to do so is inherent to the nature of the crisis: PL (Drafting): 2. During the Single Market emergency mode and when responding to the Single Market emergency, Member States shall refrain from	CZ (Comments): “Unless to do so is inherent to the nature of the crisis” is potentially very problematic because it could be perceived as a “grey list” of measures which are under certain circumstances allowed. By this, the perceived “treshhold” for adopting such measure might be lower, than according to the Treaties. This is certainly not desirable. Should the Article stay as it is, the possibility for the abovementioned “grey list” should be limited. More specifically, the sentence “unless to do so is inherent to the nature of the crisis” have to be deleted. This is a redline to CZ. BE (Comments): The wording of §2 and §3 is almost identical and therefore BE does not understand the difference between both paragraphs nor why they have been split in two.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	any of the following, unless to do so is inherent to the nature of the crisis: EE (Drafting): Delete LU (Drafting): 2. — During the Single Market emergency mode and when responding to the Single Market emergency, Member States shall refrain from any of the following, unless to do so is inherent to the nature of the crisis: IT (Drafting): During the Single Market emergency mode and when responding to the Single Market emergency, Member States shall refrain from any of the following, unless to do so is inherent to the nature of the crisis: LT (Drafting): 2. During the Single Market emergency mode, Member States shall refrain from any of the following.:	LU (Comments): <i>We suggest to delete these grey lists.</i> <i>The notion “inherent to the nature of the crisis” is not an expression of proportionality or a criterion for derogating from the four freedoms. It is a blanket opening – and invitation – for Member States, in a crisis, to justify any measure that is needed to deal with the crisis. Allowing such practices, or even hinting that they may be allowed in certain crises, is dangerous and should not be validated in EU law.</i> IT (Comments): Keep to the standard formulation of “emergency mode”. A better-meaning definition of "inherent in the nature of the crisis" would be appropriate. SK (Comments): “unless to do so is inherent to the nature of the crisis” – this notion gives the MSs possibility to adopt measures with negative impact on the SM. It is not clear how to interpret this notion when there is already a crisis LV (Comments): Article 17 paragraphs 2, 3 and 4 should be

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		improved in terms of structure because first sentence of paragraphs 2, 3 and 4 are the same or similar. PT (Comments): “unless to do so is inherent to the nature of the crisis” is vague and can potentially trigger different interpretations.
(a) applying more generous rules to goods originating from a neighbouring Member State, any other Member State or a group of Member States, as compared to goods originating from other Member States;	CZ (Drafting): <i>Deleted</i> NL (Drafting): (a) applying more generous rules to goods originating from a neighbouring Member State, any other Member State or a group of Member States, as compared to goods originating from other Member States; PL (Drafting): (a) — applying more generous rules to goods originating from a neighbouring Member State, any other Member State or a group of Member States, as compared to goods originating from other Member States; EE (Drafting): Delete	

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	LU (Drafting): (a) — applying more generous rules to goods originating from a neighbouring Member State, any other Member State or a group of Member States, as compared to goods originating from other Member States;	
(b) selectively refusing the entry of goods originating from specific other Member States to their territory;	CZ (Drafting): <i>Deleted</i> NL (Drafting): (b) selectively refusing the entry of goods originating from specific other Member States to their territory; PL (Drafting): (b) — selectively refusing the entry of goods originating from specific other Member States to their territory; EE (Drafting): Delete LU (Drafting): (b) — selectively refusing the entry of goods originating from specific other Member States to their territory;	

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
(c) introducing prohibitions of the operation of freight transport;	CZ (Drafting): <i>Deleted</i> NL (Drafting): (c) introducing prohibitions of the operation of freight transport; PL (Drafting): (e) — introducing prohibitions of the operation of freight transport; BE (Drafting): (c) introducing prohibitions of the operation of freight transport, in particular cross-border freight transport ; EE (Drafting): Delete LU (Drafting): (e) — introducing prohibitions of the operation of freight transport;	BE (Comments): Useful specification that during emergencies cross-border freight transport can take place as smooth as possible.
3. During the Single Market emergency mode and when responding to a Single Market emergency, Member States shall refrain from any of the following unless to do so is inherent	CZ (Drafting): <i>Deleted</i> IE (Drafting):	BE (Comments): The wording of §2 and §3 is almost identical and therefore BE does not understand the difference between both paragraphs nor why

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
to the nature of the crisis/Single Market emergency:	3. During the Single Market emergency mode and when responding to a Single Market emergency, Member States shall refrain from any of the following unless to do so is inherent to the nature of the crisis/Single Market emergency: NL (Drafting): 3. Member States shall refrain from any of the following unless to do so is inherent to the nature of the crisis/Single Market emergency: PL (Drafting): 3. During the Single Market emergency mode and when responding to a Single Market emergency, Member States shall refrain from any of the following unless to do so is inherent to the nature of the crisis/Single Market emergency: BE (Drafting): EE (Drafting): Delete LU (Drafting): 3. During the Single Market emergency mode and when responding to a Single Market emergency, Member States shall refrain from	they have been split in two. EE (Comments): This is most unfortunate wording that allows Member States to excuse any restrictions with crisis. The treaties foresee the only acceptable exceptions. SK (Comments): Same comment as on para 2 LV (Comments): Please see comment regarding Article 17 paragraph 2. PT (Comments): “unless to do so is inherent to the nature of the crisis” is vague and can potentially trigger different interpretations.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	any of the following unless to do so is inherent to the nature of the crisis/Single Market emergency: LV (Drafting): 3. During the Single Market emergency mode and when responding to a Single Market emergency, Member States shall refrain from any of the following unless to do so is inherent to the nature of the crisis/Single Market emergency: LT (Drafting): 3. During the Single Market emergency mode, Member States shall refrain from any of the following:	
(a) banning types of services or modes of service provision;	CZ (Drafting): <i>Deleted</i> NL (Drafting): (a) banning types of services or modes of service provision; PL (Drafting): (a) banning types of services or modes of service provision; BE (Drafting):	LV (Comments): Please see comment regarding Article 17 paragraph 2.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	(d) banning types of services or modes of service provision; EE (Drafting): Delete LU (Drafting): (a) — banning types of services or modes of service provision; LV (Drafting): (a) (d) banning types of services or modes of service provision;	
(b) blocking flows of passenger transport;	CZ (Drafting): <i>Deleted</i> NL (Drafting): (b) blocking flows of passenger transport; PL (Drafting): (b) — blocking flows of passenger transport; BE (Drafting): (e) blocking flows of passenger transport; EE (Drafting): Delete	LV (Comments): Please see comment regarding Article 17 paragraph 2.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	LU (Drafting): (b) — blocking flows of passenger transport; LV (Drafting): (b) (e) blocking flows of passenger transport;	
4. During the Single Market emergency mode and when responding to the Single Market emergency, Member States shall refrain from any of the following:	CZ (Drafting): Deleted IE (Drafting): 4. During the Single Market emergency mode and when responding to the Single Market emergency, Member States shall refrain from any of the following: NL (Drafting): 4. Member States shall refrain from any of the following: PL (Drafting): 4. During the Single Market emergency mode and when responding to the Single Market emergency, Member States shall refrain from any of the following: EE (Drafting): Delete	LV (Comments): Please see comment regarding Article 17 paragraph 2.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	LU (Drafting): 4. During the Single Market emergency mode and when responding to the Single Market emergency, Member States shall refrain from any of the following: LV (Drafting): 4. During the Single Market emergency mode and when responding to the Single Market emergency, Member States shall refrain from any of the following: LT (Drafting): 4. During the Single Market emergency mode, Member States shall refrain from any of the following:	
(a) applying of more generous rules to travel to or from one Member State to or from another Member State or group of Member States, as compared to travel to and from other Member States unless to do so is inherent to the nature of the crisis/Single Market emergency;	CZ (Drafting): <i>Deleted</i> NL (Drafting): (a) applying of more generous rules to travel to or from one Member State to or from another Member State or group of Member States, as compared to travel to and from other Member States unless to do so is inherent to the nature of the crisis/Single Market emergency;	LV (Comments): Please see comment regarding Article 17 paragraph 2.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	PL (Drafting): (a) — applying of more generous rules to travel to or from one Member State to or from another Member State or group of Member States, as compared to travel to and from other Member States unless to do so is inherent to the nature of the crisis/Single Market emergency; EE (Drafting): Delete LU (Drafting): (a) — applying of more generous rules to travel to or from one Member State to or from another Member State or group of Member States, as compared to travel to and from other Member States unless to do so is inherent to the nature of the crisis/Single Market emergency; LV (Drafting): (a) (f) applying of more generous rules to travel to or from one Member State to or from another Member State or group of Member States, as compared to travel to and from other Member States unless to do so is inherent to the nature of the crisis/Single Market emergency;	
(b) denying, to beneficiaries of the right of	CZ (Drafting):	LV (Comments):

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
free movement under Union law, of the right to enter the territory of their Member State of nationality or residence, the right to exit the territory of Member States to travel to the Member State of nationality or residence, or the right to transit through a Member State in order to reach the Member State of nationality or residence;	<i>Deleted</i> NL (Drafting): (b) denying, to beneficiaries of the right of free movement under Union law, of the right to enter the territory of their Member State of nationality or residence, the right to exit the territory of Member States to travel to the Member State of nationality or residence, or the right to transit through a Member State in order to reach the Member State of nationality or residence; PL (Drafting): (b) denying, to beneficiaries of the right of free movement under Union law, of the right to enter the territory of their Member State of nationality or residence, the right to exit the territory of Member States to travel to the Member State of nationality or residence, or the right to transit through a Member State in order to reach the Member State of nationality or residence; EE (Drafting): Delete LU (Drafting): (b) denying, to beneficiaries of the right of free movement under Union law, of the right to	Please see comment regarding Article 17 paragraph 2.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	enter the territory of their Member State of nationality or residence, the right to exit the territory of Member States to travel to the Member State of nationality or residence, or the right to transit through a Member State in order to reach the Member State of nationality or residence; LV (Drafting): (b) (g) denying, to beneficiaries of the right of free movement under Union law, of the right to enter the territory of their Member State of nationality or residence, the right to exit the territory of Member States to travel to the Member State of nationality or residence, or the right to transit through a Member State in order to reach the Member State of nationality or residence;	
(c) prohibiting of business travel linked to the research and development, to production of crisis-related goods that are listed in an implementing act adopted pursuant to Article 14, paragraph 5, or their placing on the market or to the related inspections;	CZ (Drafting): <i>Deleted</i> NL (Drafting): (c) prohibiting of business travel linked to the research and development, to production of crisis-related goods that are listed in an implementing act adopted pursuant to Article 14, paragraph 5, or their placing on the market	LV (Comments): Please see comment regarding Article 17 paragraph 2.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	or to the related inspections; PL (Drafting): (e) — prohibiting of business travel linked to the research and development, to production of crisis-related goods that are listed in an implementing act adopted pursuant to Article 14, paragraph 5, or their placing on the market or to the related inspections; EE (Drafting): Delete LU (Drafting): (e) — prohibiting of business travel linked to the research and development, to production of crisis-related goods that are listed in an implementing act adopted pursuant to Article 14, paragraph 5, or their placing on the market or to the related inspections; LV (Drafting): (e) (h) prohibiting of business travel linked to the research and development, to production of crisis-related goods that are listed in an implementing act adopted pursuant to Article 14, paragraph 5, or their placing on the market or to the related inspections;	

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
(d) imposing prohibitions on travel, including travel for imperative family reasons, which are not appropriate for the achievement of any legitimate public interest purportedly pursued by such measures or which manifestly go beyond what is necessary to achieve that aim;	CZ (Drafting): <i>Deleted</i> NL (Drafting): (d) imposing prohibitions on travel, including travel for imperative family reasons, which are not appropriate for the achievement of any legitimate public interest purportedly pursued by such measures or which manifestly go beyond what is necessary to achieve that aim; PL (Drafting): (d) —imposing prohibitions on travel, including travel for imperative family reasons, which are not appropriate for the achievement of any legitimate public interest purportedly pursued by such measures or which manifestly go beyond what is necessary to achieve that aim; EE (Drafting): Delete LU (Drafting): (d) —imposing prohibitions on travel, including travel for imperative family reasons, which are not appropriate for the achievement of any legitimate public interest purportedly	LV (Comments): Please see comment regarding Article 17 paragraph 2.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	pursued by such measures or which manifestly go beyond what is necessary to achieve that aim; LV (Drafting): (d) (i) imposing prohibitions on travel, including travel for imperative family reasons, which are not appropriate for the achievement of any legitimate public interest purportedly pursued by such measures or which manifestly go beyond what is necessary to achieve that aim;	
(e) imposing restrictions on workers and service providers and their representatives, unless to do so is inherent to the nature of the crisis/Single Market emergency and it does not manifestly go beyond what is necessary for that purpose.	CZ (Drafting): <i>Deleted</i> NL (Drafting): (e) imposing restrictions on workers and service providers and their representatives, unless to do so is inherent to the nature of the crisis/Single Market emergency and it does not manifestly go beyond what is necessary for that purpose. PL (Drafting): (e) — imposing restrictions on workers and service providers and their representatives, unless to do so is inherent to the nature of the	DE (Comments): To which “restrictions” does this refer, restrictions on the workers’ and service providers’ free movement with regard to travel or other kind of restrictions? How is the relationship to measures listed above in lit. a-d that refer to special kinds of restrictions? LV (Comments): Please see comment regarding Article 17 paragraph 2.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	crisis/Single Market emergency and it does not manifestly go beyond what is necessary for that purpose. EE (Drafting): Delete LU (Drafting): (e) — imposing restrictions on workers and service providers and their representatives, unless to do so is inherent to the nature of the crisis/Single Market emergency and it does not manifestly go beyond what is necessary for that purpose. LV (Drafting): (e) (j) imposing restrictions on workers and service providers and their representatives, unless to do so is inherent to the nature of the crisis/Single Market emergency and it does not manifestly go beyond what is necessary for that purpose.	
5. When a Single Market emergency has been activated in accordance with Article 14 and the activities exercised by the service providers, business representatives and workers are not affected by the crisis in the Member State and safe travel is possible despite the	CZ (Drafting): <i>Deleted</i> NL (Drafting): 5. When a Single Market emergency has been activated in accordance with Article 14	LU (Comments): <i>We consider that this is already covered by the prohibition of discrimination of citizens under paragraph 1(c).</i>

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
crisis, that Member State shall not impose travel restrictions on such categories of persons from other Member States that would prevent them from having access to their place of activity or workplace.	and the activities exercised by the service providers, business representatives and workers are not affected by the crisis in the Member State and safe travel is possible despite the crisis, that Member State shall not impose travel restrictions on such categories of persons from other Member States that would prevent them from having access to their place of activity or workplace. PL (Drafting): 5. — When a Single Market emergency has been activated in accordance with Article 14 and the activities exercised by the service providers, business representatives and workers are not affected by the crisis in the Member State and safe travel is possible despite the crisis, that Member State shall not impose travel restrictions on such categories of persons from other Member States that would prevent them from having access to their place of activity or workplace. BE (Drafting): 5. When a Single Market emergency has been activated in accordance with Article 14 and the activities exercised by the service providers, business representatives and workers are not affected by the crisis in the Member State and safe travel is possible despite the	

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	crisis, that Member State shall not impose travel restrictions on such categories of persons from other Member States that would prevent them from having access to their place of activity or workplace. In this case Member states shall establish specific burden-free and fast procedures for border crossings to ensure a smooth passage for service providers, business representatives and workers. EE (Drafting): Delete LU (Drafting): 5. — When a Single Market emergency has been activated in accordance with Article 14 and the activities exercised by the service providers, business representatives and workers are not affected by the crisis in the Member State and safe travel is possible despite the crisis, that Member State shall not impose travel restrictions on such categories of persons from other Member States that would prevent them from having access to their place of activity or workplace.	
6. When a Single Market emergency has been activated in accordance with Article 14 and exceptional circumstances resulting from	CZ (Drafting): <i>Deleted</i>	BE (Comments): How to implement art 17 § 6 in the case of the

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
the crisis do not allow all service providers, business representatives and workers from other Member States to travel and to have unhindered access to their place of activity or workplace, but travelling is still possible, Member States shall not impose travel restrictions, on:	NL (Drafting): 6. When a Single Market emergency has been activated in accordance with Article 14 and exceptional circumstances resulting from the crisis do not allow all service providers, business representatives and workers from other Member States to travel and to have unhindered access to their place of activity or workplace, but travelling is still possible, Member States shall not impose travel restrictions, on: PL (Drafting): 6. When a Single Market emergency has been activated in accordance with Article 14 and exceptional circumstances resulting from the crisis do not allow all service providers, business representatives and workers from other Member States to travel and to have unhindered access to their place of activity or workplace, but travelling is still possible, Member States shall not impose travel restrictions, on: EE (Drafting): Delete LU (Drafting): 6. When a Single Market emergency has been activated in accordance with Article 14 and exceptional circumstances resulting from	superimposition of two simultaneous crises that may affect each other? For example, what if the restriction of movement is linked to the existence of a health crisis (i.e. not covered by the SMEI) which is superimposed on the crisis which activated the emergency phase? For example: uncontrollable fire and firefighters likely to come from a region with a serious pandemic.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	the crisis do not allow all service providers, business representatives and workers from other Member States to travel and to have unhindered access to their place of activity or workplace, but travelling is still possible, Member States shall not impose travel restrictions, on:	
(a) Those service providers that provide crisis-relevant services that are listed in an implementing act adopted pursuant to Article 14(5), or business representatives or workers that are involved in production of crisis-relevant goods or provision of crisis-relevant services that are listed in an implementing act adopted pursuant to Article 14(5) to allow them to have access to the place of their activities, if activities in the sector concerned are still allowed in the Member State;	CZ (Drafting): <i>Deleted</i> NL (Drafting): (a) Those service providers that provide crisis-relevant services that are listed in an implementing act adopted pursuant to Article 14(5), or business representatives or workers that are involved in production of crisis-relevant goods or provision of crisis-relevant services that are listed in an implementing act adopted pursuant to Article 14(5) to allow them to have access to the place of their activities, if activities in the sector concerned are still allowed in the Member State; PL (Drafting): (a) Those service providers that provide crisis-relevant services that are listed in an implementing act adopted pursuant to Article 14(5), or business representatives or workers	

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	that are involved in production of crisis-relevant goods or provision of crisis-relevant services that are listed in an implementing act adopted pursuant to Article 14(5) to allow them to have access to the place of their activities, if activities in the sector concerned are still allowed in the Member State; BE (Drafting): (a) Those service providers that provide crisis-relevant services that are listed in an implementing act adopted pursuant to Article 14(5), or business representatives or workers that are involved in production of crisis-relevant goods or provision of crisis-relevant services that are listed in an implementing act adopted pursuant to Article 14(5) to allow them to have access to the place of their activities, if activities in the sector concerned are still allowed in the Member State. In this case Member states shall establish specific burden-free and fast procedures for border crossings to ensure a smooth passage for service providers, business representatives and workers. EE (Drafting): Delete LU (Drafting): (a) — Those service providers that provide	

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	erisis-relevant services that are listed in an implementing act adopted pursuant to Article 14(5), or business representatives or workers that are involved in production of crisis-relevant goods or provision of crisis-relevant services that are listed in an implementing act adopted pursuant to Article 14(5) to allow them to have access to the place of their activities, if activities in the sector concerned are still allowed in the Member State;	
(b) civil protection workers to allow them to have unhindered access to their place of activity with their equipment in any of the Member States.	CZ (Drafting): <i>Deleted</i> NL (Drafting): (b) civil protection workers to allow them to have unhindered access to their place of activity with their equipment in any of the Member States. PL (Drafting): (b) civil protection workers to allow them to have unhindered access to their place of activity with their equipment in any of the Member States. BE (Drafting): (b) civil protection workers to allow	

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	them to have unhindered access to their place of activity with their equipment in any of the Member States. In this case Member states shall establish specific burden-free and fast procedures for border crossings to ensure a smooth passage for civil protection workers. EE (Drafting): Delete LU (Drafting): (b) — civil protection workers to allow them to have unhindered access to their place of activity with their equipment in any of the Member States.	
7. When taking the measures referred to in this provision, the Member States shall ensure full compliance with the Treaties and Union law. Nothing in this provision shall be construed as authorising or justifying restrictions to free movement contrary to the Treaties or other provisions of Union law.	CZ (Drafting): <i>Deleted</i> FI (Drafting): <u>deleted</u> NL (Drafting): 7. When taking the measures referred to in this provision, the Member States shall ensure full compliance with the Treaties and Union law. Nothing in this provision shall be construed as authorising or justifying restrictions to free movement contrary to the Treaties or other	FI (Comments): <i>The paragraph is unnecessary, as Member States always should ensure that their actions fully comply with the Treaty and the Union law.</i> LU (Comments): <i>Every provision of the SMEI should be applied in compliance with the Treaties and Union Law, not only Art. 17. We, therefore, propose to move this paragraph to Article 2 (scope) of the SMEI. (see below)</i> <i>This is also the approach used in the Services</i>

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	provisions of Union law. PL (Drafting): 7. — When taking the measures referred to in this provision, the Member States shall ensure full compliance with the Treaties and Union law. Nothing in this provision shall be construed as authorising or justifying restrictions to free movement contrary to the Treaties or other provisions of Union law. EE (Drafting): Delete LU (Drafting): 7. — When taking the measures referred to in this provision, the Member States shall ensure full compliance with the Treaties and Union law. Nothing in this provision shall be construed as authorising or justifying restrictions to free movement contrary to the Treaties or other provisions of Union law. LV (Drafting): 7. — When taking the measures referred to in this provision, the Member States shall ensure full compliance with the Treaties and Union law. Nothing in this provision shall be construed as authorising or justifying restrictions to free movement contrary to the Treaties or other	<i>Directive (Art. 3.3)</i> LV (Comments): Article 17 paragraph 7 duplicates Article 16 paragraph 1 therefore Article 17 paragraph 7 should be deleted. LT (Comments): We support LU proposal that every provision of the SMEI should be applied in compliance with the Treaties and Union Law, not only Art. 17. See above (suggestion in Art 16).

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	provisions of Union law.	
Article 18 Supportive measures	NL (Drafting): Article 18 Supportive measures LU (Drafting): Article 2 Scope	IT (Comments): Supportive measures in Article 18 exclusively cover only free movement of persons as per Article 17(6). It is not clear why the scope is limited, leaving other free movement restriction scenarios out.
1. During the Single Market emergency mode, the Commission may provide for supportive measures to reinforce free movement of persons referred to in Article 17(6) and 17(7) by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 422(2). On duly justified imperative grounds of urgency relating to the impacts of the crisis on the Single Market, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 42(3).	DE (Drafting): 1. During the Single Market emergency mode, the Commission may provide for supportive measures to reinforce free movement of persons referred to in Article 17(6) and 17(7) by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 422(2). On duly justified imperative grounds of urgency relating to the impacts of the crisis on the Single Market, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 42(3). CZ (Drafting): 1. During the Single Market emergency	DE (Comments): Typo. CZ (Comments): Typo. PL (Comments): The deletion suggestions are in accordance with our proposal to delete Article 17 and the provisions in the paragraph 3, which repeats the last two sentences which we propose to delete. BE (Comments): The procedure for adopting supportive measures through implementing acts is described twice and identically, both in para. 1 an 3. Therefore, those two last sentences can be deleted, and §3

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	mode, the Commission may provide for supportive measures to reinforce free movement of persons referred to in Article 17(6) and 17(7) by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 42(2). On duly justified imperative grounds of urgency relating to the impacts of the crisis on the Single Market, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 42(3). NL (Drafting): 1. The Commission may provide for supportive measures to reinforce free movement of persons referred to in Article 17(6) and 17(7) by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 422(2). On duly justified imperative grounds of urgency relating to the impacts of the crisis on the Single Market, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 42(3). PL (Drafting): 1. During the Single Market emergency mode, the Commission may provide for	can apply for both §1 and 2. LU (Comments): See above. SK (Comments): It is not clear how the review of these measures should be carried out and to what extent these measures should be applied. These measures should be applied only if they are necessary and their application should be limited in time. The introduced measures should be in full compliance with the treaty and Union law. LV (Comments): There seems to be a technical error regarding the references to Article 17(7) and Article 422(2) because Article 17(7) doesn't provide free movement of persons, and there is no Article 422 in the SMEI proposal. PT (Comments): • It seems to cover only the free movement of persons. Why it is limited to free movement of persons and leaves the other free movements out? • What are supportive measures? It would be important to have some examples. LT (Comments):

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	supportive measures to reinforce free movement of persons referred to in Article 17(6) and 17(7) by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 422(2). On duly justified imperative grounds of urgency relating to the impacts of the crisis on the Single Market, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 42(3). BE (Drafting): 1. During the Single Market emergency mode, the Commission may provide for supportive measures to reinforce free movement of persons referred to in Article 17(6) and 17(7) by means of implementing acts. LU (Drafting): <u>New paragraph 9</u> <u>9. Member States shall apply the provisions of this Regulation in compliance with the rules of the Treaties and Union Law.</u> <u>Nothing in this provision shall be construed as authorising or justifying restrictions to free movement contrary to the Treaties or other provisions of Union law.</u>	The last two sentences duplicate the para 3 of this Art. MT (Comments): Could the Commission provide some examples of possible supportive measures that may be proposed to reinforce the free movement of persons?

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	LV (Drafting): 1. During the Single Market emergency mode, the Commission may provide for supportive measures to reinforce free movement of persons referred to in Article 17(6) 17(5) and 17(7) 17(6) by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 422(2) 42(2). On duly justified imperative grounds of urgency relating to the impacts of the crisis on the Single Market, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 42(3). LT (Drafting): 1. During the Single Market emergency mode, the Commission may provide for supportive measures to reinforce free movement of persons referred to in Article 17(6) and 17(7) by means of implementing acts.	
2. During the Single Market emergency mode, where the Commission establishes that Member States have put in place templates for attesting that the individual or economic operator is a service provider that provides crisis-relevant services, a business	NL (Drafting): 2. During the Single Market emergency mode, where the Commission establishes that Member States have put in place templates for attesting that the individual or economic operator is a service provider that provides	PL (Comments): The deletion suggestion is in accordance with our proposal to delete Article 17. BE (Comments): BE wants examples of supportive acts that the

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
representative or worker that is involved in production of crisis-relevant goods or provision of crisis-relevant services or a civil protection worker and it considers that the use of different templates by each Member States is an obstacle to the free movement at the time of a Single Market emergency, the Commission may issue, if it considers it necessary for supporting the free movement of such categories of persons and their equipment during the ongoing Single Market emergency, templates for attesting that they fulfil the relevant criteria for the application Article 17(6) in all Member States by means of implementing acts.	crisis-relevant services, a business representative or worker that is involved in production of crisis-relevant goods or provision of crisis-relevant services or a civil protection worker and it considers that the use of different templates by each Member States is an obstacle to the free movement at the time of a Single Market emergency, the Commission may issue, if it considers it necessary for supporting the free movement of such categories of persons and their equipment during the ongoing Single Market emergency, templates for attesting that they fulfil the relevant criteria for the application Article 17(6) in all Member States by means of implementing acts. PL (Drafting): 2. During the Single Market emergency mode, where the Commission establishes that Member States have put in place templates for attesting that the individual or economic operator is a service provider that provides crisis-relevant services, a business representative or worker that is involved in production of crisis-relevant goods or provision of crisis-relevant services or a civil protection worker and it considers that the use of different templates by each Member States is an obstacle to the free movement at the time of a Single Market emergency, the Commission may issue,	COM may implement.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	if it considers it necessary for supporting the free movement of such categories of persons and their equipment during the ongoing Single Market emergency, templates for attesting that they fulfil the relevant criteria for the application Article 17(6) in all Member States by means of implementing acts.	
3. The implementing acts referred to in paragraphs 1 and 2 shall be adopted in accordance with the examination procedure referred to in Article 42(2). On duly justified imperative grounds of urgency relating to the impacts of the crisis on the Single Market, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 42(3).	NL (Drafting): 3. The implementing acts referred to in paragraphs 1 and 2 shall be adopted in accordance with the examination procedure referred to in Article 42(2). On duly justified imperative grounds of urgency relating to the impacts of the crisis on the Single Market, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 42(3). LU (Drafting): 1. During the Single Market emergency mode, the Commission may provide for supportive measures to reinforce free movement of persons referred to in Article 17(6) and 17(7) by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 42(2). On duly justified	CZ (Comments): Is there a necessity to repeat the procedure of adoption of the implementing acts in relation to the paragraph 1? The procedure is already mentioned there. If it is a legal practice to do so at the end of Article, we might suggest to delete the reference to the procedure from the paragraph 1 and keep it here in the paragraph 3.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	imperative grounds of urgency relating to the impacts of the crisis on the Single Market, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 42(3).	
Chapter II Transparency and administrative assistance	LU (Drafting): 2. During the Single Market emergency mode, where the Commission establishes that Member States have put in place templates for attesting that the individual or economic operator is a service provider that provides crisis-relevant services, a business representative or worker that is involved in production of crisis-relevant goods or provision of crisis-relevant services or a civil protection worker and it considers that the use of different templates by each Member States is an obstacle to the free movement at the time of a Single Market emergency, the Commission may issue, if it considers it necessary for supporting the free movement of such categories of persons and their equipment during the ongoing Single Market emergency, templates for attesting that they fulfil the relevant criteria for the application Article 17(6) in all Member States by means of implementing acts. <u>Those implementing acts shall be adopted in</u>	BE (Comments): The SMEI notification procedure requires a clear definition of the scope of application and therefore depends on the definition of the concept of “crisis”. In this regards, BE insists on the inclusion of more precise criteria and further clarification regarding the definition of Art. 3 § 1. BE argues for a holistic definition of the concept that should clearly refer to the negative consequences of the crisis on the internal market and more precisely on the functioning of the Single Market and on the four fundamental freedoms. Moreover, over elements as the onset, the end, the duration or the scope of the crisis could be included in the recitals. For example, COM could give a limited summary of the types of crisis-relevant draft measures restricting free movement or at least a minimum of must notify measures.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	<u>accordance with the examination procedure referred to in Article 42(2).</u>	
		NL (Comments): <i>Drawing on the knowledge accumulated during the COVID-19 crisis, national measures began early on and in some cases before the situation escalated to a crisis. It is important that early measures related to goods and services of critical importance or crisis-relevant goods and services, are notified about.</i> <i>Notifications functions as a preemptive measure to ensure the free movement rights. As activation of the vigilance mode would automatically focus the scope of the (potential) crisis, we find it proportionate that measures related to goods and services of critical importance, as listed in an implementing act in accordance with the mode's activation in Article 9, should also be notified</i>
Article 19 Notifications	FI (Drafting): <u>To be moved to new Article 12a:</u> <u>Notifications</u> NL (Drafting): Article 12a: Notifications LU (Drafting):	DE (Comments): We welcome the idea of creating a notification procedure in SMEI that is tailored to the specific conditions of a crisis. Central here, however, is that the scope is stipulated in such a way that the procedure works in practice in a crisis situation. The focus

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	3. The implementing acts referred to in paragraphs 1 and 2 shall be adopted in accordance with the examination procedure referred to in Article 42(2). On duly justified imperative grounds of urgency relating to the impacts of the crisis on the Single Market, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 42(3).	is on the practicability of such a system, particularly for a federally structured country like Germany, where crisis measures need to be taken at several levels of government. Concerning the free movement of workers and EU citizens in general, as well as the free movement of services, Germany believes there is still a need for discussion. From Germany's point of view, the scope of the notification procedure should be based on those Member States' measures which, with a view to examination by the Commission, are essential in the sense that they could effectively endanger the functioning of the Single Market. This would, for example, include measures that are specifically directed towards workers, other persons who are entitled to free movement and service providers from other Member States, or that specifically affect these groups (e.g. refusals of entry for these groups). We request more detailed information on the intended scope of the notification requirement under Article 19 for freedom of movement and service related measures in the event of a crisis, and for the provision of corresponding examples of measures requiring notification. Germany opposes the decision right envisaged

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		in Article 19(11) and (12). In earlier negotiations on the failed Notification Directive for the services sector, Germany and many other Member States evaluated granting the Commission a binding decision right as a violation of the distribution of powers between the European Union and the Member States, and of the institutional balance between the European Court of Justice and the Commission. This position was also confirmed by the Legal Service of the Council. Alternatively, consideration should be given to whether, within the framework of the notification procedure, the Commission should, instead of a decision right, be granted a right of recommendation that empowers it to comment on a measure's incompatibility with EU law through a formal channel and to make specific recommendations for designing this measure in a manner that is compatible with EU law. It can be assumed that the Member States will comply with these measures. This would enable the swift identification and rescinding of crisis-relevant measures that potentially violate EU law. AT (Comments): The notification provision seems very broad.

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		We are not sure, if it would work in practice. In times of crisis, flexibility is of utmost importance. Long time limits will not help in this regard. FI (Comments): <i>FI proposes to move the text to a new Article 12a.</i> IE (Comments): We welcome the aim of this Article- it is crucial that the Commission, Member States, citizens and businesses are kept informed of any measures taken during a crisis. PL (Comments): In our opinion notifications in the mode of emergency are very important. We support solutions that will improve the notification process. In this context, it is important to simplify and unify the rules for the notification of crisis-relevant measures. During the emergency mode, time and speed are crucial. LU (Comments): <i>For the sake of operational and legal clarity, we suggest to delete the urgency procedure. We should avoid exceptional procedures in an already exceptional situation.</i>

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		SI (Comments): We're still not convinced that it would not be more sensible to upgrade the already existing notification systems in order to allow for a faster process of notification for the needs of the emergency mode in SMEI. LT (Comments): In essence, we support the idea that draft measures should be notified. All our comments, provided via email [7 November 2022], remain valid. If needed, we can resend them. In addition, the issue of non-applicability of the drafts which were not notified should be resolved. In our view, Art 19 should explicitly state the consequences for not notifying the draft.
1. During the Single Market emergency, Member States shall notify to the Commission any crisis-relevant draft measures restricting free movement of goods and the freedom to provide services as well as crisis-relevant restrictions of free movement of persons, including workers together with the reasons for those measures.	DE (Drafting): 1. During the Single Market emergency, Member States shall notify to the Commission - any crisis-relevant draft measures restricting free movement of goods and, - <u>any crisis-relevant draft measure that</u>	DE (Comments): The scope of application of the notification obligation, especially in the service sector, should focus on crisis-relevant national measures of the Member States that could jeopardize the functioning of the internal market and therefore require a review by the European

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	<u>specifically regulates or affects</u> the freedom to provide services <u>for a provider established in another Member State</u>, - as well as crises-relevant restrictions of that <u>specifically regulate or affect the</u> free movement of persons, including workers, <u>in the internal market among Member States</u> together with the reasons for those measures. FI (Drafting): 1. During the <u>Single Market vigilance mode and the</u> Single Market emergency <u>mode</u>, Member States shall notify to the Commission any crisis-relevant draft measures <u>related to goods and services of critical importance, as listed in an implementing act in accordance with article 9(1b)(b), or crisis-relevant goods and services listed, as listed in an implementing act in accordance with article 14(5)</u>, restricting free movement of goods, and the freedom to provide services <u>and</u> as well as crisis-relevant restrictions of <u>the</u> free movement of persons, including workers together with the reasons for those measures. NL (Drafting): 1. During the Single Market vigilance mode and the Single Market emergency, Member States shall notify to the Commission	Commission. Otherwise, the scope of the notification obligation would be too broad and impracticable (no inclusion of e.g. masking obligations and distance regulations). Therefore, crisis-relevant measures that do not specifically regulate or specifically affect the service activity as such, but have to be respected by providers in the course of carrying out their economic activity in the same way as by individuals acting in their private capacity. (cf. recital 9 of the Services Directive), as well as crisis-relevant measures that do not differentiate between domestic and foreign service providers (cf. Article 16(2) of the Services Directive), should be exempt from the notification requirement. The same applies to crisis-relevant measures that do not specifically regulate or specifically affect the free movement of persons as such, but must be observed by EU citizens, including EU migrant workers, in the course of exercising their right to free movement in the same way as by nationals (e.g. masking obligations in companies). AT (Comments): Can the Commission explain what kind of

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	draft measures related to goods and services of critical importance, as listed in an implementing act in accordance with article 9 (1b) (b), or crisis-relevant goods and services listed, as listed in an implementing act in accordance with article 14 (5), restricting free movement of goods, the freedom to provide services and the free movement of persons, including workers together with the reasons for those measures. BE (Drafting): 1. During the Single Market emergency, Member States shall notify to the Commission any crisis-relevant draft measures restricting free movement of goods and the freedom to provide services as well as crisis-relevant restrictions of free movement of persons, including workers, together with the reasons for those measures. EE (Drafting): During the Single Market emergency mode, Member States shall notify to the Commission any crisis-relevant draft measures restricting free movement of goods and the freedom to provide services as well as crisis-relevant restrictions of free movement of persons, including workers together with the reasons for those measures.	“measures” are envisioned in this context? Can the Commission explain the interplay between para 1 and 2? FI (Comments): <i>Drawing on the knowledge accumulated during the COVID-19 crisis, national measures began early on and in some cases before the situation escalated to a crisis. It is important that early measures related to goods and services of critical importance or crisis-relevant goods and services, are notified.</i> <i>Notifications functions as a preemptive measure to ensure the free movement rights. As activation of the vigilance mode would automatically focus the scope of the (potential) crisis, we find it proportionate that measures related to goods and services of critical importance, as listed in an implementing act in accordance with the mode’s activation in Article 9, should also be notified</i> BE (Comments): Typo EE (Comments): We suggest adding “mode” to every time anything happens during the mode for conformity reasons

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	IT (Drafting): During the Single Market emergency mode, Member States shall notify to the Commission any crisis-relevant draft measures restricting free movement of goods and the freedom to provide services as well as crisis-relevant restrictions of free movement of persons, including workers together with the reasons for those measures.	FR (Comments): The French authorities are considering whether it is necessary to maintain two notification methods in an emergency situation, but do not have a definite position on the subject. PT (Comments): Article 19° (1) and (2) seem redundant: they say the same thing, there is just an inversion of the way it is said. Furthermore, paragraph 2 states that the reasons justifying the adoption of a measure and its proportionality must be given, and paragraph 1 does not mention this last part. We believe these paragraphs should be clarified. ES (Comments): <i>In order to achieve a complete, transparent and detailed information system tailored to the context of an emergency, ES considers that the “ex ante” notification in this Article should be further discussed.</i> <i>The rationale behind this “ex ante” notification principle is not fully understood if we analyse other previous legal frameworks that establish an “ex post” notification principle in exceptional situations (such as the one in the Services Directive or the Directive EU</i>

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		2015/1535).
	DK (Drafting): Article 4912a Notifications	DK (Comments): Drawing on the knowledge accumulated during the COVID-19 crisis, national measures began early on and in some cases before the situation escalated to a crisis. It is important that early measures related to goods and services of critical importance or crisis-relevant goods and services, are notified. Notifications functions as a preemptive measure to ensure the free movement rights. As activation of the vigilance mode would automatically focus the scope of the (potential) crisis, we find it proportionate that measures related to goods and services of critical importance, as listed in an implementing act in accordance with the mode's activation in Article 9, should also be notified.
Such notification shall not prevent Member States from adopting the measures in question in case immediate action is needed due to reasons occasioned by serious and unforeseeable circumstances. Member States shall notify the adopted measure immediately together with a justification for the need to immediately adopt the measure.	FI (Drafting): <u>To be moved to new Article 12a:</u> <u>Notifications</u> <u>During the Single Market emergency mode,</u> such notification shall not prevent Member States from adopting the measures in question in case immediate action is needed due to reasons occasioned by serious and unforeseeable circumstances. Member States shall notify the	DE (Comments): The demands placed on the justification should not be too high, concerning the fact that, in the addressed situation, immediate action is needed and capacities should mainly be focussed on crisis response. FI (Comments): <i>Due to the nature of the vigilance mode, we do</i>

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	adopted measure immediately together with a justification for the need to immediately adopt the measure. <u>Measures pertaining to the free movement of persons, shall not be prevented from immediate adoption by Member States, regardless if the measure is presented during the Single Market vigilance or emergency mode.</u> NL (Drafting): During the Single Market emergency mode,uch notification shall not prevent Member States from adopting the measures in question in case immediate action is needed due to reasons occasioned by serious and unforeseeable circumstances. Member States shall notify the adopted measure immediately together with a justification for the need to immediately adopt the measure. <u>Measures pertaining to the free movement of persons, shall not be prevented from immediate adoption by Member States, regardless if the measure is presented during the Single Market vigilance or emergency mode.</u>	<i>not find it necessary that the option of immediate action should be possible during this mode. Thereby, the possibility of utilizing immediate adoption of measurement, should only be a possibility during the Single Market emergency mode.</i> <i>Finally, measures pursuant to the free movement of persons should still be premitted for immediate adoption, even in the vigilance mode, as different circumstances and personal needs that goes beyond those of the Single Market could be at play.</i> LU (Comments): <i>We can support a fast-track notification that operates in the emergency mode. However, it is unacceptable that the quality and substance of the notification, just like the assessment by the Commission of such notification, is lessened or watered down by the SMEI. A high standard needs to be upheld on the content of the notifications.</i> LV (Comments): Article 19 paragraph 1 should set out specific period of time in which Member States should notify adopted measures restricting free movement of goods and the freedom to provide services as well as crisis-relevant restrictions of

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		free movement of persons, including workers and justification for those measures. PT (Comments): In addition, it gives the idea that there is a double notification when we have an urgency procedure: firstly, according to this sentence, MS have to notify the measure adopted (+justification of an urgency), secondly, there is the requirement to notify the full text of the national provision (as indicated in paragraph 2 of this Article). Clarification is needed. ES (Comments): <i>ES would welcome more clarity about the rationale behind this sub-paragraph.</i> <i>In particular, the overall reading of Article 19(1) seems to establish a double system of notification, creating an “emergency within the emergency” (where Member States could adopt national measures, as well as where the ex post notification operates).</i>
	DK (Drafting): 1. During the <u>Single Market vigilance mode and the Single Market emergency mode</u>, Member States shall notify to the Commission any crisis-relevant draft measures <u>related to goods and services of critical importance, as</u>	

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	<u>listed in an implementing act in accordance with article 9(1b)(b), or crisis-relevant goods and services listed, as listed in an implementing act in accordance with article 14(5),</u> restricting free movement of goods, and the freedom to provide services and as well as erisis-relevant restrictions of the free movement of persons, including workers together with the reasons for those measures.	
2. Member States shall provide to the Commission a statement of the reasons which make the enactment of such measure justified and proportionate, where those reasons have not already been made clear in the notified measure. Member States shall communicate to the Commission the full text of the national legislative or regulatory provisions which contain or are modified by the measure.	FR (Drafting): 2. Member States shall provide to the Commission a statement of the reasons which make the enactment of such measure justified and proportionate, where those reasons have not already been made clear in the notified measure. Member States shall communicate to the Commission the full text of the national legislative or regulatory provisions which contain or are modified by the measure.	FR (Comments): Common sense. MSs have to make an assessment of proportionality. “where those reasons have not already been made clear” do not give any added value information. Who is to decide that it is not clear? That is going to create legal uncertainty for MSs. PT (Comments): Article 19° (1) and (2) seem redundant: they say the same thing, there is just an inversion of the way it is said. Furthermore, paragraph 2 states that the reasons justifying the adoption of a measure and its proportionality must be given, and paragraph 1 does not mention this last part. We believe these paragraphs should be clarified. ES (Comments):

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		<i>ES would welcome more information on the practical implications of these provisions.</i> <i>Given that, as the Covid crisis¹⁹ has shown, in an emergency context, many measures are adopted through omnibus acts, how do Member States differentiate the notification regime for each element concerned (different goods and services from different sectors)?</i> <i>If an omnibus act includes services covered by the SMEI Regulation and others covered by the Services Directive (because they were not considered relevant in case of crisis), Member States would face different approaches, rationales, deadlines or procedures. That could create legal uncertainty and operational problems.</i>
	DK (Drafting): <u>During the Single Market emergency mode,</u> such notification shall not prevent Member States from adopting the measures in question in case immediate action is needed due to reasons occasioned by serious and unforeseeable circumstances. Member States shall notify the adopted measure immediately together with a justification for the need to immediately adopt the measure. <u>Measures pertaining to the free movement of persons, shall not be prevented</u>	DK (Comments): Due to the nature of the vigilance mode, we do not find it necessary that the option of immediate action should be possible during this mode. Thereby, the possibility of utilizing immediate adoption of measurement, should only be a possibility during the Single Market emergency mode. Finally, measures pursuant to the free movement of persons should still be premitted for immediate adoption, even in the vigilance

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	<u>from immediate adoption by Member States, regardless if the measure is presented during the Single Market vigilance or emergency mode.</u>	mode, as different circumstances and personal needs that goes beyond those of the Single Market could be at play.
3. Member States shall use the information system set up for notifications under Directive (EU) 2015/1535 of the European Parliament and of the Council⁵ for notifications under this Article.	LU (Drafting): Such notification shall not prevent Member States from adopting the measures in question in case immediate action is needed due to exceptional reasons occasioned by serious and unforeseeable circumstances. Member States shall notify the adopted measure immediately together with a justification for the need to immediately adopt the measure.	AT (Comments): - In principle, there is no objection to using the already existing information system pursuant to Directive (EU) 2015/1535 (TRIS information procedure for short, which is managed by the ho. Department) is to be used. This means that a proven system can be used and synergies can be created. - However, some (practical) questions arise with regard to the procedure: see below LU (Comments): <i>We should keep a very high threshold to allow Member States to adopt a measure before a response from the Commission is obtained.</i> LV (Comments): Measures in the field of services are notified through the Internal Market Information System (IMI), while measures in the field of goods and products are notified through the TRIS system, therefore it is unclear: (1) what is the added

⁵ OJ L 241, 17.9.2015, p. 1.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		value of the IMI system? (2) and why only one notification system should be used in crisis situations? ES (Comments): <i>ES considers that the notification or reporting procedure regulated in this Article could be improved by including a specific reporting tool.</i> <i>Measures taken during emergency mode are bound to be temporally and materially limited. Moreover, the approach of the assessment on the principles of necessity and proportionality could also differ in these contexts.</i> <i>It might therefore be more appropriate to establish a specific reporting system for crisis notifications. This is without prejudice to the establishment and use of all technical measures to reduce administrative burdens for the Commission and the Member States.</i>
4. The Commission shall communicate the notified measures to the other Member States without delay and shall share them at the same time with the advisory group.	BE (Drafting): 4. The Commission shall communicate the notified measures to the other Member States without delay and shall share them at the same time with the steering committee. FR (Drafting):	LV (Comments): Article 19 paragraph 4 should set out specific time period in which the Commission communicates notified measures to the other Member States. FR (Comments):

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	The Commission shall communicate the notified measures to the other Member States and with the advisory group without delay and shall share them at the same time.	Wording amendment.
5. If the advisory group chooses to deliver an opinion on a notified measure, it shall do so within four working days from the date of receipt by the Commission of the notification concerning that measure.	PL (Drafting): 5. If the advisory group chooses to deliver an opinion on a notified measure, it shall do so within four working days from the date of receipt by the Commission of the notification concerning that measure without delay. BE (Drafting): 5. If the steering committee chooses to deliver an opinion on a notified measure, it shall do so within four working days from the date of receipt by the Commission of the notification concerning that measure. FR (Drafting): 5. If the advisory group chooses to deliver an opinion on a notified measure, it shall do so within four two working days from the date of receipt by the Commission of the notification concerning that measure.	AT (Comments): If the advisory group decides to issue an opinion (within four days - which seems a bit short), it sends it to the EC. It is not clear from the following paragraphs what the EC does/has to do with this opinion, since it apparently has to subject the measure to a 10-day review of its conformity with EU law anyway. CZ (Comments): This paragraph should in our view further specify the follow-up to the potential opinion of the advisory/<u>steering</u> group. BE (Comments): Is it also possible to send such an opinion also to the MS of the notified measure? LV (Comments): Is it planned that Advisory Group meeting will be gathered when Member State notifies draft measures restricting free movement of goods and the freedom to provide services as well as

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		crisis-relevant restrictions of free movement of persons, including workers together with the reasons for those measures? FR (Comments): Four days is too long in the context of a crisis
6. The Commission shall ensure that citizens and businesses are informed of the notified measures, unless Member States request that the measures remain confidential, or the Commission deems disclosure of those measures would affect the security and public order of the European Union or its Member States, as well as of the decisions and Member States' comments adopted in accordance with this Article.		SK (Comments): The criteria for determining "confidential" measures need clearer definition. ES (Comments): <i>ES considers that the scope of application of this 'non-confidentiality principle' should be more narrowly defined. If, as mentioned in paragraph 2, a measure affecting crisis – relevant goods or services include other elements not covered by SMEI Regulation, this part of the measure should remain confidential. Transparency should only apply to those provision affecting goods and services that fall under the scope of art. 19.</i>
7. Member States shall postpone the adoption of a notified draft measure for 10 days from the date of receipt by the Commission of the notification referred to in this Article.	PL (Drafting): 7. Member States shall postpone the adoption of a notified draft measure for 10 days from the date of receipt by the Commission of	CZ (Comments): A 10-day standstill period might be too burdensome, especially during the times of crisis where a swift action is necessary.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	the notification referred to in this Article. LV (Drafting): 7. Member States shall postpone the adoption of a notified draft measure for 10 7 days from the date of receipt by the Commission of the notification referred to in this Article. FR (Drafting): 7. Member States shall postpone the adoption of a notified draft measure for 3 10 calendar days from the date of receipt by the Commission of the notification referred to in this Article.	Example of the covid crisis (or any other recent crisis) shows that action must be immediate to be effective. A good inspiration is the IPCR. FI (Comments): Has the Commission evaluated the possible adverse effects of postponing measures by 10 days, e.g. panic buying before measures take effect? NL (Comments): Has the Commission evaluated the possible adverse effects of postponing measures by 10 days, e.g. panic buying before measures take effect? PL (Comments): This paragraph should comply with the Directive (EU) 2015/1535 and the Directive 2006/123/EC. The introduction of standstill would be incompatible with the provisions of Services directive as far as notification of the restrictions on the freedom to provide services is concerned. The article does not comply with the Directive (EU) 2015/1535 and paragraph 1 of this proposal. The rules for applying the urgency procedure

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		and the mandatory time limits for suspending legislative work - Article 19(7) requires postponing the adoption of the notified measure for 10 days, which is different from the existing mechanisms and, in our opinion, is incompatible with Article 6(7) of Directive (EU) 2015/1535, which allows for the immediate adoption of a national draft, i.e. the use of the urgency procedure: Dir.(EC)2015/1535: “art. 6.7.Paragraphs 1 to 5 shall not apply in cases where: (a) for urgent reasons, occasioned by serious and unforeseeable circumstances relating to the protection of public health or safety, the protection of animals or the preservation of plants, and for rules on services, also for public policy, in particular the protection of minors, a Member State is obliged to prepare technical regulations in a very short space of time in order to enact and introduce them immediately without any consultations being possible; or (b) for urgent reasons occasioned by serious circumstances relating to the protection of the security and the integrity of the financial system, in particular the protection of depositors, investors and insured persons, a Member State is obliged to enact and implement rules on financial services immediately. In the communication referred to in Article 5, the Member State shall give reasons for the urgency of the measures taken. The Commission shall give its views on the communication as soon as possible. It

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		shall take appropriate action in cases where improper use is made of this procedure. The European Parliament shall be kept informed by the Commission.” SMEI Art.19 pagagraph 1 subparagraph 2: “Such notification shall not prevent Member States from adopting the measures in question in case immediate action is needed due to reasons occasioned by serious and unforeseeable circumstances. Member States shall notify the adopted measure immediately together with a justification for the need to immediately adopt the measure.” LV (Comments): 10 day period for the provision of comments during the crisis is too long and should be reduced to 7 days. As well as Article 19 paragraph 7 should set out the exceptions referred to in Article 19 paragraph 1. FR (Comments): 10 days is too long in the context of a crisis PT (Comments): • In Article 19° (7) (8) this provision provides for a stand still period, which is not understandable, therefore it needs to be clarified.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		Furthermore, the relation between this stand still period and article Article 19° (1) is not understandable insofar this article states that "Such notification shall not prevent Member States from adopting the measures in question in case immediate action is needed due to reasons occasioned by serious and unforeseeable circumstances". So, the MS will justify the need to act immediately and, in practice, this stand still period is useless. This deserves further clarification. ES (Comments): <i>ES considers that the deadlines set out in this Article could unduly delay the adoption of national measures in an emergency context.</i> <i>Experience during the Covid-19 crisis has shown that emergency measures should be adopted automatically. The current wording of this Article provides for an excessively long procedure, which can be extended to 60 days when crisis measures could be needed immediately and be extended only for a short period of time (as lockdown during the pandemic).</i> <i>Could the differences between Services Directive and SMEI (in terms of deadlines and procedural aspects) create practical</i>

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		<i>implementations problems and legal uncertainty?</i> <i>This 10 days standstill period contrasts with the explicit reference in Service Directive that such notification shall not prevent Member States from adopting the provisions in question. ES considers that the approach of this legal framework should be integrated here.</i>
8. Within 10 days from the date of receipt of the notification, the Commission shall examine the compatibility of any draft or adopted measure with Union law, including Articles 16 and 17 of this Regulation as well as the principles of proportionality and non-discrimination, and may provide comments on the notified measure when there are immediately obvious and serious grounds to believe that it does not comply with Union law. Such comments shall be taken into account by the notifying Member State. In exceptional circumstances, in particular to receive scientific advice, evidence or technical expertise in the context of an evolving situation, the period of 10 days may be extended by the Commission. The Commission shall set out the reasons justifying any such extension, shall set a new deadline and shall inform the Member States	PL (Drafting): 8. Within 10 days from the date of receipt of the notification, the Commission without delay shall examine the compatibility of any draft or adopted measure with Union law, including Articles 16 and 17 of this Regulation as well as the principles of proportionality and non-discrimination, and may provide comments on the notified measure when there are immediately obvious and serious grounds to believe that it does not comply with Union law. Such comments shall be taken into account by the notifying Member State. In exceptional circumstances, in particular to receive scientific advice, evidence or technical expertise in the context of an evolving situation, the period of 10 days may be extended by the Commission. The Commission shall set out the reasons justifying any such extension, shall set a new	NL (Comments): We question the feasibility of the foreseen assessment to be done within 10 days by the Commission as stated in paragraph 8. PL (Comments): The wording of this paragraph should be similar to the wording used in the Directive (EU) 2015/1535. The proposed changes are in accordance with the suggested deletion of paragraph 7 and Articles 16 and 17. BE (Comments): For how long can the COM extend the period of 10 days? This must be clarified to add more predictability. LV (Comments): What is the justification for the 10 day period

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
about the new deadline and the reasons for the extension without delay.	deadline and shall inform the Member States about the new deadline and the reasons for the extension without delay. FR (Drafting): 8. Within 3 10 calendar days from the date of receipt of the notification, the Commission shall examine the compatibility of any draft or adopted measure with Union law, including Articles 16 and 17 of this Regulation as well as the principles of proportionality and non-discrimination, and may provide comments on the notified measure when there are immediately obvious and serious grounds to believe that it does not comply with Union law. Such comments shall be taken into account by the notifying Member State. In exceptional circumstances, in particular to receive scientific advice, evidence or technical expertise in the context of an evolving situation, the period of 5 10 days may be extended by the Commission. The Commission shall set out the reasons justifying any such extension, shall set a new deadline and shall inform the Member States about the new deadline and the reasons for the extension without delay.	during which the Commission can provide comments on notified draft measures? The Commission won't provide comments on notified draft measures if they are in accordance with EU law? When the Commission may set out a new deadline for providing comments and how long it can be? FR (Comments): 10 days + 10 days is too long in the context of a crisis In case of a pandemic, those 10 days are unnecessary. During covid, scientific knowledge was widely shared and updated hour by hour sometimes. Relevant informations were available. An additional delay only artificially lengthens the delays. PT (Comments): • In Article 19° (7) (8) this provision provides for a stand still period, which is not understandable, therefore it needs to be clarified. • Article 19°(8) foresees the possibility of extending the standstill period. The successive extension of the deadline for a measure to address an emergency to come into force is not understandable. It needs to be clarified.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		Furthermore, in 19°(8) what seems to result is that Member States are obliged to accept the observations of the Commission. The Commission should clarify this issue. In our understanding the power given to the Commission undermines the division of competences since MS is not free to adopt the measures they think are better (and provided that they are in accordance with EU Law). ES (Comments): <i>See comment on paragraph 7</i>
		DK (Comments): Has the Commission evaluated the possible adverse effects of postponing measures by 10 days, e.g. panic buying before measures take effect?
9. Member States may also provide comments to the Member State which has notified a measure; that Member State shall take such comments into account.	FR (Drafting): Member States may also provide comments to the Member State which has notified a measure; that Member State shall take such comments into account.	FR (Comments): In a legal point of view, nothing can obliged MS to follow/take into account the comments of other MSs. What if 2 MSs make opposite comments? The verbs “shall” is inappropriate PT (Comments): Article 19°(9) What is the time period for these comments? Within 10 days as mentioned in paragraph 8 of this article?

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
10. The notifying Member State shall communicate the measures it intends to adopt in order to comply with the comments delivered in accordance with paragraph 8 to the Commission within 10 days after receiving them.	PL (Drafting): 10. The notifying Member State shall communicate the measures it intends to adopt in order to comply with the comments delivered in accordance with paragraph 8 to the Commission within 10 days after receiving them. as soon as possible. LU (Drafting): 8. Within 10 days from the date of receipt of the notification, the Commission shall examine the compatibility of any draft or adopted measure with Union law, including Articles 16 and 17 of this Regulation as well as the principles of proportionality and non-discrimination <u>and any further conditions laid down in sectorial legislation</u>, and may provide comments on the notified measure when there are immediately obvious and serious grounds to believe that it does not comply with Union law. Such comments shall be taken into account by the notifying Member State. In exceptional circumstances, in particular to receive scientific advice, evidence or technical expertise in the context of an evolving situation, the period of 10 days may be extended by the Commission. The Commission shall set out the reasons	AT (Comments): If the EC concludes that the measure is not compatible with Union law, the MS has 10 days to indicate what it intends to do. If the answer is not satisfactory to the EC, the dialogue can be extended to a further 30 days. In general, we welcome any dialogue between the EC and the MS not only quantitatively but also, and above all, qualitatively, but it is questionable, if we take into account these possible time limits of up to 40 days in an emergency situation, that such a situation can be resolved quickly. After all, this is supposed to be the aim of the regulation: rapid action to remedy a precarious situation. PL (Comments): It should be changed in parallel of paragraph 8. LU (Comments): <i>Any notification made by Member States needs to respect the requirements of that notification under sectorial legislation. Article 19 cannot be construed as dispensing Member States from the justification required for instance under the Transparency Directive or the Services Directive.</i>

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	justifying any such extension, shall set a new deadline and shall inform the Member States about the new deadline and the reasons for the extension without delay. FR (Drafting): 10. The notifying Member State shall communicate report to the Commission on the action it proposes to take on the measures it intends to adopt in order to comply with the comments delivered in accordance with paragraph 8 to the Commission within 5 40 calendar days after receiving them. The Member State concerned shall indicate, where appropriate, the reasons why the comments of the European Commission cannot be taken into account.	FR (Comments): 10 days is too long in the context of a crisis This article assumes that States will have to comply with the comments of the European Commission. However, the States remain free to interpret the proportionality of a measure and the Commission can also be mistaken (see to that effect the case law of the Court of Justice invalidating the reasoning of the Commission). Therefore, and in order to comply with the law, it is appropriate to impose only an obligation on the Member States to respond to the Commission's comments, and not an obligation to follow them in any case. PT (Comments): Article 19^o(10) assumes that the Member State should amend the measures it intends to adopt if the Commission finds that they do not respect the principle of proportionality and non-discrimination. However, the Member State's understanding may be different. In this case, doesn't the Member State have to communicate it to the Commission? Or does it communicate that there were no changes? This needs to be clarified. We believe it would be preferable to change the wording stipulating that the notifying Member State would inform the Commission

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		whether it intends to take the comments made into account and would justify why it does not consider them.
11. If the Commission finds that the measures communicated by the notifying Member State are still not in accordance with Union law, it may issue within 30 days of that communication, a decision requiring that Member State to refrain from adopting the notified draft measure. The notifying Member State shall communicate the adopted text of a notified draft measure to the Commission without delay.	DE (Drafting): 11. If the Commission finds that the measures communicated by the notifying Member State are still not in accordance with Union law, it may issue within 30 days of that communication, make <u>concrete recommendations on the design of this draft measure in conformity with European law</u> a decision requiring that Member State to refrain from adopting the notified draft measure. The notifying Member State shall communicate the adopted text of a notified draft measure to the Commission without delay. PL (Drafting): 11. If the Commission finds that the measures communicated by the notifying Member State are still not in accordance with Union law, it may issue within 30 days of that communication, a decision requiring that Member State to refrain from adopting the notified draft measure. The notifying Member	DE (Comments): A binding right of decision of the European Commission on the parliamentary laws of the Member States as proposed in Article 19(11) to (14) is not compatible with European primary law. The Legal Service of the Council has pointed out that the Court of Justice is the only Union body that has the power to rule on the conformity of existing national legislation with Union law (Opinion of 15 May 2018, Doc. 8858/18, para. 30 and Opinion of 14 June 2018, Doc. 10180/18, para. 4). Therefore, the binding right of decision should be deleted in Art. 19 (11) to (14). Notwithstanding this, during a single market emergency, it is important that crisis-relevant measures that violate European law are quickly identified and eliminated. For this reason, the European Commission should be granted a right of recommendation in the notification procedure instead of the right of decision, which would authorize it to comment on the unlawfulness of

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	State shall communicate the adopted text of a notified draft measure to the Commission without delay. BE (Drafting): 11. If the Commission finds that the measures communicated by the notifying Member State are still not in accordance with Union law, it may issue within 10 days of that communication, a decision requiring Member State to refrain from adopting the notified draft measure. The notifying Member State shall communicate the adopted text of a notified draft measure to the Commission without delay. FR (Drafting): 11. If the Commission finds that the measures communicated by the notifying Member State are still not in accordance with Union law, it may issue within 10 30 calendar days of that communication, a decision <u>recommendation</u> requiring that Member State to refrain from adopting the notified draft measure. The notifying Member State shall communicate the adopted text of a notified draft measure to the Commission without delay.	a measure under European Union law in a formal procedure and to make concrete recommendations on the design of this measure in conformity with European law. It can be assumed that the member states will generally follow these recommendations. AT (Comments): → See comment on Article 19(10). PL (Comments): The suggested deletion of this paragraph results from our previous suggestions. Additionally the decision to be issued by the Commision could disterb the institutional balance. BE (Comments): The time limit of 30 days for the COM to prohibit Member States from adopting a notified draft measure is too long. We suggest 10 days at maximum. + typo SK (Comments): We consider the deadline of 30 days too long. FR (Comments): 30 days in too long in the context of a crisis

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		According to the legal advice of the legal service of the Council this decision making power is not legal. PT (Comments): Article 19° (11) - The possibility of the Commission issuing a "decision" requiring a Member State to refrain from adopting a certain measure seems to us that can undermine the division of powers between the Commission and Member States. Thus, regarding article 19° (11) and (12) we do not agree with the proposed formulation presented here. We also would like to hear the Opinion of the Council Legal Services on this article. ES (Comments): <i>Given the opinion of the Council Legal Service on the limits of this Commission decision, ES has some doubts about its legal feasibility in relation to the principle of institutional balance.</i> <i>In order to guarantee this institutional balance principle, the binding right decision of the COM could be replaced by a right of recommendation during the notification procedure.</i> <i>Given that the Commission has stated that the Services Directive has been the reference to</i>

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		<i>Article 19(11) and (12), the wording and, where possible, details of the procedure in these Articles could be aligned with that in the Services Directive.</i>
12. If the Commission finds that an already adopted measure that has been notified to it, is not in accordance with Union law, it may issue within 30 days of that notification a decision requiring the Member State to abolish it. The notifying Member State shall communicate the text of a revised measure in case it modifies the notified adopted measure without delay.	DE (Drafting): 12. If the Commission finds that an already adopted measure that has been notified to it, is not in accordance with Union law, it may issue within 30 days of that notification <u>concrete recommendations on the design of this draft measure in conformity with European law</u> a decision requiring the Member State to abolish it. The notifying Member State shall communicate the text of a revised measure in case it modifies the notified adopted measure without delay. PL (Drafting): 12. If the Commission finds that an already adopted measure that has been notified to it, is not in accordance with Union law, it shall may issue within 30 days of that notification a decision requiring inform the Member State about it. to abolish it. The notifying Member State shall communicate the text of a revised measure in case it modifies the notified adopted measure without delay.	DE (Comments): See comments on paragraph 11. AT (Comments): The deadlines, which are rather complicated, para. 12 seems to be problematic and raises questions of principle. If EC finds that a measure that has already been adopted does not comply with Union law, it should have the power to request the MS to repeal the measure. This should be done in conjunction with Art. 16 and 17, yet the question of competence and the division of powers arises here. EC is undoubtedly the "<i>guardian of the Treaties</i>", but the decision as to whether or not Union law has been broken ultimately rests with the ECJ. AT requests an assessment of the CLS on this matter.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	BE (Drafting): FR (Drafting): 12. If the Commission finds that an already adopted measure that has been notified to it, is not in accordance with Union law, it may issue within 10 30 calendar days of that notification a recommendation decision requiring the Member State to abolish it. The notifying Member State shall communicate the text of a revised measure in case it modifies the notified adopted measure without delay.	NL (Comments): What will be the consequence if a Member State does not abolish the adopted measure? Will the Commission start infringement proceedings? This paragraph raises questions on the enforceability of such a requirement. PL (Comments): The specification of time limit is not necessary if it is removed from previous provisions. Additionally the decision to be issued by the Commission could violate the institutional balance. Instead, the Commission should inform the Member State that the adopted measure is not in accordance with the Union law as opposed to issuing a decision requiring to abolish it. BE (Comments): For BE, the power given to the Commission to adopt a decision requiring the Member State to repeal a measure already adopted is contrary to the Treaty. Indeed, according to Art. 258 TFEU, only the Court of Justice can declare illegal a provision adopted by a Member State. In this light, BE supports the deletion of this paragraph 12. FR (Comments):

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		30 days in too long in the context of a crisis According to the legal advice of the legal service of the Council this decision making power is not legal. PT (Comments): - Article 19° (12) - As to the issue of the Commission issuing a decision requiring a Member State to abolish a measure already in force, it seems to us that it undermines the institutional balance of powers between the European Court of Justice and the Commission, since only the CJEU can order a Member State to abolish a measure that has already been implemented. - Thus, regarding article 19° (11) and (12) we do not agree with the proposed formulation presented here. We also would like to hear the Opinion of the Council Legal Services on this article. ES (Comments): <i>Given the opinion of the Council Legal Service on the limits of this Commission decision, ES has some doubts about its legal feasibility in relation to the principle of institutional balance.</i> <i>In order to guarantee this institutional balance</i>

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		<i>principle, the binding right decision of the COM could be replaced by a right of recommendation during the notification procedure.</i> <i>Given that the Commission has stated that the Services Directive has been the reference to Article 19(11) and (12), the wording and, where possible, details of the procedure in these Articles could be aligned with that in the Services Directive.</i>
13. The period of 30 days referred to in paragraphs 11 and 12 may be exceptionally extended by the Commission in order to take account of a change of circumstances, in particular to receive scientific advice, evidence or technical expertise in the context of an evolving situation. The Commission shall set out the reasons justifying any such extension and shall set a new deadline and shall inform the Member States about the new deadline and the reasons for the extension without delay.	PL (Drafting): 13. — The period of 30 days referred to in paragraphs 11 and 12 may be exceptionally extended by the Commission in order to take account of a change of circumstances, in particular to receive scientific advice, evidence or technical expertise in the context of an evolving situation. The Commission shall set out the reasons justifying any such extension and shall set a new deadline and shall inform the Member States about the new deadline and the reasons for the extension without delay. BE (Drafting): 13. The period of 10 days referred to in paragraph 11 may be exceptionally extended by the Commission in order to take account of a change of circumstances, in particular to receive	PL (Comments): The suggested deletion of this paragraph results from our previous suggestions BE (Comments): An extension of this period, potentially with another 30 days, is also hard to justify given the pressing circumstances in which such measures are necessary to adopt. BE suggests to change those 30 days in 10 days maximum. + Cf comments on §11 and §12 FR (Comments): 30 days in too long in the context of a crisis

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	scientific advice, evidence or technical expertise in the context of an evolving situation. The Commission shall set out the reasons justifying any such extension and shall set a new deadline and shall inform the Member States about the new deadline and the reasons for the extension without delay. FR (Drafting): 13. The period of 10 30 calendar days referred to in paragraphs 11 and 12 may be exceptionally extended by the Commission in order to take account of a change of circumstances, in particular to receive scientific advice, evidence or technical expertise in the context of an evolving situation. The Commission shall set out the reasons justifying any such extension and shall set a new deadline and shall inform the Member States about the new deadline and the reasons for the extension without delay.	
14. The Commission decisions referred to in paragraphs 11 and 12 shall be based on available information and may be issued when there are immediately obvious and serious grounds to believe that the notified measures do not comply with Union law, including Article 16 or 17 of this Regulation, the principle of	PL (Drafting): 14. The Commission decisions referred to in paragraphs 11 and 12 shall be based on available information and may be issued when there are immediately obvious and serious grounds to believe that the notified measures do	PL (Comments): The suggested deletion of this paragraph results from our previous suggestions BE (Comments): BE wonders whether the principle of

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
proportionality or the principle of non-discrimination. The adoption of those decisions shall be without prejudice to the possibility for the Commission to adopt measures at a later stage, including the launching of an infringement procedure on the basis of Article 258 TFEU.	not comply with Union law, including Article 16 or 17 of this Regulation, the principle of proportionality or the principle of non-discrimination. The adoption of those decisions shall be without prejudice to the possibility for the Commission to adopt measures at a later stage, including the launching of an infringement procedure on the basis of Article 258 TFEU. BE (Drafting): 14. The Commission decisions referred to in paragraph 11 shall be based on available information and may be issued when there are immediately obvious and serious grounds to believe that the notified measures do not comply with Union law, including Article 16 or 17 of this Regulation, the principle of proportionality or the principle of non-discrimination. The adoption of those decisions shall be without prejudice to the possibility for the Commission to adopt measures at a later stage, including the launching of an infringement procedure on the basis of Article 258 TFEU. FR (Drafting): The Commission recommandation decisions referred to in paragraphs 11 and 12 shall be based on available information and may be issued when there are immediately obvious and	proportionality should not be adapted to the circumstances. Will the principle of proportionality applied by COM in the context of SMEI be the same as the one applied outside a crisis context ? + Cf comment on § 12. FR (Comments): See previous comments PT (Comments): Article 19° (14): We reiterate the previous comment.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	serious grounds to believe that the notified measures do not comply with Union law, including Article 16 or 17 of this Regulation, the principle of proportionality or the principle of non-discrimination. The adoption of those recommendation decisions shall be without prejudice to the possibility for the Commission to adopt measures at a later stage, including the launching of an infringement procedure on the basis of Article 258 TFEU.	
15. Information supplied under this Article shall not be confidential except at the express request of the notifying Member State. Any such request shall relate to draft measures and shall be justified.	LV (Drafting): 15. — Information supplied under this Article shall not be confidential except at the express request of the notifying Member State. Any such request shall relate to draft measures and shall be justified.	LV (Comments): What does it mean information supplied? Article 19 paragraph 15 duplicates Article 19 paragraph 6 therefore Article 19 paragraph 15 should be deleted. ES (Comments): <i>ES would welcome clarification on the principle of non-confidentiality set out in this paragraph. Although the draft measures or adopted measures notified by a Member State may not be confidential, the communication process between the notifying Member State and the Commission and other Member States should be considered confidential.</i>

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
16. The Commission shall publish the text of the measures adopted by the Member States in the context of the Single market emergency that restrict free movement of goods, services and the persons, including workers, which have been communicated by means of the notifications referred to in this Article as well as via other sources. The text of the measures shall be published within one working day of its receipt by means of an electronic platform managed by the Commission.	LU (Drafting): 14. The Commission decisions referred to in paragraphs 11 and 12 shall be based on available information and may be issued when there are immediately obvious and serious grounds to believe that the notified measures do not comply with Union law, including Article 16 or 17 of this Regulation, the principle of proportionality or the principle of non-discrimination. The adoption of those decisions shall be without prejudice to the possibility for the Commission to adopt measures at a later stage, including the launching of an infringement procedure on the basis of Article 258 TFEU.	CZ (Comments): Is it already envisaged what could be the platform referred to in this paragraph? We would prefer for it to be one of the already existing platforms, such as Your Europe portal (should it be feasible). NL (Comments): Due to the nature of the vigilance mode, we do not find it necessary that the option of immediate action should be possible during this mode. Thereby, the possibility of utilizing immediate adoption of measurement, should only be a possibility during the Single Market emergency mode. Finally, measures pursuant to the free movement of persons should still be premitted for immediate adoption, even in the vigilance mode, as different circumstances and personal needs that goes beyond those of the Single Market could be at play. LV (Comments): What other sources Member States should use to notify measures restricting free movement of goods, services and the persons, including workers?
	FI (Drafting):	FI (Comments):

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	<u>17. The Commission shall provide Member States a dedicated handbook for notification of requirements pursuant to this Article.</u> NL (Drafting): <u>17. The Commission shall provide Member States a dedicated handbook for notification of requirements pursuant to this Article.</u>	<i>The Commission's proposal for notification requirement and its link to other notification mechanisms, is very unclear in terms of the practical measures. It is therefore proposed that the Commission provides a handbook on the notification requirement in SMEI to ensure that national authorities are well-prepared and knowledgeable on the practical elements of notifying under this regulation.</i> NL (Comments): The Commission's proposal for notification requirement and its link to other notification mechanisms, is very unclear in terms of the practical measures. It is therefore proposed that the Commission provides a handbook on the notification requirement in SMEI to ensure that national authorities are well-prepared and knowledgeable on the practical elements of notifying under this regulation.
Article 20 Link to other notification mechanisms		LT (Comments): We still need a better understand of the reasons why we need this Article and what are the consequences when notifications under Art. 19 are made equivalent to notifications under Directive 2015/1535, Directive 2006/123/EC and Directive 2005/36/EC. ES (Comments):

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		<i>ES considers that article 19 could implies practical implementation problems with other notification mechanisms already existing. See previous comments on art. 19 parag. 3, 6 and 7.</i>
1. Where a Member State is required to notify a measure under Article 19 of this Regulation and under Article 5(1) of Directive (EU) 2015/1535 ⁶ , a notification made under this Regulation shall be deemed to have satisfied also the notification obligation set out in Article 5(1) of Directive (EU) 2015/1535.		
	DK (Drafting): <u>17. The Commission shall provide Member States a dedicated handbook for notification of requirements pursuant to this Article.</u>	DK (Comments): The Commission's proposal for notification requirement and its link to other notification mechanisms, is very unclear in terms of the practical measures. It is therefore proposed that the Commission provides a handbook on the notification requirement in SMEI to ensure that nationale authorities are well-prepared and knowledgeable on the practical elements of notifying under this regulation.
2. Where a Member State is required to notify a measure under Article 19 of this	LV (Drafting):	CZ (Comments):

⁶ OJ L 241, 17.9.2015, p. 1

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
Regulation and under Articles 15(7) or 39(5) of Directive 2006/123/EC of the European Parliament and of the Council⁷, a notification made under this Regulation shall be deemed to have satisfied also the notification obligations set out in Directive 2006/123/EC. Similarly the Commission Decisions referred to in Article 19(11) and 19(12) of this Regulation are deemed to be a Decision taken under Article 15(7) of Directive 2006/123/EC for the purposes of that Directive.	2. — Where a Member State is required to notify a measure under Article 19 of this Regulation and under Articles 15(7) or 39(5) of Directive 2006/123/EC of the European Parliament and of the Council, a notification made under this Regulation shall be deemed to have satisfied also the notification obligations set out in Directive 2006/123/EC. Similarly the Commission Decisions referred to in Article 19(11) and 19(12) of this Regulation are deemed to be a Decision taken under Article 15(7) of Directive 2006/123/EC for the purposes of that Directive.	Since for the SMEI-related measures, TRIS will be used, is the compatibility with the IMI system ensured? Therefore, will the notification systems be interconnected and if a notification related to measures to be notified under Services Directive is made in the TRIS, will it be duplicated/copied to the IMI? LU (Comments): <i>The link with other notifications remains unclear. We would welcome a dedicated presentation with clear flow-charts on how the articulation with other notification mechanisms would work in practice.</i> LV (Comments): Latvia is of view that in emergency mode Member States are restricted of the use of notification systems thus Article 20 paragraph 2 should be deleted. If it is planned to use TRIS notification system during emergency mode it also should be used during non crisis periods. PT (Comments): • In Article 20° (2) the measures to be notified under this mechanism are distinct from the measures to be notified under the Services Directive (SD). The measures notified under the

⁷ OJ L 376, 27.12.2006, p. 36.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		SMEI are urgent measures intended to deal with a crisis threatening the integrity of the internal market and, as their very nature indicates, they will be transitional, prevailing only for as long as the crisis persists. The measures notified under the SD are not based on the urgency of a crisis. This equivalence clause is not understandable. Commission needs to clarify this. Similarly, the last part of this provision is not understandable either, since most Member States do not interpret the decisions under Article 15(7) of the SD as being the same type of decisions as those under Article 288 TFEU, precisely because they consider that the Commission's power to take binding decisions on the compatibility of national implemented measures with EU law, that seeks their abolishment, is a violation of the institutional balance between the CJEU and the Commission. ES (Comments): <i>ES considers that the scope and effects of notifications and decisions under the SMEI Regulation and the Services Directive are different under the current wording of the proposal.</i> <i>While a notification under the Services Directive concerns requirements that are</i>

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		<i>supposed to be founded on regular circumstances and to be applicable in the long term, notifications under the SMEI Regulation are likely to concern requirements or measures that are very limited in time and that are based on exceptional circumstances. Consequently, the approach of each notification could differ.</i> <i>In addition, notifications under the Services Directive are made through IMI, whereas under the SMEI Regulation TRIS system should be used. On this element, in line with the comment on Article 19(3), ES considers that a specific and separate tool for such emergency notifications would be preferable.</i>
	DK (Drafting): Article 2012b Link to other notification mechanisms	DK (Comments): Moved following proposed movement of Article 19 on Notifications.
3. Where a Member State is required to notify a measure under Article 19 of this Regulation and to inform the Commission in accordance with Article 59(5) of Directive 2005/36/EC of the European Parliament and of the Council⁸, that notification shall be deemed to have satisfied also the information obligation set out in Article 59(5) of Directive 2005/36/EC.		CZ (Comments): Similarly as in paragraph 2 above.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	DE (Drafting): <u>4. Article 19 paragraph 3 i) SCBHT shall remain unaffected.</u>	DE (Comments): Germany sees an overlap to Art. 19 para. 3 i) SCBHT Regulation in the area of medical countermeasures: In the event of an alert, the competent national authorities and the Commission shall transmit through the EWRS immediately all relevant information in their possession that may be useful for coordinating the response, such as whether there is an urgent need or lack of medical countermeasures. GER asks for a lex specialis clause.
Article 21 Single points of contact in the Member States		DE (Comments): Regarding Article 21 and 22: with regard to the rules on the central contact points in the Member States (Article 21) and at Union level (Article 22), we initially agree with the notion that transparent, easily accessible and up-to-date information is of priority during a crisis. We therefore welcome the fact that the Commission's proposal takes up this point. With regard to specific structuring – particularly in relation to Article 21 – we request further details as to the relationship to existing contact points. The Commission's presentation for the Council Working Group meeting on 26 January 2023 here makes reference to a “flexible

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		approach, e.g. existing structures”. We understand this to mean that the Member States can allocate the task of acting as central contact points to existing structures. At the same time, the above-mentioned Commission presentation contains the statement “Complementary with existing contact points, distinct purpose and scope in crisis context”. In the Commission’s view, does this mean that the obligation under Article 21 comes alongside information obligations and obligations to set up contact points under existing instruments, e.g. under the Services Directive? According to Article 22, the Commission is to establish and operate a central contact point at Union level. How should this relate to the 24/7 contact point under the IPCR? From our point of view, it is important, especially in a crisis, to have structures that are as clear as possible so that citizens and businesses know who to turn to. Tasks need to be clearly defined and any duplication avoided. In addition, we would welcome more details on the number of central contact points per Member State. AT (Comments): We support Art. 21 and 22 establishing single

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		points of contact at Member State and Union level to assist the general public. This would help to navigate through a rapidly changing and fragmented regulatory landscape. The body should also inform about regional and local measures. IE (Comments): We would welcome further clarification from the Commission on the format single points of contact should take. It would be best to have consistency throughout the Union. BE (Comments): BE urges that the requirement of national single points of contact should reflect the internal division of competencies of the Member States. Probably the best to foresee a solution for the abovementioned topic is in the recitals. IT (Comments): Access to information provisions under Articles 21-22 should be reinforced. The language regime should be identified, as is the case with similar contact points under the Union law, so that cross-border relevance for information seekers is ensured. The notion of “up to date” information should be defined in stricter terms, as the emergency dictates the dynamics and

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		frequency of crisis-relevant events. Some inspiration could be taken from EU rules on cyber security. At this aim Your Europe system and Single Digital Gateway points of contact could be used.
1. Member States shall operate national single points of contact that shall provide citizens, consumers, economic operators and workers and their representatives with the following assistance:		
(a) assistance in requesting and obtaining information about national restrictions of the free movement of goods, services, persons and workers that are related to an activated Single Market emergency;	PL (Drafting): (a) assistance in requesting and obtaining information about national restrictions of the free movement of goods, services, persons and workers that are related to an activated Single Market emergency;	PL (Comments): National single points of contact should not have to assist in requesting information, their task will be to deliver requested information. There is no need to repeat the word “assistance”. LU (Comments): <i>We would welcome a merging of the Single points of contact in the Member States with the Central Liaison offices under Article 5.</i>
(b) assistance in the performance of any	PL (Drafting):	PL (Comments):

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
national level crisis procedures and formalities that have been put in place due to the activated Single Market emergency.	(b) assistance in the performance of any national level crisis procedures and formalities that have been put in place due to the activated Single Market emergency.	There is no need to repeat the word “assistance”.
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 respective single points 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. The information shall be provided in clear, understandable and intelligible language. It shall be easily accessible at a distance and by electronic means and shall be kept up to date.	AT (Drafting): 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 respective single points 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. The information shall be provided in clear, understandable and intelligible language. It shall be easily accessible at a distance and by electronic means and shall be kept up to date. This Regulation is without prejudice to existing national participation rights of social partners that provide for more favourable provisions. CZ (Drafting): 2a. Member States shall incorporate the national single points of contact referred to in this Article into Your Europe portal as referred	AT (Comments): It has to be ensured that existing rights of social partners unwillingly are not weakened inadvertently. CZ (Comments): The Commission admitted that these Single points of contact could be integrated to the existing structures at national level. Such integration both at national and Union level could be done using the Your Europe portal (the outcome of the Single Digital Gateway regulation) which encompasses national- and Union-level information, procedures, and assistance services. Moreover, these are available in English and in the respective national language. PL (Comments): During crisis it could be impossible to answer thousands of the same requests received from citizens, consumers, economic operators, or workers. Up-to-date information and step-by-

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	to in Article 2(1) of Regulation (EU) 2018/1724. PL (Drafting): 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 an the respective electronic platform or the respective respective single points 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. The information shall be provided in clear, understandable and intelligible language. It shall be easily accessible at a distance and by electronic means and shall be kept up to date.	step guide should be accessible via an easily accessible electronic platform. PT (Comments): The reference to “up to date” information should be clarified.
Article 22 Union level single point of contact		CZ (Comments): Integration both at national and Union level could be done using the Your Europe portal which encompasses national- and Union-level information, procedures, and assistance services. Moreover, these are available in English and in the respective national language.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
1. The Commission shall set up and operate a Union level single point of contact.	CZ (Drafting): 1. The Commission shall set up and operate a Union level single point of contact which shall use the structure of the Your Europe portal, as referred to in Article 2(1) of Regulation (EU) 2018/1724.	CZ (Comments): This is just a suggestion how to incorporate the Your Europe portal. EE (Comments): Will this be through the SDG? If, then it should be directly mentioned so that citizens, consumers, economic operators, workers and their representatives would know where to find it.
2. The Union level single point of contact shall provide citizens, consumers, economic operators, workers and their representatives with the following assistance:		
(a) assistance in requesting and obtaining information as regards Union level crisis response measures that are relevant to the activated Single Market emergency or which affect the exercise of the free movement of goods, services, persons and workers;	PL (Drafting): (a) assistance in requesting and obtaining information as regards Union level crisis response measures that are relevant to the activated Single Market emergency or which affect the exercise of the free movement of goods, services, persons and workers;	PL (Comments): The Union level single point of contact should not have to assist in requesting information, its task will be to deliver requested information. There is no need to repeat the word “assistance”. SI (Comments): The definition of the "union level crisis response measures" should be added to the proposal.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
(b) assistance in the performance of any crisis procedures and formalities that have been put in place at the Union level due to the activated Single Market emergency;	PL (Drafting): (b) assistance in the performance of any crisis procedures and formalities that have been put in place at the Union level due to the activated Single Market emergency;	PL (Comments): There is no need to repeat the word “assistance”.
(c) putting together a list with all national crisis measures and national contact points.	NL (Drafting): (c) putting together a list with all national crisis measures and national contact points. The information shall be provided in clear, understandable and intelligible language. It shall be easily accessible at a distance and by electronic means and shall be kept up to date. PL (Drafting): (c) — putting together a list with all national crisis measures and national contact points. 3. The Union level single point of contact shall put together a list with all national crisis measures and national contact points and up to date them and assist citizens, consumers, economic operators, workers and their representatives in obtaining such information.	NL (Comments): NL believes that both the national single points of contact and the Union level single point of contact should be operated under the same conditions. Article 21 states that information with regards to the national crisis response measures shall be provided in clear, understandable and intelligible language, whilst article 22 states that a list of national crisis measures should be published. Hence, NL believes the obligation for clear, understandable and intelligible language should also be put in article 22. Information should be provided for different target groups such as citizens and economic operators. PL (Comments): Delivering such a list cannot be considered as assistance. However, it should be prepared by the Commission and regularly updated.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
Title III Single Market emergency response measures		IT (Comments): Single Market emergency response measures under Title III (except for Article 26 thereof) heavily rely on additional obligations for economic operators and fines for non-compliance. We have serious concerns about the Commission imposing additional obligations on economic operators unless the role of the Council and Advisory group are considerably scaled up. In general, we would prefer solutions based on voluntary cooperation within the Advisory Group.
Chapter I Targeted information requests and availability of crisis-relevant goods and services		
Article 23 Requirement of dual activation	PL (Drafting): Article 23 Requirement of dual activation	PL (Comments): This article is not needed as the following articles describe these measures in detail. SI (Comments): As the emergency mode is being addressed with these provisions and we are aiming for a rapid

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		and simplified response, we are more inclined to support the single activation with the Council implementing act. Such an act would not only activate the emergency mode but also define the list of crisis-relevant goods and services as well as possibly activate the necessary crisis-response mechanisms and/or outline the possibly needed crisis-response mechanisms that the Commission could activate with the Commission implementing act. LT (Comments): We can support suggestions by other MSs to increase the role of Council in the dual activation.
1. Binding measures included in this Chapter may be adopted by the Commission by means of implementing acts in accordance with Articles 24(2), first subparagraph of Article 26 and Article 27(2) may be adopted only after a Single Market Emergency has been activated by means of a Council implementing act in accordance with Article 14.	CZ (Drafting): 1. The Council may give the Commission by implementing act the mandate to adopt binding measures included in this Chapter and may define the scope of these measures. The Commission may adopt these measures by means of implementing acts in accordance with Articles 24(2), first subparagraph of Article 26 and Article 27(2) may be adopted only after a Single Market Emergency has been activated by means of a Council implementing act in accordance with Article 14.	DE (Comments): More details and a more precise wording are requested on paragraph 1 of this provision, as we believe it is not formulated clearly. We also ask for a clarification of the extent to which mandatory measures with regard to information requests are limited to the emergency mode. CZ (Comments): It is going to be precisely these measures in the Title III that will have detrimental effect on

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	FI (Drafting): 1. <u>The Council may give the Commission, by implementing act, the mandate to adopt</u> Binding measures included in this Chapter <u>and may define the scope of these measures. The Commission may be adopted these measures</u> by the Commission by means of implementing acts in accordance with Articles 24(2), first subparagraph of Article 26 and Article 27(2) may be adopted only after a Single Market Emergency has been activated by means of a Council implementing act in accordance with Article 14. IE (Drafting): 1. <u>The Council may give the Commission, by implementing act, the mandate to adopt</u> binding measures included in this Chapter and may define the scope of these measures. The Commission may adopt these measures by means of implementing acts in accordance with Articles 24(2), first subparagraph of Article 26 and Article 27(2) may be adopted only after a Single Market Emergency has been activated by means of a Council implementing act in accordance with Article 14. NL (Drafting): 1. The Council may give the Commission, by	citizens and economic operators. In order to limit the burden on the latter, we would suggest to give the Council more say in the scope of these measures. This mandate might as well be already part of the “activation implementing act” as referred to in Art. 14. FI (Comments): <i>As a general comment - and without prejudice to discussions on the necessity of the individual measures of informations requests and priority rated orders – we are considering whether a “second layer of activation” should be introduced for those measures.</i> <i>To elaborate at a conceptual stage, the idea would be to have the following three steps – here illustrated through the example of using priority rated orders, which could as well be information requests:</i> Step 1. <i>Activation of the Single Market Emergency Mode by means of a Council implementing act.</i> Step 2. <i>If necessary to address the impact of the crisis, the Council may by means of a Council implementing act grant the Commission the authority to conduct priority rated orders. The Council implementing act shall - for example -</i>

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	implementing act, the mandate to adopt binding measures included in this Chapter and may define the scope of these measures. The Commission may adopt these measures by means of implementing acts in accordance with Articles 24(2), first subparagraph of Article 26 and Article 27(2) may be adopted only after a Single Market Emergency has been activated by means of a Council implementing act in accordance with Article 14. PL (Drafting): 1. — Binding measures included in this Chapter may be adopted by the Commission by means of implementing acts in accordance with Articles 24(2), first subparagraph of Article 26 and Article 27(2) may be adopted only after a Single Market Emergency has been activated by means of a Council implementing act in accordance with Article 14. BE (Drafting): 1. Binding measures included in this Chapter may be adopted by the Commission by means of implementing acts in accordance with Articles 24(2), first subparagraph of Article 26 and Article 27(2) only after a Single Market Emergency has been activated by means of a Council implementing act in accordance with	<i>specify 1) the specific crisis-relevant good or service for which the priority rated orders can be conducted; 2) the maximum duration within which the Commission is granted the authority; 3) the specific objective to be achieved by using the priority rated orders, whereby the authority would no longer be granted once the objective is achieved. [These elements could be added in the recitals.] This would help ensure that the measure is only used to the extent of what is absolute necessary. The objective could fx be that a specific entity should have adequate supplies. [It could be added that, considering the nature of the specific emergency and the necessity to respond quickly, the second step could be taken together with the first step in the form of one overall Council implementing act].</i> <i>Once the authority is granted, the Commission may via decisions, and after consulting the advisory group, oblige undertakings to prioritise orders within the conditions set out by the Council implementing act according to step 2.</i> <i>This second step should not necessarily lead to any delay. The two steps could be combined in one implementing act for which a model may be drafted as part of contingency planning. To ensure involvement of the Council there should</i>

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	Article 14.	<i>be a legal basis for both decisions.</i> IE (Comments): As a general comment - and without prejudice to discussions on the necessity of the individual measures of informations requests and priority rated orders – we are considering whether a “second layer of activation” should be introduced for those measures. To elaborate at a conceptual stage, the idea would be to have the following three steps – here illustrated through the example of using priority rated orders, which could as well be information requests: Step 1. Activation of the Single Market Emergency Mode by means of a Council implementing act. Step 2. If necessary to address the impact of the crisis, the Council may by means of a Council implementing act grant the Commission the authority to conduct priority rated orders. The Council implementing act shall - for example - specify 1) the specific crisis-relevant good or service for which the priority rated orders can be conducted; 2) the maximum duration within which the Commission is granted the authority; 3) the specific objective to be achieved by using the priority rated orders, whereby the authority

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		would no longer be granted once the objective is achieved. [These elements could be added in the recitals.] This would help ensure that the measure is only used to the extent of what is absolute necessary. The objective could be that a specific entity should have adequate supplies. [It could be added that, considering the nature of the specific emergency and the necessity to respond quickly, the second step could be taken together with the first step in the form of one overall Council implementing act]. Once the authority is granted, the Commission may via decisions, and after consulting the advisory group, oblige undertakings to prioritise orders within the conditions set out by the Council implementing act according to step 2. This second step should not necessarily lead to any delay. The two steps could be combined in one implementing act for which a model may be drafted as part of contingency planning. To ensure involvement of the Council there should be a legal basis for both decisions. NL (Comments): As explained during the working party on 3 February 2023, we believe the Council should grant the Commission a mandate via a Council implementing act to take binding measures included in this Chapter by Commission

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		implementing acts. We would like to suggest the following procedure. The Council adopts an implementing act giving the aforementioned mandate to the Commission. After this the Commission can take the individual measures foreseen in articles 24, 26 and 27 within the mandate given by the Council. The Council should be able to define the scope of the mandate for the Commission in the Council implementing act as well, by defining specific sectors and specific goods and services for which the Commission may take measures. PL (Comments): SK (Comments): “binding measures” – we have doubts about the use of this notion, since not all measures that could be taken in the emergency mode should be binding, voluntary measures are also proposed PT (Comments): • We question here the powers of the COM to impose (biding) additional and heavy obligations on economic operators. • It is important to understand what will be the role of the Advisory Group here? It should

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		be clarified. MT (Comments): Council should define the scope of measures.
2. An implementing act introducing a measure included in this Chapter shall clearly and specifically list the crisis-relevant goods and services to which such measure applies. That measure shall apply only for the duration of the emergency mode.	NL (Drafting): 2. An implementing act introducing a measure included in this Chapter shall clearly and specifically list the crisis-relevant goods and services to which such measure applies. That measure shall apply only for the duration of the emergency mode. PL (Drafting): 2. — An implementing act introducing a measure included in this Chapter shall clearly and specifically list the crisis-relevant goods and services to which such measure applies. That measure shall apply only for the duration of the emergency mode. IT (Drafting): 2. An implementing act introducing a measure included in this Chapter shall clearly and specifically list the crisis-relevant goods and services, limited to those goods and services identified under Article 14(5), to which such measure applies. That measure shall apply only	CZ (Comments): The relationship between this list and the list referred to in Art. 14 should be clearly defined, e.g. by adding a reference to that Article. FI (Comments): See comment above. LU (Comments): <i>We can support suggestions by other Member States to increase the role of Council in the dual activation.</i> IT (Comments): The triggering of the Single Market emergency response measures should be clearly limited to the crisis-relevant goods and services established under Article 14(5). A cross-reference to this article is therefore necessary in Article 23(2) to ensure legal certainty and scope limitations of such measures. PT (Comments): The “list the crisis-relevant goods and

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	for the duration of the emergency mode.	services to which such measure applies” relates to the list stated in article 14° (5)? If that is the case this reference to article 14° (5) should be clear in the text.
	NL (Drafting): 2. The mandate given by the Council to the Commission via the Council implementing act mentioned in paragraph 1 of this article shall state which binding measures included in this Chapter may be taken by the Commission, for which sectors and for which crisis-relevant goods and services within the Single Market as an area without internal frontiers.	
Article 24 Information requests to economic operators	CZ (Drafting): <i>Deleted</i> FI (Drafting): <u>deleted</u> <u>Article 4(4a) (new)</u> The Advisory group and the Commission shall cooperate with the national central liaison offices and gather up-to-date situational picture from the Member States. The Member States shall establish a national model to engage in continuous information exchange with economic operators relevant to the Regulation.	AT (Comments): AT sees the mandatory information request in Art. 24 critical. It is questionable whether the mandatory information system is really the mildest means of achieving the goal of maintaining a functioning Single market during a crisis. We support voluntary exchange of information. In this context, it should also be borne in mind that the majority of enterprises are SMEs and that this measure could lead to disproportionate administrative hurdles for them, which must be avoided in order not to impair their competitiveness. However, we believe, that direct access of the

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	IE (Drafting): Article 24 Information requests to economic operators PL (Drafting): Article 24 Information requests to economic operators EE (Drafting): Delete	commission to national companies should not be possible. Instead, the commission could turn to the MS, which can request information from companies that shall be provided in a similar way, as regulated in Art. 11 (4). AT believes that this Article need to undergo severe redrafting or deletion regarding the mandatory requests to economic operators is concerned. CZ (Comments): This Article is rather problematic given the unprecedented burden it will bring on the economic operators once activated. To provide information during crisis in the specific deadline with a threat of sanction is especially burdensome. We would therefore suggest to delete this Article. The Advisory group and the Commission could cooperate with the national central liaison offices and gather up-to-date situational picture from the Member States. This idea of continuous exchange of information could be added in Article 4(6) [The advisory groups tasks during the Single Market emergency mode]. <i>Or, should the Article eventually stay in place:</i> It is essential to ensure that these information requests have a specific purpose and scope and

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		are proportionate. The Commission should not ask for the information it already has gathered under other instruments, such as SCAN. Subsequently, the relationship between these “other” information-gathering instruments (such as SCAN or similar provisions under Data Act) and SMEI should be properly clarified and any overlaps should be avoided. Moreover, we need to make this Article more proportionate towards the SMEs. If their total exemption from this Article is not possible, we would suggest to significantly reduce the obligations aimed at them and thus minimising the burden as much as possible. FI (Comments): <i>Based on Finland’s experience over the decades on information exchange with economic operators in our national preparedness system, we would like to propose an other way to carry out the gathering the information:</i> <i>Cooperation with companies must be part of the normal preparedness work together with the authorities involved in preparedness.</i> <i>The advisory group could engage in continuous dialogue and exchange of information with different sectors. There would be no need for</i>

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		<i>separate requests for information from companies.</i> <i>When information is exchanged already during normal conditions, deviations that may become problematic are quickly noticed. If information will be exchanged only during the emergency mode, the crisis may already end until the information from the economic operators has been obtained.</i> <i>In addition, direct information requests to economic operators should remain primarily within national jurisdiction also going forward.</i> <i>Particular attention should be paid to the administrative burden faced by SMEs.</i> IE (Comments): We call for Article 24 to be deleted. We have concerns around mandatory information requests to companies and the threat of fines that will hang over them if they do not comply. We must be conscious not to put extra administrative burdens on businesses. While fines are dealt with in later articles, we need to be careful not to punish businesses for non-compliance when compliance may be outside their control. Furthermore, Article 24 also requires economic operators to provide information on their third country facilities and

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		we have concerns about the negative ramifications this could have on international trade. We could support voluntary information sharing done through Member States. BE (Comments): BE questions the proportionality of these measures, which will entail heavy burdens for businesses, especially SMEs, at a time when they will also have to manage a crisis situation. It is imperative to keep the administrative burden on SMEs to a minimum. EE (Comments): This Article is highly burdensome for the economic operators, especially the SMEs. Moreover, this article is even more problematic as it foresees sanctions in case of non-compliance. Companies are already highly burdened during a crisis and such information requests should not hinder their strives to survive. It is also not clear why it is needed if, according to para 1, it is a voluntary measure. Our experience during the past crisis has been that companies already cooperate and share as much information as they can depending on their size and their struggles. Therefore we suggest deleting this article.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		While we recognise the need for information for the Commission from companies during a crisis, we recommend it takes place through the national central liaison officers and the relevant Article could be amended. This would allow us to make use of the already established lines of communication lines and mutual trust. IT (Comments): The requested information disclosures would cover commercially sensitive information: production capacities, stocks within the EU and in third countries including in the facilities a company “operates, contracts or purchases supply from”, as well as “a schedule of the expected production output...” (Article 24(1, 3)). While it is acceptable that certain information is necessary to adequately respond to a crisis, a full ‘deconstruction’ of the supply chains and contractual schedules as mandatory information under Article 24 (2) might be a disproportionate requirement. Article 25 on confidentiality is not a sufficient safeguard. SK (Comments): We have great doubts about this obligation, mainly as regards the excessive administrative burden for economic operators in time of crisis,

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		as well as the request for mandatory provision of information and risk of not guaranteeing the confidentiality of information. In our view, the purpose of using the information should be clarified in more detail in the Article. PT (Comments): • The information requests to economic operators provided for in this <u>Article 24 are considered critical points which need clarification.</u> Portugal has already mentioned in previous comments that <i>"requests for information and priority orders to economic operators will have to be assessed as they may unevenly affect economic freedoms in the market (seriously affecting competition and trade), not to mention the risks of direct or indirect exposure of business secrets. It is also necessary to avoid unnecessary administrative burdens for businesses, especially SMEs, and public administrations. It is crucial to assess the financial impacts of the initiative. Consideration should be given to the possibility of economic operators being entitled to compensation in case of revenue losses due to EU refocusing or prioritization and the economic impacts thereof."</i>

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		SI (Comments): We are concerned about the additional burden the economic operators could face during the Single Market emergency due to such requests and are therefore more inclined toward the voluntary nature of the mechanism. In order to avoid the unnecessary burden of economic operators we'd also like to ask for a provision that would ensure sharing of such possibly obtained information from economic operators of the Commission with the Member State where the economic operator is based. LT (Comments): Although we do agree that there is an added value of information which is in domain of businesses, the voluntary, proportionate approach should be a way forward. The article goes beyond the proportionate approach and could create a significant administrative burden for companies, especially SMEs. Therefore we are open to further discuss FI proposal to delete this article and to include a voluntary exchange of information in the tasks of the advisory group (Article 4).
	DK (Drafting): 1. <u>The Council may give the Commission, by implementing act, the mandate to adopt</u>	DK (Comments): As a general comment - and without prejudice to discussions on the necessity of the individual

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	<u>Binding measures included in this Chapter and may define the scope of these measures. The Commission may be adopted these measures by the Commission by means of implementing acts in accordance with Articles 24(2), first subparagraph of Article 26 and Article 27(2) may be adopted only after a Single Market Emergency has been activated by means of a Council implementing act in accordance with Article 14.</u>	measures of informations requests and priority rated orders – we are considering whether a “second layer of activation” should be introduced for those measures. To elaborate at a conceptual stage, the idea would be to have the following three steps – here illustrated through the example of using priority rated orders, which could as well be information requests: Step 1. Activation of the Single Market Emergency Mode by means of a Council implementing act. Step 2. If necessary to address the impact of the crisis, the Council may by means of a Council implementing act grant the Commission the authority to conduct priority rated orders. The Council implementing act shall - for example - specify 1) the specific crisis-relevant good or service for which the priority rated orders can be conducted; 2) the maximum duration within which the Commission is granted the authority; 3) the specific objective to be achieved by using the priority rated orders, whereby the authority would no longer be granted once the objective is achieved. [These elements could be added in the recitals.] This would help ensure that the measure is only used to the extent of what is absolute neccesary. The objective could fx be

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		that a specific entity should have adequate supplies. [It could be added that, considering the nature of the specific emergency and the necessity to respond quickly, the second step could be taken together with the first step in the form of one overall Council implementing act]. Once the authority is granted, the Commission may via decisions, and after consulting the advisory group, oblige undertakings to prioritise orders within the conditions set out by the Council implementing act according to step 2. This second step should not necessarily lead to any delay. The two steps could be combined in one implementing act for which a model may be drafted as part of contingency planning. To ensure involvement of the Council there should be a legal basis for both decisions.
1. Where there is a severe crisis-related shortages or an immediate threat thereof, the Commission may invite representative organisations or economic operators in crisis-relevant supply chains to transmit on a voluntary basis, within a set time limit, specific information to the Commission on the production capacities and possible existing stocks of crisis-relevant goods and components thereof in Union production facilities and third country facilities which it operates, contracts or	AT (Drafting): 1. Where there is a severe crisis-related shortages or an immediate threat thereof, the Commission shall ask Member States to may invite representative organisations or economic operators in crisis-relevant supply chains to transmit on a voluntary basis, within a set time limit, specific information to the Commission on the production capacities and possible existing stocks of crisis-relevant goods and components thereof in Union production	DE (Comments): We welcome the fact that information requests are to relate to crisis-relevant goods and that, in addition, companies are initially to be approached on a voluntary basis. It is important that any further-reaching, i.e. mandatory use of companies must be tied to the fulfilment of clear requirements under the rule of law, be in compliance with fundamental

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
purchases supply from, as well as information on any relevant supply chain disruptions within a given deadline.	facilities and third country facilities which it operates, contracts or purchases supply from, as well as information on any relevant supply chain disruptions within a given deadline. CZ (Drafting): <i>Deleted</i> <i>or</i> 1. Where there is a severe crisis-related shortages or an immediate threat thereof, the Commission may invite representative organisations or economic operators in crisis-relevant supply chains to transmit on a voluntary basis, within a set time limit, specific information to the Commission on the production capacities and possible existing stocks of crisis-relevant goods and components thereof in Union production facilities and third country facilities which it operates, contracts or purchases supply from, as well as information on any relevant supply chain disruptions within a given deadline. The Commission may only collect this information and share it with the steering group in order to support their decisions on implementing acts as referred to in Articles 26 and 27. IE (Drafting): 1. Where there is a severe crisis-related	rights and, in particular, be proportionate. Furthermore, it should only be possible to request information that is not already available to the Commission on the basis of other duties of disclosure (for example on the basis of implementing regulation 2022/791). Based on the current state of the examination, we assume that Article 24, as the basis for authorising the implementing powers of the Commission, regulates the essential aspects of the delegation of powers to the Commission. Article 24 also seems to be a suitable legal basis for intervention into fundamental rights and, in particular, to be proportionate. Conformity with fundamental rights and, in particular, proportionality also need to be ensured in the specific case of application when an implementing act pursuant to paragraph 2 or a decision pursuant to paragraph 4 is adopted. In this context, we welcome the fact that Article 24(7) of the draft regulation, in line with the right to an effective remedy guaranteed by Article 47(1) of the Charter of Fundamental Rights, provides for the ECJ to have the power to review the respective exercising of the Commission's powers vis-à-vis individual

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	shortages or an immediate threat thereof, the Commission may invite representative organisations or economic operators in crisis-relevant supply chains to transmit on a voluntary basis, within a set time limit, specific information to the Commission on the production capacities and possible existing stocks of crisis-relevant goods and components thereof in Union production facilities and third country facilities which it operates, contracts or purchases supply from, as well as information on any relevant supply chain disruptions within a given deadline. NL (Drafting): 1. Where there is a severe crisis-related shortages or an immediate threat thereof, the Commission may invite, via an implementing act, representative organisations or economic operators in crisis-relevant supply chains to transmit on a voluntary basis, within a set time limit, specific information to the Commission on the production capacities and possible existing stocks of crisis-relevant goods and components thereof in Union production facilities and third country facilities which it operates, contracts or purchases supply from, as well as information on any relevant supply chain disruptions within a given deadline. The Commission may only use this information to	companies. According to Germany's opinion from June 2022, mandatory information requests ought to be considered if they are indispensable for the functioning of critical areas in order to maintain in particular public security, public order and public health. In addition, the Member States should be closely involved if the European Commission proposes the mandatory collection of information in the event of a crisis. It is also important that the effort for companies associated with information requests is kept within reasonable limits (compliance costs). This is especially important with respect to SMEs. AT (Comments): See above - direct access by the Commission to national economic operators shall not be foreseen in this Regulation. Rather, the Commission should ask the MS to send requests for information to its economic operators - similar to Art. 11(4). What is meant by "severe crisis-related shortages" or "imminent threat thereof" in para.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	assess the need to use the measures in articles 26 and 27. PL (Drafting): 1. — Where there is a severe crisis-related shortages or an immediate threat thereof, the Commission may invite representative organisations or economic operators in crisis-relevant supply chains to transmit on a voluntary basis, within a set time limit, specific information to the Commission on the production capacities and possible existing stocks of crisis-relevant goods and components thereof in Union production facilities and third country facilities which it operates, contracts or purchases supply from, as well as information on any relevant supply chain disruptions within a given deadline. BE (Drafting): 1. Where there is a severe crisis-related shortage or an immediate threat thereof, the Commission may invite representative organisations or economic operators in crisis-relevant supply chains to transmit on a voluntary basis, within a set time limit, specific information to the Commission on the production capacities and possible existing stocks of crisis-relevant goods and components thereof in Union production facilities and third	1? CZ (Comments): Should the Article stay, it is important to define the purpose of the collected information early in the text. The collected information should support the decisions taken by both the Commission and by the steering / advisory group. NL (Comments): The Netherlands is not yet convinced of the need of this article and in particular the binding nature of the information request. Ideally, the Commission should reach out in time and at all appropriate levels to economic operators to ensure a timely and continuous dialogue and exchange of information with different sectors, as is comparable to the US practice with regard to the Defence Production Act. This suggestions aims to clarify the article and to clearly define the aim for information is requested. This is needed from the perspective of data protection and ensuring a proper legal base for EU action. Besides, the Netherlands is concerned about the administrative burden which this article may cause for economi operators.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	country facilities which it operates, contracts or purchases supply from, as well as information on any relevant supply chain disruptions within a given deadline. EE (Drafting): Delete LV (Drafting): 1. Where there is a severe crisis-related shortages or an immediate threat thereof, the Commission may invite representative organisations or economic operators in crisis-relevant supply chains to transmit on a voluntary basis, within a set time limit, specific information to the Commission on the production capacities and possible existing stocks of crisis-relevant goods and components thereof in Union production facilities and third country facilities which it operates, contracts or purchases supply from, as well as information on any relevant supply chain disruptions within a given deadline. FR (Drafting): 1. Where there is a severe crisis-related shortages or an immediate threat thereof, the Commission may invite representative organisations or economic operators in crisis-relevant supply chains to transmit on a	Finally, the Netherlands wonders how this article is related to the Data Act and if this act may already provide a sufficient legal base for collection information during an emergency. PL (Comments): We support the FI proposal regarding Article 24. The law should avoid over-controlling entrepreneurs as they play a key role in ensuring the resilience of the EU economy. It's important to cooperate with entrepreneurs, not to take control of them and prepare an instrument that will allow companies to predict their actions as well allow them to remain competitive and will not discourage investors from doing business in the EU. Business entities should be guaranteed the freedom to conduct business activity and the procedures should facilitate doing business during an emergency situation/ crisis, especially in the areas that would be considered as a strategic ones. Entities should be able to independently take decisions regarding their crisis management strategies, including those related to the functioning of their supply chains, e.g., by increasing stocks, searching for new suppliers or new technological and logistic solutions. The instruments used to collect information by the European Commission from

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	voluntary basis, within a set time limit, specific information to the Commission on the production capacities and possible existing stocks of crisis-relevant goods and components thereof in Union production facilities and third country facilities which it operates, contracts or purchases supply from, as well as information on any relevant supply chain disruptions within a given deadline. Any sharing and exchange of information shall be proportionate and manipulated taking into account the commercial sensitivity of its content.	economic operators under the threat of a financial sanction should be considered as undermining the principle of subsidiarity. Top-down management of economic processes can lead to an uneven business environment and even greater shortages of goods and services. And imposing penalties on economic operators during the crisis can only worsen their competitiveness and financial situation, which will not contribute to increasing their production capacity. BE (Comments): Art. 24 gives the Commission the power to compel economic operators to provide information under penalty of a fine. The voluntary nature emphasised in §1 therefore seems artificial and contradicted by §2, since in the absence of a response from the operator, the latter may in any case be obliged to provide the information requested under penalty of a fine. Moreover, BE questions the consistency of this article with art.11 § 4, in regard to the organisation of information requests : under art.11 it is the competent authorities of the Member States that addresses requests for information to the relevant economic operators. Finally, as a reminder, BE asks for a definition of “representative organisation” to be added in

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		art.3. LV (Comments): Economic operators should provide information only about the stocks of the respective company, or the stocks purchased by it, and not information about the stocks of another company which the economic operator purchases supply from. FR (Comments): The disclosure of confidential information could infringe on trade secrets and thus affect the viability of companies. PT (Comments): • The link between paragraphs (1) and (2) seems unclear. Note that paragraph 1 states that information may be provided on a voluntary basis. Paragraph 2, on the other hand, states that the Commission will <u>require</u> the information by means of an implementing act if economic operators do not give good reasons why the information should not be provided. <u>It means that this information requests are mandatory.</u> So, this provision is considered critical, raising specific concerns on the proportionality of the obligatory measures foreseen here.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		It is crucial to bear in mind that in many Member States, the majority of companies are SMEs, to which <u>disproportionate burdens for SMEs should be avoided</u>, in order not to hamper their competitiveness. Furthermore, these requests for information (as well as priority orders in subsequent articles) to economic operators also need to be assessed as they may affect <u>economic freedoms unevenly in the market, seriously affecting competition and trade, not to mention the risks of direct or indirect exposure of trade secrets. The impact of these measures needs to be considered.</u> SI (Comments): The notion of voluntary in this article is highly contestable as it is not clear how a mechanism that can lead into financial repercussions could be voluntary. It is additionally not entirely clear how this would be a step by step approach where only its initial step has a hint of voluntary nature. There's therefore seeming inconsistency between paragraphs 1 and 2/4. MT (Comments): It is essential that the request for information remains on a voluntary basis in order not to create any unnecessary burden on the economic

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		operators. MT notes that requests to economic operators should come from the MS and not from CION.
		DK (Comments): See comment above. IT (Comments): The para 1 shall make clear, that representative organisation are never asked to supply information when the pooling of such information entails concerns in terms of compliance with antitrust rules
2. If the addressees do not transmit the information requested in accordance with paragraph 1 within the time-limit and do not provide a valid justification for not doing so, the Commission may, by means of an implementing act, require that they transmit the information, indicating in the implementing act why it is proportionate and necessary to do so, specifying the crisis-relevant goods and services and addressees concerned by the information request, and the information that is sought, providing where necessary a template with the questions that may be addressed to the economic operators.	AT (Drafting): 2. If the addressees do not transmit the information requested in accordance with paragraph 1 within the time-limit and do not provide a valid justification for not doing so, the Commission may, by means of an implementing act, require that they transmit the information, indicating in the implementing act why it is proportionate and necessary to do so, specifying the crisis-relevant goods and services and addressees concerned by the information request, and the information that is sought, providing where necessary a template with the questions that may be addressed to the economic operators.	AT (Comments): Compulsory request for information cannot be supported. In this context, it should be borne in mind that in many Member States, the majority of companies are SMEs. Disproportionate administrative burden for SMEs must be avoided in order not to impair their competitiveness. Aggravating framework conditions for EU companies must be avoided, especially in times of crisis. CZ (Comments): Should the Article eventually stay, it is important to clarify the perceived discrepancy between the provisions in paragraphs 1 and 2

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	CZ (Drafting): <i>Deleted</i> IE (Drafting): 2. — If the addressees do not transmit the information requested in accordance with paragraph 1 within the time limit and do not provide a valid justification for not doing so, the Commission may, by means of an implementing act, require that they transmit the information, indicating in the implementing act why it is proportionate and necessary to do so, specifying the crisis-relevant goods and services and addressees concerned by the information request, and the information that is sought, providing where necessary a template with the questions that may be addressed to the economic operators. NL (Drafting): If the addressees do not transmit the information requested in accordance with paragraph 1 within the time limit and do not provide a valid justification for not doing so, the Commission may, by means of an implementing act, require that they transmit the information, indicating in the implementing act why it is proportionate and necessary to do so, specifying the crisis-relevant goods and services and addressees concerned by	regarding the voluntary / obligatory nature of the provision of the information requested. BE (Comments): It is imperative to keep the administrative burden on SMEs to a minimum and therefore BE asks the Commission to consider an exemption for micro-enterprises. Connected to this, what does the Commission consider a valid justification for refusing to provide information? Also, when COM justifies the proportionality of its request for information, it will be necessary for it to demonstrate that a less restrictive measure for the economic operator would not have the same effect as a binding request for information. Moreover, representative organisations are also mentioned in § 1, so they should also be added here. LU (Comments): <i>This article raises concerns in regards to proportionality, administrative burden, trade secrets and articulation with the Data Act.</i> <i>We see the value and benefits of such an exchange of information and ongoing dialogue with stakeholders, but consider this article to be</i>

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	the information request, and the information that is sought, providing where necessary a template with the questions that may be addressed to the economic operators. PL (Drafting): 2. — If the addressees do not transmit the information requested in accordance with paragraph 1 within the time limit and do not provide a valid justification for not doing so, the Commission may, by means of an implementing act, require that they transmit the information, indicating in the implementing act why it is proportionate and necessary to do so, specifying the crisis relevant goods and services and addressees concerned by the information request, and the information that is sought, providing where necessary a template with the questions that may be addressed to the economic operators. BE (Drafting): 2. If the addressees do not transmit the information requested in accordance with paragraph 1 within the time-limit and do not provide a valid justification for not doing so, the Commission may, by means of an implementing act, require that they transmit the information, indicating in the implementing act why it is proportionate and necessary to do so, specifying	<i>too heavy, intrusive and far reaching.</i> <i>We support FI's proposal to delete this article and to include a voluntary continuous exchange of information in the tasks of the advisory group (Article 4).</i> IT (Comments): We have serious concerns about obligations for economic operators and representative organisations unless the role of the Council and Advisory group are considerably scaled up In general, we would prefer solutions based on voluntary cooperation within the Advisory board. The para should make clear that not having the information is a valid justification for not providing it. LV (Comments): While the proposal consists obligation to submit information which is not at the company's disposal and it would create additional administrative burdens to get such information (for example, production capacities and possible existing stocks of crisis-relevant goods and components) in third country facilities, Latvia prefer that information requests are provided on voluntary basis.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	the crisis-relevant goods and services and addressees concerned by the information request, and the information that is sought, providing where necessary a template with the questions that may be addressed to the economic operators and representative organisations. This paragraph shall not apply to micro-entreprises. EE (Drafting): Delete LU (Drafting): Article 24 Information requests to economic operators LV (Drafting): 2. — If the addressees do not transmit the information requested in accordance with paragraph 1 within the time limit and do not provide a valid justification for not doing so, the Commission may, by means of an implementing act, require that they transmit the information, indicating in the implementing act why it is proportionate and necessary to do so, specifying the crisis-relevant goods and services and addressees concerned by the information request, and the information that is sought, providing where necessary a template with the questions that may be addressed to the	FR (Comments): Member States should keep the right not to provide information for economic security reasons (information sharing exposes economic vulnerabilities, trade secrets,...) PT (Comments): • The link between paragraphs (1) and (2) seems unclear. Note that paragraph 1 states that information may be provided on a voluntary basis. Paragraph 2, on the other hand, states that the Commission will <u>require</u> the information by means of an implementing act if economic operators do not give good reasons why the information should not be provided. <u>It means that this information requests are mandatory.</u> So, this provision is considered critical, raising specific concerns on the proportionality of the obligatory measures foreseen here. • It is crucial to bear in mind that in many Member States, the majority of companies are SMEs, to which <u>disproportionate burdens for SMEs should be avoided</u>, in order not to hamper their competitiveness. Furthermore, these requests for information (as

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	economic operators. FR (Drafting): 2. If the addressees do not transmit the information requested in accordance with paragraph 1 within the time-limit and do not provide a valid justification for not doing so, the Commission may, by means of an implementing act, require that they encourage them to transmit the information, indicating in the implementing act why it is proportionate and necessary to do so, specifying the crisis-relevant goods and services and addressees concerned by the information request, and the information that is sought, providing where necessary a template with the questions that may be addressed to the economic operators.	well as priority orders in subsequent articles) to economic operators also need to be assessed as they may affect <u>economic freedoms unevenly in the market, seriously affecting competition and trade, not to mention the risks of direct or indirect exposure of trade secrets. The impact of these measures needs to be considered.</u> SI (Comments): The definition of valid justification is crucial and should be added to the proposal. MT (Comments): Article 24(2) is in contradiction with Article 24(1). Sub-article (1) states that information would be transmitted on a voluntary basis, however, in sub-article (2) the proposal states that should “<i>If the addressees do not transmit the information requested in accordance with paragraph 1 within the time-limit and do not provide a valid justification for not doing so, the Commission may, by means of an implementing act, require that they transmit the information</i>”. MT notes that there is nothing voluntary about the submission of information when at the same time we talk of having to provide justifications for not providing the information, or having to seek recourse from of the court, and incurring penalties and fines referred to in para 2 onwards...paragraph 1 is therefore incoherent

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		with what follows. MT therefore proposes the deletion of this paragraph.
		DK (Comments): From a preliminary principled and practical point of view, we are yet to be convinced that the measures introduced in Article 24, does not duplicate the ones in the Data Act. Whilst we are still analyzing the Commission's argument for why it isn't permissible to utilize Data Act, our concerns are broadly based on the risk that economic operator could be required to make data available to both a public authority and the Commission. Furthermore, such likelihood runs a significant risk of creating unnecessary administrative burdens on economic operators, during times of Single Market crisis, where it is very likely that economic operators are already under tremendous pressure. Additionally, it could create unnecessary legal uncertainty, which should be diminished, when considering that economic operators could be fined.
3. The information requests referred to in paragraph 1 may concern the following:	CZ (Drafting): <i>Deleted</i> IE (Drafting): 3. The information requests referred to in	PT (Comments): The same comments as above. MT (Comments): The burden of answering information requests

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	paragraph 1 may concern the following: PL (Drafting): 3. — The information requests referred to in paragraph 1 may concern the following: EE (Drafting): Delete LU (Drafting): 1. — Where there is a severe crisis-related shortages or an immediate threat thereof, the Commission may invite representative organisations or economic operators in crisis-relevant supply chains to transmit on a voluntary basis, within a set time limit, specific information to the Commission on the production capacities and possible existing stocks of crisis-relevant goods and components thereof in Union production facilities and third country facilities which it operates, contracts or purchases supply from, as well as information on any relevant supply chain disruptions within a given deadline.	coupled with sanctions in the case of breaches, makes these provisions under SMEI overburdensome for businesses.
	DK (Drafting): 1. Where there is a severe crisis-related shortages or an immediate threat thereof <u>acquiring specific information can contribute substantially to addressing the impacts of the</u>	DK (Comments): First, it is unclear why “severe crisis-related shortage or an immediate threat thereof” has been chosen as the condition for requesting information. For this measure to be possible to

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	<u>crisis</u>, the Commission may invite representative organisations or economic operators in crisis-relevant supply chains to transmit on a voluntary basis, within a set time limit, <u>the</u> specific information to the Commission on the production capacities and possible existing stocks of crisis-relevant goods and components thereof in Union production facilities and third country facilities which it operates, contracts or purchases supply from, as well as information on any relevant supply chain disruptions within a given deadline.	use, the emergency mode would be activated – hence, a crisis would already be present. Rather than focusing on to what extent a crisis is present, it might be more relevant to set out an actual threshold for when the instrument can be used. In this regard - and considering the potential mandatory part and thereby far-reaching nature of this instrument - we suggest to have a rather high threshold in the sense that only if acquiring the information would contribute substantially to addressing the impacts of the crisis, it will be possible to make information requests according to the article. The reason for this is also that article 11 already provides for general monitoring exercise. Second, we are questioning the proportionality in and practicalities of possibly requesting representative organizations to provide company specific information. These organizations do most likely not possess such information and would therefore – in anyway - be reliant on the economic operators sharing the information. We therefore find it somewhat problematic to legally oblige an organization to share information that they neither possess nor own – especially considering that they might get fines if they do not meet the request. Third, considering that paragraph 3 sets out what can be the content of the information

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		requests, we suggest deleting the somewhat detailed description here.
(a) targeted information to the Commission in relation to the production capacities and possible existing stocks of the crisis-relevant goods and components thereof in production facilities located in the Union and production facilities located in a third country which the organisation or the operator referred to in paragraph 1 operates, contracts or purchases supply from, while fully respecting trade and business secrets and requiring them to transmit to the Commission a schedule of the expected production output for the following 3 months for production facility located in the Union as well as any relevant supply chain disruptions;	CZ (Drafting): <i>Deleted</i> IE (Drafting): (a) — targeted information to the Commission in relation to the production capacities and possible existing stocks of the crisis-relevant goods and components thereof in production facilities located in the Union and production facilities located in a third country which the organisation or the operator referred to in paragraph 1 operates, contracts or purchases supply from, while fully respecting trade and business secrets and requiring them to transmit to the Commission a schedule of the expected production output for the following 3 months for production facility located in the Union as well as any relevant supply chain disruptions; PL (Drafting): (a) — targeted information to the Commission in relation to the production capacities and possible existing stocks of the crisis-relevant goods and components thereof in production facilities located in the Union and production facilities located in a third country which the organisation or the operator referred to in	BE (Comments): The last part of subpara. (a) (“<i>as well as any relevant supply chain disruption</i>”) covers the same information specified in subpara. (b) and should therefore be left out as too vague a catch-all provision. LV (Comments): Article 24 paragraph 3 subparagraph (a) duplicates the information provided in Article 24 paragraph 1 therefore it should include reference to paragraph 1.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	paragraph 1 operates, contracts or purchases supply from, while fully respecting trade and business secrets and requiring them to transmit to the Commission a schedule of the expected production output for the following 3 months for production facility located in the Union as well as any relevant supply chain disruptions; BE (Drafting): (a) targeted information to the Commission in relation to the production capacities and possible existing stocks of the crisis-relevant goods and components thereof in production facilities located in the Union and production facilities located in a third country which the organisation or the operator referred to in paragraph 1 operates, contracts or purchases supply from, while fully respecting trade and business secrets and requiring them to transmit to the Commission a schedule of the expected production output for the following 3 months for production facility located in the Union; EE (Drafting): Delete LU (Drafting): 2. — If the addressees do not transmit the information requested in accordance with paragraph 1 within the time limit and do not	

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	provide a valid justification for not doing so, the Commission may, by means of an implementing act, require that they transmit the information, indicating in the implementing act why it is proportionate and necessary to do so, specifying the crisis-relevant goods and services and addressees concerned by the information request, and the information that is sought, providing where necessary a template with the questions that may be addressed to the economic operators. LV (Drafting): (a) targeted information mentioned in paragraph 1 to the Commission in relation to the production capacities and possible existing stocks of the crisis-relevant goods and components thereof in production facilities located in the Union and production facilities located in a third country which the organisation or the operator referred to in paragraph 1 operates, contracts or purchases supply from, while fully respecting trade and business secrets and requiring them to transmit to the Commission a schedule of the expected production output for the following 3 months for production facility located in the Union as well as any relevant supply chain disruptions;	
	DK (Drafting):	DK (Comments):

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	2. If the addressees do not transmit the information requested in accordance with paragraph 1 within the time-limit, <u>the Commission shall give the addressees the opportunity to</u> and do not provide a valid justification for not doing so. <u>The Commission shall accept the justification as valid when:</u> <u>(a) the addressee is unable to provide the specific information due to not possessing the information or not being able to produce the information;</u> <u>(b) providing the information would place an unreasonable economic burden and entail particular hardship for the addressee.</u> <u>3a. Where no valid justification is provided,</u> the Commission may, by means of an implementing act, require that they transmit the information, indicating in the implementing act why it is proportionate and necessary to do so, specifying the crisis-relevant goods and services and addressees concerned by the information request, and the information that is sought, providing where necessary a template with the questions that may be addressed to the economic operators.	Further clarity is needed with regards to how the addressees can provide a justification, including especially on what basis the justification will be evaluated. Drafting suggestions seeks to clarify this by providing certainty on when an addressee can expect their justification to be valid. Following from these drafting suggestions, it is proposed to split the paragraph in two, thereby adding a new paragraph 3a. Regarding the content of this paragraph – now called 3a – we wonder why a template should only be provided at this stage, and not when the initial invitation for providing information is made? Finally, we are considering the proposal that the addressees to be concerned shall be listed in the implementing act. Taking into account that the implementing act is subject to discussion and potentially a vote among Member States, we wonder whether this is the right approach since there might be conflicts of interests in the event that fx many of the addressees are headquartered in one particular Member States.
(b) other information necessary for assessing the nature or magnitude of a given	CZ (Drafting): <i>Deleted</i>	AT (Comments): Could the Commission give examples for “other

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
supply chain disruption or shortage.	IE (Drafting): (b) — other information necessary for assessing the nature or magnitude of a given supply chain disruption or shortage. PL (Drafting): (b) — other information necessary for assessing the nature or magnitude of a given supply chain disruption or shortage. EE (Drafting): Delete LU (Drafting): 3. — The information requests referred to in paragraph 1 may concern the following:	<i>information necessary”?</i> PT (Comments): “Other information” in the information requests is too vague. It needs to be clarified.
	DK (Drafting): 3. The information requests referred to in paragraph 1 may concern the following, <u>while fully respecting trade and business secrets:</u>	DK (Comments): The formulation “while respecting trade and business secrets” was included in point a below. However, we find it of general relevance across any information requests, wherefore we suggest to include it here.
4. Following the activation of the mandatory information requests to economic operators by means of an implementing act, the Commission shall address a formal decision to each of those representative organisations or economic operators in crisis-relevant supply	AT (Drafting): 4. — Following the activation of the mandatory information requests to economic operators by means of an implementing act, the Commission shall address a formal decision to	AT (Comments): See above. BE (Comments): The last sentence is basically a repetition of the

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
chains that have been identified in the implementing act, requesting them to provide the information specified in the implementing act. The Commission shall rely, where possible, on the relevant and available contact lists of the economic operators active in the selected supply chains of crisis-relevant goods and services, compiled by the Member States. The Commission may obtain the necessary information on the relevant economic operators from the Member States.	each of those representative organisations or economic operators in crisis-relevant supply chains that have been identified in the implementing act, requesting them to provide the information specified in the implementing act. The Commission shall rely, where possible, on the relevant and available contact lists of the economic operators active in the selected supply chains of crisis-relevant goods and services, compiled by the Member States. The Commission may obtain the necessary information on the relevant economic operators from the Member States. CZ (Drafting): <i>Deleted</i> IE (Drafting): 4. — Following the activation of the mandatory information requests to economic operators by means of an implementing act, the Commission shall address a formal decision to each of those representative organisations or economic operators in crisis-relevant supply chains that have been identified in the implementing act, requesting them to provide the information specified in the implementing act. The Commission shall rely, where possible, on the relevant and available contact lists of the economic operators active in the selected supply	previous sentence and therefore redundant. LV (Comments): The last sentence of Article 24 paragraph 4 duplicates information mentioned in preceding sentence. FR (Comments): Member States should keep the right not to provide information for economic security reasons (information sharing exposes economic vulnerabilities, trade secrets,...) Shouldn't the role of the Advisory Group, the Member States and the Liaison Office in collecting information be clarified/strengthened? SI (Comments): On the basis of the arguments heard in the WP meeting we believe that the representative organisations should not be referenced in this context. ES (Comments): <i>Considering this article has implications for public procurement, there are some doubts as to how these reporting obligations are to be organised. We consider that the best way to put into practice the provision of available contact</i>

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	chains of crisis-relevant goods and services, compiled by the Member States. The Commission may obtain the necessary information on the relevant economic operators from the Member States. NL (Drafting): Following the activation of the mandatory information requests to economic operators by means of an implementing act, the Commission shall address a formal decision to each of those representative organisations or economic operators in crisis-relevant supply chains that have been identified in the implementing act, requesting them to provide the information specified in the implementing act. The Commission shall rely, where possible, on the relevant and available contact lists of the economic operators active in the selected supply chains of crisis-relevant goods and services, compiled by the Member States. The Commission may obtain the necessary information on the relevant economic operators from the Member States. PL (Drafting): 4.—— Following the activation of the mandatory information requests to economic operators by means of an implementing act, the Commission shall address a formal decision to	<i>lists would be for the Commission to articulate some kind of IT application. This would allow the transmission of information in a decentralised way by the central and regional departments involved, specially in countries extremely decentralised as is the case of Spain.</i>

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	each of those representative organisations or economic operators in crisis-relevant supply chains that have been identified in the implementing act, requesting them to provide the information specified in the implementing act. The Commission shall rely, where possible, on the relevant and available contact lists of the economic operators active in the selected supply chains of crisis-relevant goods and services, compiled by the Member States. The Commission may obtain the necessary information on the relevant economic operators from the Member States. BE (Drafting): 4. Following the activation of the mandatory information requests to economic operators by means of an implementing act, the Commission shall address a formal decision to each of those representative organisations or economic operators in crisis-relevant supply chains that have been identified in the implementing act, requesting them to provide the information specified in the implementing act. The Commission shall rely, where possible, on the relevant and available contact lists of the economic operators active in the selected supply chains of crisis-relevant goods and services, compiled by the Member States.	

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	EE (Drafting): Delete LU (Drafting): (a) — targeted information to the Commission in relation to the production capacities and possible existing stocks of the crisis-relevant goods and components thereof in production facilities located in the Union and production facilities located in a third country which the organisation or the operator referred to in paragraph 1 operates, contracts or purchases supply from, while fully respecting trade and business secrets and requiring them to transmit to the Commission a schedule of the expected production output for the following 3 months for production facility located in the Union as well as any relevant supply chain disruptions; LV (Drafting): 4. Following the activation of the mandatory information requests to economic operators by means of an implementing act, the Commission shall address a formal decision to each of those representative organisations or economic operators in crisis-relevant supply chains that have been identified in the implementing act, requesting them to provide the information specified in the implementing	

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	act. The Commission shall rely, where possible, on the relevant and available contact lists of the economic operators active in the selected supply chains of crisis-relevant goods and services, compiled by the Member States. The Commission may obtain the necessary information on the relevant economic operators from the Member States. FR (Drafting): 4. Following the activation of the mandatory information requests to economic operators by means of an implementing act, the Commission shall address non-binding guidelines a formal decision to each of those representative organisations or economic operators in crisis-relevant supply chains that have been identified in the implementing act, requesting encouraging them to provide the information requested specified in the implementing act. The Commission shall rely, where possible, on the relevant and available contact lists of the economic operators active in the selected supply chains of crisis-relevant goods and services, compiled by the Member States. The Commission may obtain the necessary information on the relevant economic operators from the Member States. SI (Drafting):	

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	4. Following the activation of the mandatory information requests to economic operators by means of an implementing act, the Commission shall address a formal decision to each of those representative organisations or economic operators in crisis-relevant supply chains that have been identified in the implementing act, requesting them to provide the information specified in the implementing act. The Commission shall rely, where possible, on the relevant and available contact lists of the economic operators active in the selected supply chains of crisis-relevant goods and services, compiled by the Member States. The Commission may obtain the necessary information on the relevant economic operators from the Member States.	
	DK (Drafting): (a) targeted information to the Commission in relation to the production capacities and possible existing stocks of the crisis-relevant goods and <u>services specified according to paragraph 2[/3a]</u> components thereof in production facilities located in the Union and production facilities located in a third country which the organisation or the operator referred to in paragraph 1 operates <u>or</u> contracts, or purchases supply from, while fully respecting	DK (Comments): Suggestion to generally simplify the paragraph in order to provide more clarity. Furthermore, an explicit link is made to the specification of the relevant crisis-relevant goods and services made according to paragraph 2[/3a]. As highlighted above, the formulation “while respecting trade and business secrets” is suggested moved from this paragraph to paragraph 3.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	trade and business secrets and requiring them to transmit to the Commission a schedule of the expected production output for the following 3 months for production facility located in the Union as well as any relevant supply chain disruptions;	Regarding the final part of the paragraph, it seems at the same time too specific considering that informations requests will vary in practice (“transmit a schedule of expected output for 3 months”) and too general considering that a clearly defined scope is necessary considering the potential far-reaching nature of the instrument (“as well as any relevant supply chain disruptions”).
5. The Commission Decisions containing individual information requests shall contain a reference to the implementing act referred to in paragraph 2 on which they are based and to the situations of severe crisis-related shortages or an immediate threat thereof which has given rise to them. Any information request shall be duly justified and proportionate in terms of the volume, nature and granularity of the data, as well as the frequency of access to the data requested, and shall be necessary for the management of the emergency or for compiling relevant official statistics. A request shall set out a reasonable time limit within which the information is to be provided. It shall take into account the effort required to collect and make the data available by the economic operator or representative organisation. The formal decision shall also contain safeguards for protection of data in accordance with Article 39 of this	AT (Drafting): 5. The Commission Decisions containing individual information requests shall contain a reference to the implementing act referred to in paragraph 2 on which they are based and to the situations of severe crisis-related shortages or an immediate threat thereof which has given rise to them. Any information request shall be duly justified and proportionate in terms of the volume, nature and granularity of the data, as well as the frequency of access to the data requested, and shall be necessary for the management of the emergency or for compiling relevant official statistics. A request shall set out a reasonable time limit within which the information is to be provided. It shall take into account the effort required to collect and make the data available by the economic operator or representative organisation. The formal decision	AT (Comments): See above. BE (Comments): When COM justifies the proportionality of its request for information, it will be necessary for it to demonstrate that a less restrictive measure for the economic operator would not have the same effect as a binding request for information. Moreover, in accordance with Art 25 § 1, the information request should clearly state for what purpose the information is requested and that it will be used only for that purpose. LV (Comments): Article 24 paragraph 5 should set out time frame within which the economic operators should provide information on information requests. There seems to be a technical error in the last

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
Regulation, safeguards for non-disclosure of sensitive business information contained in the reply in accordance with Article 25, and information on the possibility of contesting it before the Court of Justice of the European Union in line with relevant Union law and the fines provided for in Article 28 for failure to comply and the timeline for a reply.	shall also contain safeguards for protection of data in accordance with Article 39 of this Regulation, safeguards for non-disclosure of sensitive business information contained in the reply in accordance with Article 25, and information on the possibility of contesting it before the Court of Justice of the European Union in line with relevant Union law and the fines provided for in Article 28 for failure to comply and the timeline for a reply. CZ (Drafting): <i>Deleted</i> IE (Drafting): 5. — The Commission Decisions containing individual information requests shall contain a reference to the implementing act referred to in paragraph 2 on which they are based and to the situations of severe crisis-related shortages or an immediate threat thereof which has given rise to them. Any information request shall be duly justified and proportionate in terms of the volume, nature and granularity of the data, as well as the frequency of access to the data requested, and shall be necessary for the management of the emergency or for compiling relevant official statistics. A request shall set out a reasonable time limit within which the information is to be provided. It shall take into	sentence regarding reference to Article 39, because Article 39 doesn't provide personal data protection. FR (Comments): Removal of the possibility for the Commission to require economic operators, through an implementing act, to provide information. What form would such a decision take? PT (Comments): The information requests are also subject to a fine (also in article 28°). For the reasons stated before, we question here this imposition of fines to economic operators. ES (Comments): <i>Regarding the collection of statistical data, it remains unclear as to whether this goal is intended to be done through official EU statistics or whether it will be information to be provided from Member States' sources, which will have to collect and send for the purpose of this paragraph.</i>

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	account the effort required to collect and make the data available by the economic operator or representative organisation. The formal decision shall also contain safeguards for protection of data in accordance with Article 39 of this Regulation, safeguards for non-disclosure of sensitive business information contained in the reply in accordance with Article 25, and information on the possibility of contesting it before the Court of Justice of the European Union in line with relevant Union law and the fines provided for in Article 28 for failure to comply and the timeline for a reply. NL (Drafting): The Commission Decisions containing individual information requests shall contain a reference to the Commission implementing act referred to in paragraph 2 1 on which they are based and shall refer to the situations of severe crisis-related shortages or an immediate threat thereof which has given rise to them. Any information request shall be duly justified and proportionate in terms of the volume, nature and granularity of the data, as well as the frequency of access to the data requested, and shall be necessary for the management of the emergency or for compiling relevant official statistics. A request shall set out a reasonable time limit within which the information is to be provided.	

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	It shall take into account the effort required to collect and make the data available by the economic operator or representative organisation. The Commission implementing act formal decision shall also contain safeguards for protection of data in accordance with Article 39 of this Regulation, safeguards for non-disclosure of sensitive business information contained in the reply in accordance with Article 25, and information on the possibility of contesting it before the Court of Justice of the European Union in line with relevant Union law and the fines provided for in Article 28 for failure to comply and the timeline for a reply. PL (Drafting): 5. — The Commission Decisions containing individual information requests shall contain a reference to the implementing act referred to in paragraph 2 on which they are based and to the situations of severe crisis-related shortages or an immediate threat thereof which has given rise to them. Any information request shall be duly justified and proportionate in terms of the volume, nature and granularity of the data, as well as the frequency of access to the data requested, and shall be necessary for the management of the emergency or for compiling relevant official statistics. A request shall set out a reasonable time limit within which the	

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	information is to be provided. It shall take into account the effort required to collect and make the data available by the economic operator or representative organisation. The formal decision shall also contain safeguards for protection of data in accordance with Article 39 of this Regulation, safeguards for non-disclosure of sensitive business information contained in the reply in accordance with Article 25, and information on the possibility of contesting it before the Court of Justice of the European Union in line with relevant Union law and the fines provided for in Article 28 for failure to comply and the timeline for a reply. EE (Drafting): Delete LU (Drafting): (b) — other information necessary for assessing the nature or magnitude of a given supply chain disruption or shortage. LV (Drafting): 5. The Commission Decisions containing individual information requests shall contain a reference to the implementing act referred to in paragraph 2 on which they are based and to the situations of severe crisis-related shortages or an immediate threat thereof which has given rise to	

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	them. Any information request shall be duly justified and proportionate in terms of the volume, nature and granularity of the data, as well as the frequency of access to the data requested, and shall be necessary for the management of the emergency or for compiling relevant official statistics. A request shall set out a reasonable time limit within which the information is to be provided. It shall take into account the effort required to collect and make the data available by the economic operator or representative organisation. The formal decision shall also contain safeguards for protection of data in accordance with Article 39 40 of this Regulation, safeguards for non-disclosure of sensitive business information contained in the reply in accordance with Article 25, and information on the possibility of contesting it before the Court of Justice of the European Union in line with relevant Union law and the fines provided for in Article 28 for failure to comply and the timeline for a reply. FR (Drafting): 5. The Commission Decisions containing individual information requests shall contain a reference to the implementing act referred to in paragraph 2 on which they are based and to the situations of severe crisis-related shortages or an immediate threat thereof which has given rise to	

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	them. Any information request shall be duly justified and proportionate in terms of the volume, nature and granularity of the data, as well as the frequency of access to the data requested, and shall be necessary for the management of the emergency or for compiling relevant official statistics. A request shall set out a reasonable time limit within which the information is encouraged to be provided. It shall take into account the effort required to collect and make the data available by the economic operator or representative organisation. The formal decision shall also contain safeguards for protection of data in accordance with Article 39 of this Regulation, safeguards for non-disclosure of sensitive business information contained in the reply in accordance with Article 25, and information on the possibility of contesting it before the Court of Justice of the European Union in line with relevant Union law and the fines provided for in Article 28 for failure to comply and the timeline for a reply.	
	DK (Drafting): (b) — other information necessary for assessing the nature or magnitude of a given supply chain disruption or shortage.	DK (Comments): Considering the potentially far-reaching nature of the instrument, we are not convinced of the need and merit of this rather wide definition of what information can be requested. Therefore a

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		suggestion to delete.
6. The owners of the economic operators or their representatives and, in the case of legal persons, companies or firms, or associations having no legal personality, the persons authorised to represent them by law or by their constitution may supply the information requested on behalf of the economic operator or the association of economic operators concerned. Each economic operator or association of economic operators shall provide the requested information on an individual basis in line with the Union rules on competition governing the exchange of information. Lawyers duly authorised to act may supply the information on behalf of their clients. The latter shall remain fully responsible if the information supplied is incomplete, incorrect or misleading.	CZ (Drafting): <i>Deleted</i> IE (Drafting): 6. The owners of the economic operators or their representatives and, in the case of legal persons, companies or firms, or associations having no legal personality, the persons authorised to represent them by law or by their constitution may supply the information requested on behalf of the economic operator or the association of economic operators concerned. Each economic operator or association of economic operators shall provide the requested information on an individual basis in line with the Union rules on competition governing the exchange of information. Lawyers duly authorised to act may supply the information on behalf of their clients. The latter shall remain fully responsible if the information supplied is incomplete, incorrect or misleading. NL (Drafting): The owners of the economic operators or their representatives and, in the case of legal persons, companies or firms, or associations having no legal personality, the persons authorised to represent them by law or by their constitution	LV (Comments): What information could be considered as incomplete, incorrect or misleading?

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	may supply the information requested on behalf of the economic operator or the association of economic operators concerned. Each economic operator or association of economic operators shall provide the requested information on an individual basis in line with the Union rules on competition governing the exchange of information. Lawyers duly authorised to act may supply the information on behalf of their clients. The latter shall remain fully responsible if the information supplied is incomplete, incorrect or misleading. PL (Drafting): 6. — The owners of the economic operators or their representatives and, in the case of legal persons, companies or firms, or associations having no legal personality, the persons authorised to represent them by law or by their constitution may supply the information requested on behalf of the economic operator or the association of economic operators concerned. Each economic operator or association of economic operators shall provide the requested information on an individual basis in line with the Union rules on competition governing the exchange of information. Lawyers duly authorised to act may supply the information on behalf of their clients. The latter shall remain fully responsible if the information	

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	supplied is incomplete, incorrect or misleading. EE (Drafting): Delete LU (Drafting): 4.—— Following the activation of the mandatory information requests to economic operators by means of an implementing act, the Commission shall address a formal decision to each of those representative organisations or economic operators in crisis-relevant supply chains that have been identified in the implementing act, requesting them to provide the information specified in the implementing act. The Commission shall rely, where possible, on the relevant and available contact lists of the economic operators active in the selected supply chains of crisis-relevant goods and services, compiled by the Member States. The Commission may obtain the necessary information on the relevant economic operators from the Member States.	
	DK (Drafting): <u>4a. The information requests shall not entail the supply of information the disclosure of which would be contrary to the Member States' national security interests.</u>	DK (Comments): We would like to see added that informations requests shall not entail the supply of information the disclosure of which would be contrary to the MS' national security interests.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
7. The Court of Justice of the European Union shall have unlimited jurisdiction to review decisions whereby the Commission has imposed a mandatory information request to an economic operator.	AT (Drafting): 7. The Court of Justice of the European Union shall have unlimited jurisdiction to review decisions whereby the Commission has imposed a mandatory information request to an economic operator. CZ (Drafting): <i>Deleted</i> IE (Drafting): 7. The Court of Justice of the European Union shall have unlimited jurisdiction to review decisions whereby the Commission has imposed a mandatory information request to an economic operator. NL (Drafting): The Court of Justice of the European Union shall have unlimited jurisdiction to review decisions whereby the Commission has imposed a mandatory information request to an economic operator. PL (Drafting): 7. The Court of Justice of the European Union shall have unlimited jurisdiction to review decisions whereby the Commission has imposed a mandatory information request to an	AT (Comments): See above.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	economie operator. EE (Drafting): Delete LU (Drafting): 5. — The Commission Decisions containing individual information requests shall contain a reference to the implementing act referred to in paragraph 2 on which they are based and to the situations of severe crisis related shortages or an immediate threat thereof which has given rise to them. Any information request shall be duly justified and proportionate in terms of the volume, nature and granularity of the data, as well as the frequency of access to the data requested, and shall be necessary for the management of the emergency or for compiling relevant official statistics. A request shall set out a reasonable time limit within which the information is to be provided. It shall take into account the effort required to collect and make the data available by the economic operator or representative organisation. The formal decision shall also contain safeguards for protection of data in accordance with Article 39 of this Regulation, safeguards for non-disclosure of sensitive business information contained in the reply in accordance with Article 25, and information on the possibility of contesting it	

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	before the Court of Justice of the European Union in line with relevant Union law and the fines provided for in Article 28 for failure to comply and the timeline for a reply.	
8. The implementing acts referred to in paragraph 2 shall be adopted in accordance with the committee procedure referred to in Article 42(2). On duly justified imperative grounds of urgency relating to the impacts of the crisis on the Single Market, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 42(3).	AT (Drafting): 8. — The implementing acts referred to in paragraph 2 shall be adopted in accordance with the committee procedure referred to in Article 42(2). On duly justified imperative grounds of urgency relating to the impacts of the crisis on the Single Market, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 42(3). CZ (Drafting): <i>Deleted</i> IE (Drafting): 8. — The implementing acts referred to in paragraph 2 shall be adopted in accordance with the committee procedure referred to in Article 42(2). On duly justified imperative grounds of urgency relating to the impacts of the crisis on the Single Market, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in	AT (Comments): See above. FR (Comments): Removal of the possibility for the Commission to require economic operators, through an implementing act, to provide information.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	Article 42(3): NL (Drafting): The implementing acts referred to in paragraph 2 shall be adopted in accordance with the committee procedure referred to in Article 42(2). On duly justified imperative grounds of urgency relating to the impacts of the crisis on the Single Market, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 42(3). PL (Drafting): 8. — The implementing acts referred to in paragraph 2 shall be adopted in accordance with the committee procedure referred to in Article 42(2). On duly justified imperative grounds of urgency relating to the impacts of the crisis on the Single Market, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 42(3). EE (Drafting): Delete LU (Drafting): 6. — The owners of the economic operators or their representatives and, in the case of legal	

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	persons, companies or firms, or associations having no legal personality, the persons authorised to represent them by law or by their constitution may supply the information requested on behalf of the economic operator or the association of economic operators concerned. Each economic operator or association of economic operators shall provide the requested information on an individual basis in line with the Union rules on competition governing the exchange of information. Lawyers duly authorised to act may supply the information on behalf of their clients. The latter shall remain fully responsible if the information supplied is incomplete, incorrect or misleading. FR (Drafting): 8. — The implementing acts referred to in paragraph 2 shall be adopted in accordance with the committee procedure referred to in Article 42(2). On duly justified imperative grounds of urgency relating to the impacts of the crisis on the Single Market, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 42(3).	
	DK (Drafting): 5. The Commission Decisions containing individual information requests shall contain a	DK (Comments): Suggestions are in line with drafting suggestions

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	<u>confirmation that acquiring the specific information can contribute substantially to addressing the impacts of the crisis according to paragraph 1 and</u> a reference to the implementing act referred to in paragraph 2 on which they are based and to the situations of severe crisis-related shortages or an immediate threat thereof which has given rise to them. Any information request shall be duly justified and proportionate in terms of the volume, nature and granularity of the data, as well as the frequency of access to the data requested, and shall be necessary for the management of the emergency or for compiling relevant official statistics. A request shall set out a reasonable time limit within which the information is to be provided. It shall take into account the effort required to collect and make the data available by the economic operator or representative organisation. The formal decision shall also contain safeguards for protection of data in accordance with Article 39 of this Regulation, safeguards for non-disclosure of sensitive business information contained in the reply in accordance with Article 25, and information on the possibility of contesting it before the Court of Justice of the European Union in line with relevant Union law and the fines provided for in Article 28 for failure to comply and the timeline	for paragraph 1. We do not find that obligatory information requests should be used only for the purpose of compiling statistics. Therefore, we suggest to remove “or for compiling relevant official statistics”.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	for a reply.	
Article 25 Confidentiality and processing of the information	LU (Drafting): 7. — The Court of Justice of the European Union shall have unlimited jurisdiction to review decisions whereby the Commission has imposed a mandatory information request to an economic operator.	DE (Comments): From Germany's point of view, effective regulation is needed in order to protect trade and business secrets. In this context, we welcome the fact that Article 24(5), sentence 5, and Article 25 of the draft limit the intended use of the data and impose non-disclosure obligations on the Commission. IE (Comments): We have concerns about the preservation of confidential business information. In smaller Member States, the small number of economic operators in a specific sector could make it easy to identify an individual business under this provision. We also have concerns about the security of economic operators' data, which is critical to their survival. Any information request must be duly justified and proportionate in terms of the volume, nature and granularity of the data, as well as the frequency of access to the data requested, and shall be necessary for the management of the emergency. BE (Comments): BE questions the procedures will be put in place to ensure confidentiality and respect for

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		business secrecy. Does the Commission envisage, for example, the use of encrypted e-mails? SK (Comments): We have some concerns about the implementation of this article (sharing of sensitive business information and administrative burden). PT (Comments): In concrete terms, what procedures are foreseen to ensure confidentiality and business secrecy?
	DK (Drafting): 6. The owners of the economic operators or their representatives and, in the case of legal persons, companies or firms, or associations having no legal personality, the persons authorised to represent them by law or by their constitution may supply the information requested on behalf of the economic operator or the association of economic operators concerned. Each economic operator or association of economic operators shall provide the requested information on an individual basis in line with the Union rules on competition governing the exchange of information. Lawyers duly authorised to act may supply the information on behalf of their clients. The latter	DK (Comments): Amendment in line with drafting suggestion in paragraph 1 of excluding the possibility that representative organisations can be exposed to information requests.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	shall remain fully responsible if the information supplied is incomplete, incorrect or misleading.	
1. Information received as a result of the application of this Regulation shall be used only for the purpose for which it was requested.	LU (Drafting): 8. — The implementing acts referred to in paragraph 2 shall be adopted in accordance with the committee procedure referred to in Article 42(2). On duly justified imperative grounds of urgency relating to the impacts of the crisis on the Single Market, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 42(3).	CZ (Comments): Does the wording of this paragraph mean that every potential use of aggregated data will have to be specifically mentioned in the request for information? If so, we would suggest to streamline the text in order to allow for fulfilling of paragraph 4 of this Article. BE (Comments): If the information can only be used for the purpose for which it is requested, then the request for information (also via Art 11 § 4 or Art 24) should also state for what purpose the information is requested. (see comment on Art 24 § 5) LT (Comments): Each decision mentioned in the Regulation should clearly state <u>a purpose</u> for which information gathered is going to be used. So far this aspect is not clear from the text itself (it was only mentioned in the COM' ppt).
2. Member States and the Commission shall ensure the protection of trade and business secrets and other sensitive and confidential	IT (Drafting): Member States and the Commission shall ensure	FI (Comments): Finland considers information-secure

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
information acquired and generated in application of this Regulation, including recommendations and measures to be taken, in accordance with Union and the respective national law.	the protection of trade and business secrets and other sensitive and confidential information acquired and generated in application of this Regulation, including recommendations and measures to be taken, in accordance with Union and the respective national law. For the protection of data and sensitive information the Commission adopts all the most advanced digital, technological and physical systems available.	transmittance, processing and storage of enterprises' data must be ensured. Finland sees it important to take into account national latitude in the processing of confidential information in line with national legislation. IE (Comments): The term business secrets does not have a legal basis and we ask for it to be removed and a clear reference to the Trade Secrets Directive be inserted into Article 25. IT (Comments): Although the proposal recalls the general principles of confidentiality of sensitive information and the exchange of information on an individual basis in compliance with competition rules, the proposal does not go into detail on how the authorities can ensure these protections. Furthermore, a reference to responsibility and compensation for damages should be added
3. Member States and the Commission shall ensure that classified information provided or exchanged under this Regulation is not downgraded or declassified without the prior		

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
written consent of the originator.		
4. The Commission may present to the advisory group referred to in Article 4 aggregate information based on any information collected pursuant to Article 24.	BE (Drafting): 4. The Commission may present to the steering committee referred to in Article 4 aggregate information based on any information collected pursuant to Article 24. LU (Drafting): 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 recommendations and measures to be taken, in accordance with Union and the respective national law, <u>especially with Directive 2016/943.</u> IT (Drafting): 4. The Commission may shall present to the advisory group referred to in Article 4 aggregate information based on any information collected pursuant to Article 24 except where it might entail the disclosure of industrial secrets and other confidential information LV (Drafting):	BE (Comments): In particular, BE underlines the fact that the use of aggregated information is not always sufficient to respect the anonymity of the economic operator concerned. For example, in Belgium, it is obvious that if one is talking about a major producer of semiconductors, it is IMEC that is targeted. IT (Comments): The transmission of the aggregate information to the Advisory Group should be a duty for the Commission except in case it might entail the disclosure of trade secrets. We notice that the draft regulation does not make any reference to the Commission sharing its information with the relevant Member State. The Member State is probably interested in the same information, but it must be avoided that the economic operators receive a double request, from the Commission and the Member State. SI (Comments): As we believe that the Member States and the Advisory Group should have a stronger role in

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	4. The Commission may shall present to the advisory group referred to in Article 4 aggregate information based on any information collected pursuant to Article 24. SI (Drafting): 4. The Commission shall present to the advisory group referred to in Article 4 aggregate information based on any information collected pursuant to Article 24 or provide valid argumentation why that is not possible.	the decision-making process, we think that the Commission should provide the Advisory Group with the mentioned information or provide valid arguments why that is not possible. The Advisory Group needs to be properly informed to be able to provide valuable advice to the Commission.
5. The Commission shall not share any information in a way that can lead to the identification of an individual operator when the sharing of the information results in potential commercial or reputational damage to this operator or in divulging any trade secrets.		
Article 26 Targeted amendments to harmonised product legislation	LU (Drafting): 4. The Commission may present to the advisory group referred to in Article 4 aggregate information based on any information collected pursuant to Article 24.	DE (Comments): We ask the Commission to be more specific about the need to intervene in existing European quality infrastructure procedures (Article 26). The coronavirus crisis has shown that national and European standardisation organisations in particular were sometimes able to provide specifications for masks or even for the

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		certification of ventilators free of charge within a few days. New specifications were also able to developed very quickly, which for example meant that new uniform European specifications for community masks were ready after just 14 days. Against this background, Germany requests further details on the need for new procedures in the event of a crisis. CZ (Comments): CZ is still scrutinising this Article, in the context of the whole proposal and especially in the context of the omnibus proposals. We would like to reserve the right to comment on this Article once the discussion in the respective Working Party on Omnibuses is over. FI (Comments): FI understands that Omnibus Directive 2022/462 would require a lot of national implementation because it covers 14 directives. Has the Commission considered giving a Regulation instead of Directive? A Regulation would be much more convenient for Member States and would make the whole process much faster. For example in article 1, the addition of article 17c and its re-quirements are long and detailed. Still, they need to be implemented in national legislation if they are

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		given in Directive. With a Directive, implementation requires time. Also, implementation might be problematic with legislation which actually is not intended to enter into force at the time, if ever. 2) In Omnibus Directive 2022/462, the Commission is empowered to adopt implementing acts establishing common specifications. If adopted at a later stage as envisioned, do these implementing acts need to be implemented in national legislation as well? This would take time and not be very compatible with the emergency idea. IE (Comments): More clarification is required on this Article and we look forward to further engagement in both working parties. The safety of products cannot be compromised. We would also like further clarification on why these instruments were chosen and further detailed examples of how the Commission foresees their implementation in a time of crisis. It would also appear to put an obligation on the manufacturer to ensure the products do not enter another Member State. NL (Comments): As indicated during the working party on 3 February 2023, as the substance of the omnibus

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		proposals has not yet been discussed, we propose to discuss Article 26 and provide written comments at a later stage. BE (Comments): It will be necessary to ensure the quality of product approval in times of crisis within the framework of the accelerated procedures provided for in this article (cf. the problems of conformity of masks and medical equipment during the Covid pandemic). EE (Comments): SCRES as it requires prior substantial discussions in the Council on the two omnibus files SK (Comments): We are still analysing this Article in the context of the Omnibus proposals that will be discussed at the WP on technical harmonisation. However, we are provisionally questioning the application of a different approach to different categories of products that could be considered as crises relevant goods PT (Comments): Concerns here relate to the need to ensure the quality of product approval in this framework of emergency procedures for the conformity assessment.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		LT (Comments): We are looking forward for a dicussion on the Omnibus in the Tech Harm WP to make concrete suggestions/comments. For this reason – scrutiny regarding Art 26. In essence, we do agree with an idea to have simplified procedures which would allow putting goods on the market faster, without lowering safety requirements. However at the same time we see a need for a text to be further elaborated, e.g. by better explaining the steps to be done after the emergency mode is deactivated. In addition, we find it difficult to accept that goods, regarding which simplified procedure was applied, will not be able leave the MS’ territory; this aspect undermines the basic principle of free movement.
When the Single Market emergency mode has been activated by means of a Council implementing act adopted pursuant to Article 14, and there is a shortage of crisis relevant goods the Commission may activate by means of implementing acts the emergency procedures included in the Union legal frameworks amended by [Regulation of the European	PL (Drafting): When the Single Market emergency mode has been activated by means of a Council implementing act adopted pursuant to Article 14, and there is a shortage of crisis relevant goods the Commission may activate by means of implementing acts the emergency procedures included in the Union legal frameworks	DE (Comments): The (suspected) typos/editorial mistakes at the end of the section in square brackets should be corrected. AT (Comments): We would like to point out that with the end of

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
Parliament and of the Council amending Regulation (EU) 2016/424, Regulation (EU) 2016/425, Regulation (EU) 2016/426, Regulation (EU) 2019/1009 and Regulation (EU) No 305/2011 and introducing emergency procedures for the conformity assessment, adoption of common specifications and market surveillance in the context of a Single Market emergency and Directive of the European Parliament and of the Council amending Directives 2000/14/EC, 2006/42/EC, 2010/35/EU, 2013/29/EU, 2014/28/EU, 2014/29/EU, 2014/30/EU, 2014/31/EU, 2014/32/EU, 2014/33/EU, 2014/34/EU, 2014/35/EU, 2014/53/EU, and 2014/68/EU and introducingas regard emergency procedures for the conformity assessment, adoption of common specifications and market surveillance in the context ofdue to a Single Market] as regards crisis-relevant goods, indicating which crisis-relevant goods and emergency procedures are subject to the activation, providing reasons for such activation and its proportionality, and indicating the duration of such activation .	amended by [Regulation of the European Parliament and of the Council amending Regulation (EU) 2016/424, Regulation (EU) 2016/425, Regulation (EU) 2016/426, Regulation (EU) 2019/1009 and Regulation (EU) No 305/2011 and introducing emergency procedures for the conformity assessment, adoption of common specifications and market surveillance in the context of a Single Market emergency and Directive of the European Parliament and of the Council amending Directives 2000/14/EC, 2006/42/EC, 2010/35/EU, 2013/29/EU, 2014/28/EU, 2014/29/EU, 2014/30/EU, 2014/31/EU, 2014/32/EU, 2014/33/EU, 2014/34/EU, 2014/35/EU, 2014/53/EU, and 2014/68/EU and introducingas regard emergency procedures for the conformity assessment, adoption of common specifications and market surveillance in the context ofdue to a Single Market] as regards crisis-relevant goods, indicating which crisis-relevant goods and emergency procedures are subject to the activation, providing reasons for such activation and its proportionality, and indicating the duration of such activation . LV (Drafting): When the Single Market emergency mode has been activated by means of a Council implementing act adopted pursuant to Article	the emergency mode, the relief for companies provided for in this Article must also be ended at the same time. This is to prevent possible distortions of competition. PL (Comments): The emergency procedures for the conformity assessment and market surveillance as regard crisis relevant goods during crisis are very important. However, there is a problem with the list of harmonised product legislation that has been proposed in the Omnibuses. In our view, simplification of the procedures for the conformity assessment of 2 groups of products, may unintentionally increase the threat to the safety of people, property and the environment (Directive 2013/29/EU pyrotechnic articles, Directive 2014/28/EU explosives for civil uses). So we propose to delete these two directives from the Omnibus. LV (Comments): Latvia expresses concerns about the derogation from the usual conformity assessment procedures by handing over the authorisation process for products which have not undergone conformity assessment procedures to the national competent authorities. Transferring the responsibility to the national competent authorities, especially in a crisis situation and in

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	14, and there is a shortage of crisis relevant goods the Commission may activate by means of implementing acts the emergency procedures included in the Union legal frameworks amended by [Regulation of the European Parliament and of the Council amending Regulation (EU) 2016/424, Regulation (EU) 2016/425, Regulation (EU) 2016/426, Regulation (EU) 2019/1009 and Regulation (EU) No 305/2011 and introducing emergency procedures for the conformity assessment, adoption of common specifications and market surveillance in the context of a Single Market emergency and Directive of the European Parliament and of the Council amending Directives 2000/14/EC, 2006/42/EC, 2010/35/EU, 2013/29/EU, 2014/28/EU, 2014/29/EU, 2014/30/EU, 2014/31/EU, 2014/32/EU, 2014/33/EU, 2014/34/EU, 2014/35/EU, 2014/53/EU, and 2014/68/EU and introducing introducing as regard emergency procedures for the conformity assessment, adoption of common specifications and market surveillance in the context of due of due to a Single Market] as regards crisis-relevant goods, indicating which crisis-relevant goods and emergency procedures are subject to the activation, providing reasons for such activation and its proportionality, and indicating the	case of insufficient conformity assessment (testing) capacity, there are concerns about how the crisis relevant good compliance with the applicable safety requirements would be ensured. There seems to be a technical error in the first sentence because words “introducingas” and “ofue” are written together. LT (Comments): It is not clear what is required for Art 26 to be activated. Although it is stated that “When the Single Market emergency mode has been activated<...>”, Art 26 is under Chapter I (Title III), meaning that all the measures should require double activation (Art 23). In addition, the text provides another pre-requisite: “<i>and there is a shortage of crisis relevant goods</i>”; should the latter be read as a <i>compulsory</i>, meaning that the (double) activation of emergency mode is not enough and there should a shortage of x goods? How this information will be gathered? Who will be responsible for declaring that there is a shortage of x goods? In addition, we miss the link between crisis-relevant goods, which will be listed in the implementing act, and goods, mentioned in this Article. What would be a scenario if a product, which is deemed to be a crisis-relevant, is not in

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	duration of such activation . ES (Drafting): When the Single Market emergency mode has been activated by means of a Council implementing act adopted pursuant to Article 14, and there is a shortage of crisis relevant goods the Commission may activate by means of implementing acts the emergency procedures included in the Union legal frameworks amended by [Regulation of the European Parliament and of the Council amending Regulation (EU) 2016/424, Regulation (EU) 2016/425, Regulation (EU) 2016/426, Regulation (EU) 2019/1009 and Regulation (EU) No 305/2011 and introducing emergency procedures for the conformity assessment, adoption of common specifications and market surveillance in the context of a Single Market emergency and Directive of the European Parliament and of the Council amending Directives 2000/14/EC, 2006/42/EC, 2010/35/EU, 2013/29/EU, 2014/28/EU, 2014/29/EU, 2014/30/EU, 2014/31/EU, 2014/32/EU, 2014/33/EU, 2014/34/EU, 2014/35/EU, 2014/53/EU, and 2014/68/EU and introducingas regard emergency procedures for the conformity assessment, adoption of common specifications and market surveillance in the context ofdue to a Single Market] as regards	the list of Art 26? (in our view amending SMEI would not be an option as we would be in a middle of crisis). ES (Comments): <i>We consider neccesary to add the proposed last sentence, as laid down in the Commission Recommendation (EU) 2020/403 of 13 March 2020 on conformity assessment and market surveillance procedures within the context of the COVID-19 threat.</i> <i>Adding the environmental requirements.</i> MT (Comments): MT has concerns about the safety of products and approval of quality.

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
	crisis-relevant goods, indicating which crisis-relevant goods and emergency procedures are subject to the activation, providing reasons for such activation and its proportionality, and indicating the duration of such activation . <i>Modifications on the conformity assessment shall ensure an adequate level of protection corresponding to the applicable essential health, environmental and safety requirements laid down in applicable harmonised legislation.</i>	
Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 42(2). On duly justified imperative grounds of urgency relating to the impacts of the crisis on the Single Market, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 42(3).		LU (Comments): <i>We will make detailed suggestions on this Article when discussing the Omnibus texts. In any case, we have scepticism as to a regime that will allow the placing on the market of individual Member States of unsafe products. It is unclear what happens to the product after the crisis. It encourages border controls to ensure that a product only circulates within the territory of the Member State where the producer is established (see for instance Article 41c in the Omnibus). How is this compatible with the legal basis (Article 114 TFEU) and the objective to create a fully functioning Single Market? Also, from a practical perspective, crisis-relevant products that may benefit from this derogation shall be available to all Member</i>

Deadline: *10 February 2023*

Commission proposal	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Drafting Suggestions	AT BE CZ DE DK EE ES FI FR IE IT LT LU LV MT NL PL PT SI SK Comments
		<i>States and not just the one producing it.</i> <i>We should avoid unintended consequences that will aggravate the existing crisis.</i>
	End	End