INFORB

METHODOLOGY REGARDING THE IDENTIFICATION AND CLASSIFICATION OF ENTITIES IN THE FOOD SECTOR INTO ESSENTIAL AND IMPORTANT.

DELIVERABLE D2.1

SUMMARY

The *Methodology regarding the identification and classification of entities in the food sector into essential and important* (MICEIA) is an important document in the implementation of the NIS2 Directive in the production, processing and distribution of food industry (food sector). The MICEIA presents, in a clear and concise manner, how an economic entity active in the food sector qualifies as an entity to which the provisions of the NIS2 Directive apply, and how it is classified as an essential entity or important entity.

Through the development and dissemination of MICEIA, it is intended to support all economic entities operating in the food sector, in order to identify and establish functional relationships with the national competent authority (in Romania and Bulgaria, respectively).

At the same time, MICEIA can be used (by adapting and establishing new criteria) as a model document for the other sectors established by the NIS2 Directive and/or the acts transposing the NIS2 Directive into national legislation.

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Abbreviation	Name
ACN	National competent authority
EEA	Essential entities from food sector
EIA	Important entities from food sector
ENCA	Non-critical entities from food sector
IPA	Food business
L[CAEN]A	List of NACE codes corresponding to the food sector
MICEIA	Methodology regarding the identification and classification of entities in the food sector into essential and important.
NACE	European Classification of Economic Activities
PCE	Entity classification process
PIE	Entity identification process
R3EI	Register of essential entities and important entities

Content

INTRODUCTION

About the methodology

In the context of an increasingly interconnected and digitized world, the food sector is becoming a critical component of national cyber infrastructure. The cybersecurity of entities in this sector is fundamental to ensure the continuous and secure operation of the services provided, including the food supply chain. In this regard, the NIS2 Directive, adopted at European Union level in 2022, sets the general framework for improving cybersecurity in critical sectors, including the food sector.

MICEIA aims to identify and classify food business entities into three categories, namely: essential (EEA), important (EIA) and non-critical (ENEIA). The purpose of classifying and recording the food business entities is based on the analysis of cybersecurity risks on the sector level, which include also the supply chain and finally on the decision of the national competent authority (in Romania and Bulgaria, respectively). This approach aligns with the provisions of the NIS2 Directive, which promotes proactive cybersecurity measures for the critical sectors, given the significant impact that a cyberattack can have on the key processes, also applicable in the food sector.

Therefore, identifying entities to which the provisions of the NIS2 Directive apply and classifying them as essential, important and non-critical food sector entities requires careful consideration of impacts, vulnerabilities, dependencies and compliance with cybersecurity requirements, with the aim of ensuring resilience and security of the food chain.

The ultimate objective of the methodology is to provide a coherent and efficient framework for assessing and managing cyber risks in the food sector, thereby contributing to strengthening the resilience of cyber infrastructure to increasingly sophisticated digital threats.

Definitions

Food business – means any undertaking, whether for profit or not and whether public or private service, carrying out such activities relating to any of the stage of production, processing and distribution of food.

Food (or **foodstuff)** – means any substance or product, whether processed, partially processed or unprocessed, intended to be, or reasonably expected to be ingested by humans.

> Food includes drink, chewing gum and any substance, including water, intentionally incorporated into the food during its manufacture, preparation or treatment. It includes water after the point of compliance as defined in Article 6 of Directive 98/83/EC and without prejudice to the requirements of Directives 80/778/EEC and 98/83/EC.

> Food shall not include:
> (1) feed;
> (2) live animals unless they are prepared for placing on the market for human consumption;
> (3) plants prior to harvesting;
> (4) medicinal products within the meaning of Council Directives 65/65/EEC and 92/73/EEC;
> (5) cosmetics within the meaning of Council Directive 76/768/EEC;
> (6) tobacco and tobacco products within the meaning of Council Directive 89/622/EEC;
> (7) narcotic or psychotropic substances within the meaning of the United Nations Single Convention on Narcotic Drugs, 1961, and the United Nations Convention on Psychotropic Substances, 1971;

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(8) residues and contaminants.

Stages of production, processing and distribution – means any stage, including import, from and including the primary production of a food, up to and including its storage, transport, sale or supply to the final consumer.

Retail – means the handling and/or processing of food and its storage at the point of sale or delivery to the final consumer, and includes distribution terminals, catering operations, factory canteens, institutional catering, restaurants and other similar food service operations, shops, supermarket distribution centres and wholesale outlets.

Placing on the market – means the holding of food or feed for the purpose of sale, including offering for sale or any other form of transfer, whether free of charge or not, and the sale, distribution, and other forms of transfer themselves.

Essential entities in the food sector – are those food businesses whose services and operations are considered vital for the food infrastructure and the national economy. These entities are essential for ensuring catering and maintaining stability and security in access to and supply of food.

Important entities in the food sector – are those food businesses which, although not considered vital in stricto sensu, play a significant role in ensuring the security and stability of the food chain and food supply.

Non-critical entities in the food sector – are those food businesses which, although not listed as essential entities or important entities, play a role in securing the food supply, and a possible cybersecurity incident may affect the functioning of their networks and information systems, as well as the supply of food.

> For these entities, the application of the provisions of the NIS2 Directive is voluntary, but the national competent authority can provide support in ensuring cybersecurity and restoring any essential services for society following cybersecurity incidents.

Size capping rule – all entities which qualify as medium-sized enterprises pursuant to Article 2 of the Annex to Recommendation 2003/361/EC[1] or which exceed the ceilings for medium-sized enterprises set out in paragraph 2. (1) of that Article, and who provide services or carry out their activities within the European Union.

> In the process of transposing the NIS2 Directive into national law, Romania will provide the *specific criteria* indicating *the essential role for society, the economy or types of services*, whereby **certain small and micro-enterprises**, as defined in Art. 2 para. (2) and (3) of that Annex to Recommendation 2003/361/EC, **will fall within the scope of the NIS2 Directive**.

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[1] Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

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Recommendation 2003/361/CE **Art. 2** **Employees and financial ceilings determining the categories of enterprises.**	**Staff numbers and financial ceilings determining the categories of undertakings:** 1. **Micro, small and medium-sized enterprises (SMEs) category** consist of enterprises which employ fewer *than 250 persons and which have an annual turnover not exceeding EUR 50 million and/or an annual balance sheet total **not exceeding EUR 43 million**.* 2. Within the category of SMEs, **a small enterprise** is defined as an enterprise which employs *fewer than 50 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 10 million.* 3. Within the category of SMEs, **a microenterprise** is defined as an enterprise which employs *fewer than 10 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 2 million.*

Register of essential entities and important entities – is constituted, fulfilled and kept by the national competent authority (in Romania and Bulgaria respectively). R3EI covers all entities, public or private, to which the provisions of the NIS2 Directive apply, qualify and classify into essential and important.

> Records of entities are kept according to classification and by the sector/subsector set out in the annexes to the NIS2 Directive (i.e. in the national laws transposing it).

> R3EI shall be reviewed regularly, at least every two years, and updated where necessary.

NACE codes (Classification of Activities in the National Economy) – are used to classify and identify economic activities in different areas and sectors. The classification of economic activities according to NACE codes allows organisations and other stakeholders to monitor and regulate economic activities in different sectors, including the food sector. This is important for collecting statistical data, developing public policies and enforcing sector-specific regulations.

> As regards the link between NACE codes and the food sector, this is reflected in the specific way by assigning NACE codes for the different activities concerning the stages of production, processing and distribution.

General considerations

In the *identification process*, the definition of essential food business entities in the light of the NIS 2 Directive is made according to the following factors:

(1) **The importance of the services provided.** The nature of the services provided by the entity and the impact that their interruption or compromise could have on the food supply and the functioning of the food chain will be considered.

(2) **Degree of dependency of the population**. The entities which supply food to a significant number of persons, or which are the sole sources of certain food products in a geographical area, can be considered essential from this point of view.

(3) **Relevance of technological infrastructure**. The analysis will also include assessing the entity's dependence on communication and information systems for its management and operations.

(4) **Potential threats and vulnerabilities**. The degree of exposure to cyber risks and the entity's capacity to cope with these threats, as well as the impact on food security in case of possible compromise of information systems will be analyzed.

(5) **Applicable regulations and standards**. The cybersecurity specialist will also consider the specific requirements imposed by the NIS Directives and other relevant regulations in the field of cybersecurity.

The identification process of the important food business entities is defined according to several factors:

(1) **Role in the food chain.** The important entities are those that make a significant contribution to the production, distribution or marketing of food, which makes them important for maintaining the food for consumers.

(2) **Vulnerabilities and potential threats**. The entity's exposure to cyber risks and vulnerabilities in their IT infrastructure will be assessed. The important entities may be targeted by cyberattacks for financial, reputational or geopolitical reasons, but the impact of an attack on them may be more limited than on essential entities.

(3) **Impact on food supply**. The interruption impact of the important entity's activities which can affect the availability and affordability of food for consumers will be considered. These entities can be vital for maintaining stability in the food supply in a particular region or for a segment of the population.

(4) **Compliance with cyber security requirements**. The important entities must comply with cybersecurity requirements set out in the NIS2 Directives and other relevant regulations. These requirements may include reporting cybersecurity incidents, implementing appropriate security measures, and ensuring IT infrastructure resilience against cyber threats.

Based on these criteria and the specific assessment of each food business entity, **essential entities will be identified and classified** and will be subject to specific requirements in terms of cybersecurity, as required by the NIS 2 Directive.

The classification of food business economic entities into essential entities and important entities in the light of the NIS2 Directive requires a careful assessment of several factors, as follows:

(1) **Impact on food supply.** The role of each entity in securing the food supply and the impact that interrupting or compromising its activities could impact the access of the food by the consumers.

The entities having an essential contribution to supply which, in case of disruption, could seriously affect the availability of food are likely to be classified as essential.

(2) **Dependency and interconnectivity.** The degree of dependence of economic entities or systems from an activity of a food business entity and its interconnectivity with other stakeholders in the food chain is an assessment factor.

The entities that are essential or important for the functioning of other entities or for the stability of the food chain as a whole could also be considered essential or important.

(3) **Vulnerabilities and potential threats**. The vulnerabilities specific to food business entities in terms of cybersecurity and the potential threats are another factor. This includes risk analysis associated with IT systems regarding the production processes, supply chain and other relevant aspects.

(4) **Compliance with cyber security requirements.** The economic entity's assessment of compliance with cybersecurity requirements set out in the NIS2 Directive and other relevant subsequent regulations. This may include assessing cybersecurity measures implemented by the entity, cybersecurity incident reporting capability and other compliance issues.

(5) **Analysis of the food sector.** It involves examining the food sector in detail, identifying supply chains, data flows and interdependencies between the economic entity and various other entities in the sector. This would help to understand the specific context and how the economic entity contributes to the functioning of this vital sector.

(6) **Assessment of data recovery capacity.** The ability of each economic entity to recover data and continue its activity in case of a cybersecurity incident or other unforeseen events. This is important for determining the resilience of the entity and for minimising the impact on the food supply in case of crisis situations.

(7) **Consultation of stakeholders.** It involves consulting and working with various stakeholders in the food industry, such as regulators, professional organisations and representatives of the public and private sectors, to gain a comprehensive perspective on key and important entities in the sector.

(8) **Periodic updating of the assessment.** The dynamics of the food sector and the evolution of cyber threats may require regular updates regarding the assessment of essential entities and important entities.

The NIS2 Directive classification of economic entities in the food sector into essential entities and important entities involves a comprehensive analysis of impact, dependency, vulnerabilities and compliance with cybersecurity requirements to identify and protect economic entities that are critical to the stable functioning of the food chain and food supply.

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SECTION 1. IDENTIFICATION OF ENTITIES

By identifying food businesses (economic entities) in the food sector under the NIS2 Directive has the aim to ensure that these entities are aware of cyber risks and take appropriate measures to protect their activities and contribute to the stability of the food chain.

The outline of the identification process can be found in Annex no. 1 to this methodology.

Stages of identification of entities

Stage 1. Membership of the food sector

Food business membership is determined through the object of the activity (main and/or secondary), where object of activity = ω. The list of NACE codes corresponding to the food sector can be found in Annex no. 3 to this methodology.

At the same time, for the food sector in the [CORB] platform, the food sector will be set by default (which is part of the list of sectors/subsectors set out in the annexes to the NIS2 Directive).

All activities carried out by the economic entity at the time of identification of the main and secondary object of its activity will be analyzed (only if they are carried out and not just listed).

If the membership on the food sector is established, i.e., and this means that the economic entity provides services or carries out activities within the Union (in Romania and Bulgaria respectively) in accordance with the NACE codes established for the food sector, the economic entity is a potential entity to which the NIS2 Directive may apply.

> Therefore, if $\omega \in$ **L[CAEN]A**, then:
>
> The economic entity **is an entity belonging to the food sector**.

Stage 2. Fulfillment of special features

After establishing the food membership of the entity, the economic entity will continue the identification process, i.e. establishing whether the special criteria are met.

Member States, namely Romania and/or Bulgaria, may set threshold values for the special criteria. In this case, for the food sector they are:

No.	Special criterion	Index	Additional data	Threshold value
1	The entity is **the only provider** in a Member State *of a service that is essential to support critical societal and economic activities*.	α		Yes
2	**Disruption of the service** provided by the entity could have a *significant impact* on public safety, public security or *public health*.	β		Yes

No.	Special criterion	Index	Additional data	Threshold value
3	**Disruption of the service provided** by the entity could *induce a significant systemic risk*, in particular for sectors where such disruption could have a cross-border impact.	φ		Yes
4	The entity is **critical** because of *its specific importance at national or regional level* for the sector or type of services concerned or for *other interdependent sectors* in the Member State.	δ		Yes
5	The entity has been identified as a **critical entity** *pursuant to Directive (EU) 2022/2557*.	η		Yes

If at least one of the special criteria is met (threshold values met or exceeded), regardless of their size, economic entities are entities to which the NIS2 Directive applies.

> Therefore, if **α = Yes** or **β = Yes** or **φ = Yes** or **δ = Yes** or **η = Yes**, then:
> The economic entity **is an entity to which the NIS2 Directive applies**.

Stage 3. Size of the economic entity

Where the economic entity qualifies as medium-sized **enterprise** pursuant to Article 2 of the Annex to *Recommendation 2003/361/EC* or exceeding **the ceilings for medium-sized enterprises** set out in paragraph 2 of this Article. (1) of that Article, the economic entity is an entity to which the NIS2 Directive applies.

Categories	Number of employees - λ -	Turnover (EUR million) - μ -	Total assets (EUR million) - σ -
Medium-sized enterprise	50-249	(10 – 50]	(10 – 43]
Large enterprise	≥ 250	> 50	> 43

For the calculation of turnover and total assets, the equivalent in national currency is used (RON for Romania, respectively BGN for Bulgaria).

> Therefore, if **λ ≥ 50** and (**μ > 10** and/or **σ > 10**), then
> The economic entity **is an entity to which the NIS2 Directive applies.**

Stage 4. Qualification of entities

After steps 1 to 3, if the economic entity is part of the food sector, achieves threshold values for special criteria or reaches or exceeds the ceilings set for medium-sized enterprises, the economic entity qualifies as an entity to which the NIS2 Directive applies.

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Under these circumstances, after completing the PIEA, the qualified economic entity has the obligation to continue the classification process.

> Therefore, if the **IPA ∈ the food sector** and the **IPA fulfils at least one of the special criteria** or the **IPA ≥ meet or exceed the ceilings for medium-sized enterprises**, then
>
> The economic entity **is a qualified economic entity to which the NIS2 Directive applies**.

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SECTION 2. CLASSIFICATION OF ENTITIES

The classification of food business entities, from the perspective of the NIS 2 Directive, implies that both in the case of qualification as an entity to which the NIS2 Directive applies and in the case of the other (voluntary application of the Directive) the entity can be classified in one of the essential, important or non-critical categories and the implementation of cybersecurity risk management measures, as well as reporting obligations on cybersecurity incidents to be carried out according to the classification of the economic entity.

After the identification process, economic entities that qualify as entities to which the NIS2 Directive applies must proceed to apply the classification process. The classification of food business entities according to their importance for the food supply and the stability of the food chain, as well as the subsequent application of the implementation of appropriate cybersecurity measures to protect their infrastructure and data from cyber threats, are important steps in the application of the NIS2 Directive at food sector level.

The outline of the classification process can be found in Annex no. 2 to this methodology.

Stages of classification of entities

Stage 1. Assessment of essential entity

Member States, namely Romania and Bulgaria, will establish further guidance on the considerations for identification as an essential entity. In the present case, for the food sector, the considerations underlying classification as essential entities are:

Code	Classification considerations for essential entities	Additional guidance	Applicability	Threshold value (Vp)
CSE1	Companies identified as critical entities under Directive (EU) 2022/2557.	Regardless of the size of the economic entity.	Yes/No	All critical food business entities
CSE2	Entities identified respectively by Romania and Bulgaria as operators of essential services in accordance with Directive (EU) 2016/1148 or national law and which have qualified.	Example Romania: OESs in the Sector *Drinking water supply and distribution* / Essential Service *Bottled drinking water supply (pick-up, bottling, logistics and water quality control).*	Yes/No	All OESs with food sector membership
CSE3	Economic entities of the type referred to in Annex II / sector "Food production, processing and distribution" which are identified as **essential entities** pursuant to Article 2 para. (2) points (b) to (e).	According to special characteristics (Section 2. Entity identification/ Step 2. Fulfillment of special characteristics)	Yes/No	Large food businesses

Therefore, if **Vp(CSE1, CSE2** or **CSE3) = True**, then:

The economic entity **is an essential entity**.

Stage 2. Assessment of important entity

Code	Considerations on the classification of important entities	Additional guidance	Threshold value (Vp)
CSI1	Food business entities to which the NIS2 Directive applies, and which do not qualify as essential entities shall be considered to be **important entities**.	The identification process and Step 1 are completed, and all qualified entities that do not meet the criteria of essential entities are automatically important entities.	Qualified food business entities
CSI2	Economic entities of the type referred to in Annex II / sector "Food production, processing and distribution" which are identified as **important entities** pursuant to Article 2 para. (2) points (b) to (e).	According to special characteristics (Section 2. Entity identification/ Step 2. Fulfillment of special characteristics)	Medium-sized food businesses

Therefore, if **Vp(CSI1** or **CSI2) = True**, then:

The economic entity **is an important entity**.

Stage 3. Identification as non-critical entity

Essential entities that do not classify as an entity to which the NIS2 Directive applies are considered non-critical entities and may apply the provisions of the NIS2 Directive on a voluntary basis.

Also, by identifying and classifying as a non-essential/important entity, the economic entity can request guidance and support from the national competent authority.

Non-critical entities are small and micro enterprises. Ceilings/identification data for non-critical entities:

Category	Number of employees - λ -	Turnover (EUR million) - μ -	Total assets (EUR million) - σ -
Small enterprise	10 - 49	≤ 10	≤ 10
Micro-enterprise	≤ 9	≤ 2	≤ 2

For the calculation of turnover and total assets, the equivalent in national currency is used (RON for Romania, respectively BGN for Bulgaria).

Therefore, if $\lambda < 50$ and ($\mu \leq 10$ and/or $\sigma \leq 10$), then

The economic entity is **a non-critical entity and can apply the NIS2 Directive on a voluntary basis**.

Change of classification of entities

During the operation of the IPA, depending on the object of activity and the changes occurred in the values of the indices and criteria underlying the identification and classification, the qualified economic entity classified as an essential / important entity or non-critical entity, proceeds to the reassessment and reclassification of the entity, and depending on the results may change the initial classification by passing from one category to another or even be excluded from the application NIS2 Directive if the classification criteria are no longer met.

At the same time, depending on the change by the national competent authority (in Romania, respectively Bulgaria) of the threshold values or criteria underlying the identification and/or classification processes, following the resumption of processes by qualified and classified economic entities in the food sector, based on the results, they may change their initial classification and even no longer qualify as economic entities to which the NIS2 Directive applies.

Where the qualified and classified economic entity finds changes in the data/information on which identification and classification was based, it shall be required to resume, as appropriate, the identification and/or classification process.

At the level of the national competent authority (in Romania and Bulgaria, respectively), the *Register of essential entities and important entities* is established and maintained.

To register essential and important food business entities (but also non-critical entities reporting voluntarily), after completion of the identification process and the classification process, qualified and classified economic entities are required to submit a notification to the appropriate national competent authority (in Romania and Bulgaria respectively).

The notification shall include at least the following information: name, address and updated contact details, including email addresses, IP numbers and telephone numbers of the entity, name and contact details of the liaison person and, where applicable, sector and, where applicable, a list of Member States in which it provides services falling within the scope of the NIS2 Directive.

At the same time, for the final classification of the economic entity classified as an entity to which the NIS2 Directive applies, the classified economic entity will submit an assessment of the cybersecurity maturity level.

In the case of this project, after the implementation and operationalization of the "Platform for National and Cross-border Cooperation NIS - Romania and Bulgaria" [CORB], the data and information will be filled in / added by the economic entity directly into the CORB Platform, and the assessment of the cybersecurity maturity level will be carried out at the platform level.

Depending on the assessment and decision-making needs of the national competent authority, additional data on identification and classification processes may be required.

Once the critical entity has been registered, the entity shall notify without undue delay any change to the details submitted pursuant to the second paragraph of this Section and in any event within two weeks from the date of the change.

Annex no. 1. Scheme of the identification process
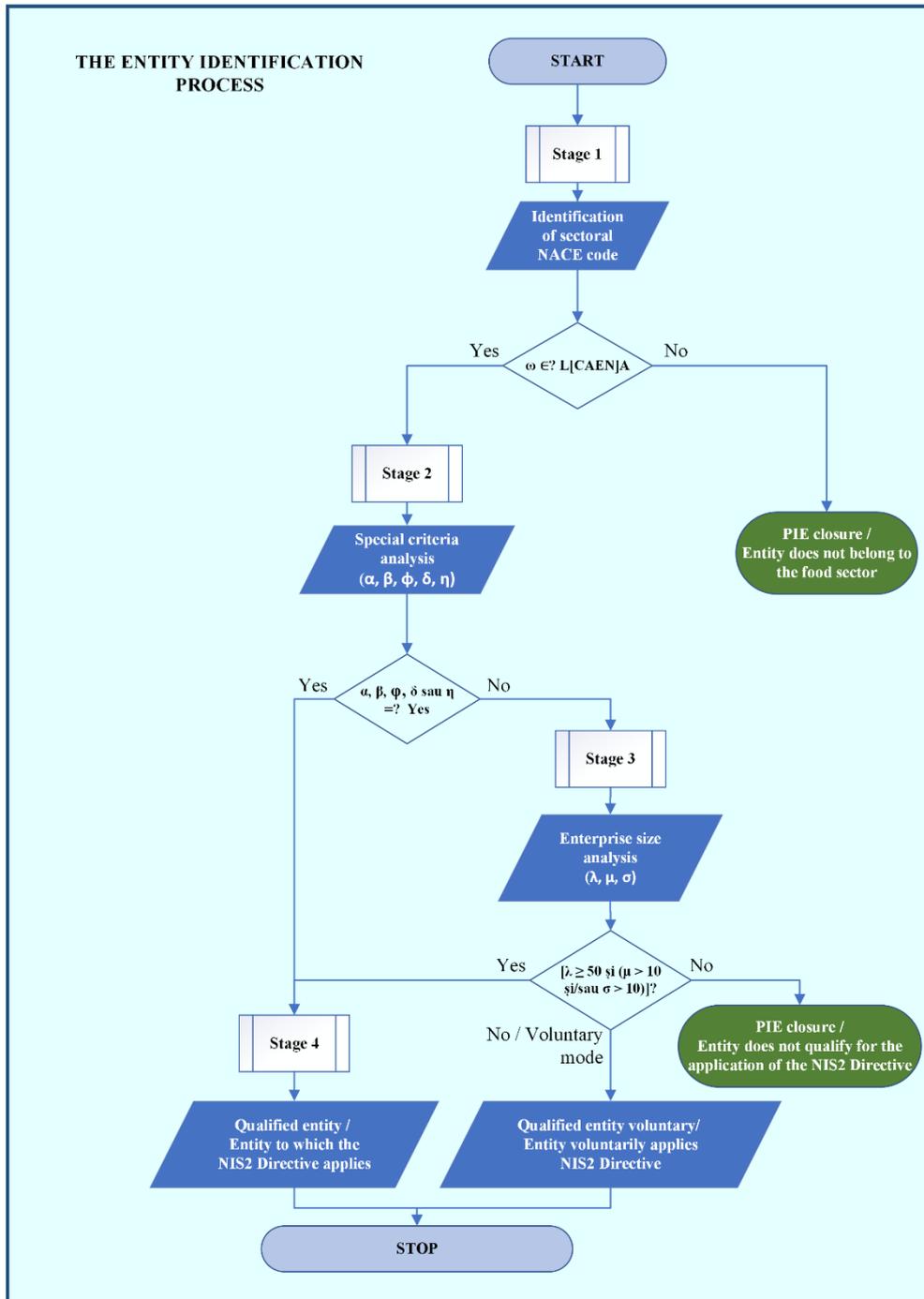
THE ENTITY IDENTIFICATION PROCESS

START

Stage 1

Identification of sectoral NACE code

ω ∈? L[CAEN]A
Yes — No

PIE closure / Entity does not belong to the food sector

Stage 2

Special criteria analysis (α, β, φ, δ, η)

α, β, φ, δ sau η =? Yes
Yes — No

Stage 3

Enterprise size analysis (λ, μ, σ)

[λ ≥ 50 și (μ > 10 și/sau σ > 10)]?
Yes — No

No / Voluntary mode

PIE closure / Entity does not qualify for the application of the NIS2 Directive

Stage 4

Qualified entity / Entity to which the NIS2 Directive applies

Qualified entity voluntary/ Entity voluntarily applies NIS2 Directive

STOP

Annex no. 2. Scheme of the classification process

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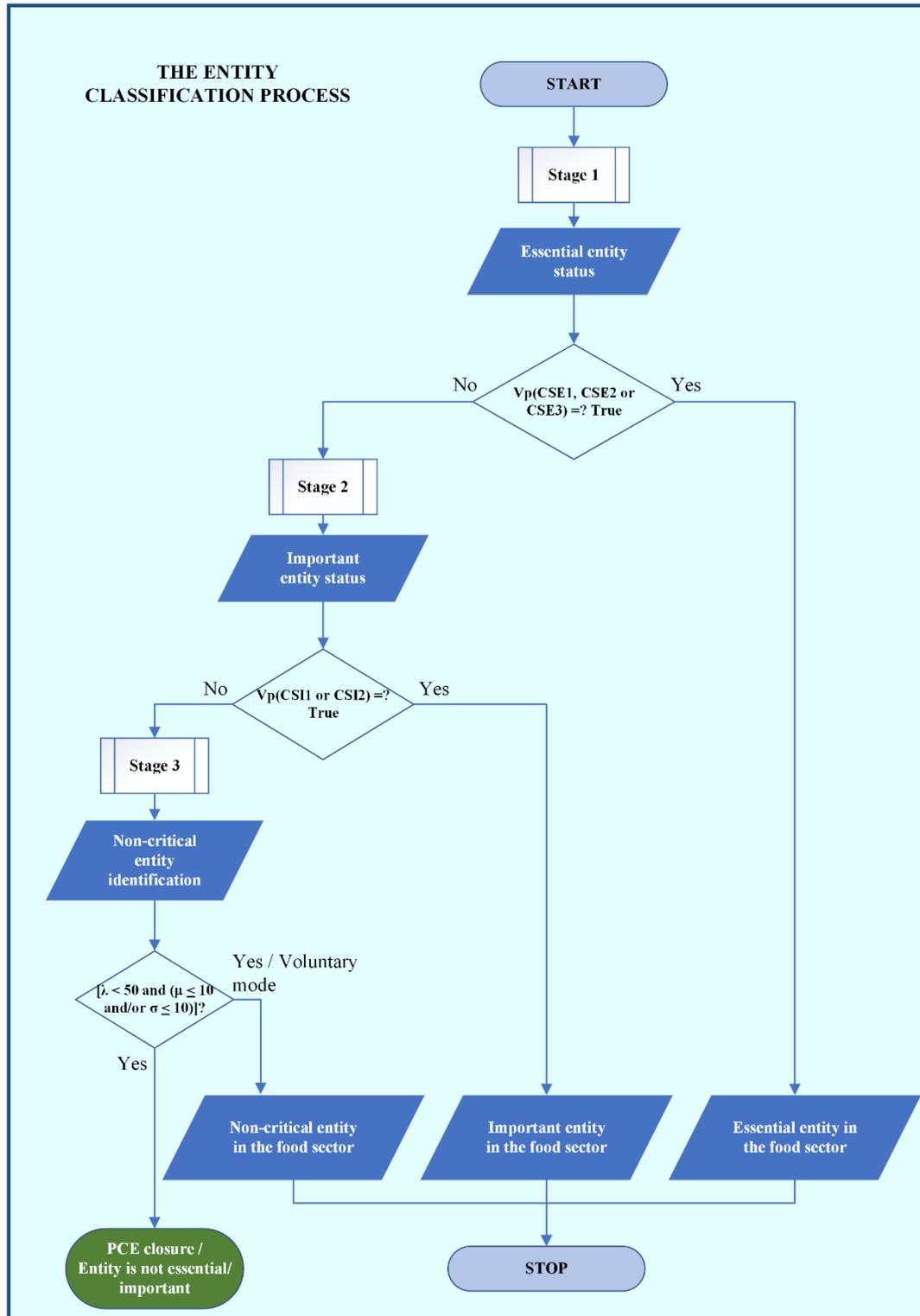
Annex no. 3. Sectoral NACE codes

NACE Section	NACE division	NACE Group	NACE class	Description
C - Manufacturing				
C		101		Production, processing and preservation of meat and meat products
		102		Processing and preserving of fish, crustaceans and molluscs
		103		Processing and preserving fruit and vegetables
		104		Manufacture of vegetable and animal oils and fats
		105		Manufacture of dairy products
		106		Manufacture of milling products, starches and starch products
		107		Manufacture of bakery and flour products
		108		Manufacture of other foodstuffs
	11			Beverage manufacturing
G - Wholesale and retail trade; repair of motor vehicles and motorcycles				
G			4611	Intermediation in trade in agricultural raw materials, live animals, textile raw materials and semi-finished products
			4617	Intermediation in trade in food, beverages and tobacco
			4631	Wholesale of fruit and vegetables
			4632	Wholesale of meat and meat products
			4633	Wholesale of dairy products, eggs, edible oils and fats
			4634	Wholesale of beverages
			4636	Wholesale of sugar, chocolate and sugar confectionery
			4637	Wholesale of coffee, tea, cocoa and spices
			4638	Specialised wholesale of other foods, including fish, crustaceans and molluscs

NACE Section	NACE division	NACE Group	NACE class	Description
			4639	Non-specialised wholesale of food, beverages and tobacco
			4711	Retail sale in non-specialised shops predominantly selling food, beverages and tobacco
			4721	Retail sale of fresh fruit and vegetables in specialised stores
			4722	Retail sale of meat and meat products in specialised stores
			4723	Retail sale of fish, crustaceans and molluscs in specialised stores
			4724	Retail sale of bread, pastries and sugar confectionery in specialised stores
			4725	Retail sale of beverages in specialised stores
			4729	Retail sale of other food products in specialised stores
			4781	Retail sale of food, beverages and tobacco products through stalls, kiosks and markets
			4791	Retail trade via order houses or via the Internet
H - Transport and storage				
H			5210	Storage
I - Hotels and restaurants				
I			5510	Hotels and similar accommodation facilities
	56			Restaurants and other food service activities

Additional Notes

In the table above, if only:

(1) NACE division – then all groups and classes in the entire division are considered.

(2) NACE group – then all classes in the entire group are considered.

For NACE sections: H and I, only cases where food products are identified (storage, food production, human feeding, etc.) will be considered.

If an economic entity carries out only tobacco-related activities (trade, production, etc.) from NACE classes in the table, the NIS2 Directive does not apply to them.