



Notification Number: 2016/96/F

## Order amending the Order of 4 July 2012 setting down the list of technical equipment and devices provided for in Article 226-3 of the Penal Code

Date received : 26/02/2016

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### Message

Message 002

Communication from the Commission - TRIS/(2016) 00610

Directive (EU) 2015/1535

Translation of the message 001

Notification: 2016/0096/F

No abre el plazo - Nezaahajuje odklady - Fristerne indledes ikke - Kein Fristbeginn - Viivituste perioodi ei avata - Καμμία έναρξη προθεσμίας - Does not open the delays - N'ouvre pas de délais - Non fa decorrere la mora - Neietekmē atlikšanu - Atidėjimai nepradedami - Nem nyitja meg a késések - Ma' jiftaħ il-perijodi ta' dawmien - Geen termijnbegin - Nie otwiera opóźnień - Não inicia o prazo - Neotvorí oneskorenia - Ne uvaja zamud - Määräaika ei ala tästä - Inleder ingen frist - He ce предвижда период на прекъсване - Nu deschide perioadele de stagnare - Nu deschide perioadele de stagnare.

(MSG: 201600610.EN)

#### 1. Structured Information Line

MSG 002 IND 2016 0096 F EN 26-02-2016 F NOTIF

#### 2. Member State

F

#### 3. Department Responsible

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#### 3. Originating Department

Premier ministre

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#### **4. Notification Number**

2016/0096/F - V00T

#### **5. Title**

Order amending the Order of 4 July 2012 setting down the list of technical equipment and devices provided for in Article 226-3 of the Penal Code

#### **6. Products Concerned**

The products concerned are certain items of equipment for accessing the third and fourth generation mobile radiocommunications networks established by electronic communications operators. These are base stations (eNodeB – Evolved Node B), also known as “antenna relays”, recent or future versions of which are liable to incorporate communication duplication functions for the purposes of legal interception.

#### **7. Notification Under Another Act**

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#### **8. Main Content**

The draft Order aims to establish controls on certain equipment for accessing mobile radiocommunication networks, where it incorporates remotely configurable flow duplication, in order to protect the secrecy of correspondence, privacy and national security.

To this end, the draft Order (Article 1) supplements the list of technical equipment and devices subject to the authorisation mentioned in Article R. 226-3 of the Penal Code, which features in the Annex to the Order of 4 July 2012 setting down the list of technical equipment and devices provided for in this same Article.

Given the investments already made by electronic communications operators in this type of equipment, the draft Order (Article 2) also provides for deferral of entry into force for five years to enable operators to bring themselves gradually into compliance.

#### **9. Brief Statement of Grounds**

Recent technological developments in the field of network equipment show that the latest generations of base stations may, in order to optimise the general network architecture, be designed to integrate certain legal interception functions hitherto performed by core network equipment. Should these functions have any security failings, they could be hacked and misused to illegally intercept the network traffic passing through these stations.

Core network equipment integrating legal traffic interception functions is already controlled in order to prevent usage liable to compromise the confidentiality of personal data, as well as the sensitive data of administrative authorities and operators of vital importance. It is essential to ensure, consistently, that base stations' interception capacities are correctly established and cannot be misused for malicious purposes, by making them subject to the controls provided for in Article 226-3 of the Penal Code.

As part of this control, State departments will evaluate the security of this equipment and the mechanisms in place to prevent data from being illicitly intercepted. Depending on the level of security achieved, the use of this equipment by electronic communications operators may be authorised and supplemented by additional restrictions where applicable.



#### 10. Reference Documents - Basic Texts

Reference(s) to basic text(s): - Articles 226-3 and R. 226-1 to R. 226-12 of the Penal Code may be consulted on the Legifrance website

- Order of 4 July 2012 setting down the list of technical equipment and devices provided for in Article 226-3 of the Penal Code, notification 2012/65/F

#### 11. Invocation of the Emergency Procedure

No

#### 12. Grounds for the Emergency

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#### 13. Confidentiality

No

#### 14. Fiscal measures

No

#### 15. Impact assessment

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#### 16. TBT and SPS aspects

TBT aspect

No - the draft has no significant impact on international trade.

SPS aspect

No - the draft is neither a sanitary nor phytosanitary measure.

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European Commission

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