

Message 001

Communication from the Commission - TRIS/(2025) 1176

Directive (EU) 2015/1535

Notification: 2025/0223/FR

Notification of a draft text from a Member State

Notification – Notification – Notifizierung – Нотификация – Oznámení – Notifikation – Γνωστοποίηση – Notificación – Teavitamine – Ilmoitus – Obavijest – Bejelentés – Notifica – Pranešimas – Paziņojums – Notifika – Kennisgeving – Zawiadomienie – Notificação – Notificare – Oznámenie – Obvestilo – Anmälan – Fógra a thabhairt

Does not open the delays - N'ouvre pas de délai - Kein Fristbeginn - Не се предвижда период на прекъсване - Nezahajuje prodlení - Fristerne indledes ikke - Καμμία έναρξη προθεσμίας - No abre el plazo - Viivituste perioodi ei avata - Määräaika ei ala tästä - Ne otvara razdoblje kašnjenja - Nem nyitja meg a késésekét - Non fa decorrere la mora - Atidėjimai nepradedami - Atlikšanas laikposms nesākas - Ma jiftaħx il-perijodi ta' dewmien - Geen termijnbegin - Nie otwiera opóźnień - Não inicia o prazo - Nu deschide perioadele de stagnare - Nezačína oneskorenia - Ne uvaja zamud - Inleder ingen frist - Ní osclaíonn sé na moilleanna

MSG: 20251176.EN

1. MSG 001 IND 2025 0223 FR EN 30-04-2025 FR NOTIF

2. France

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4. 2025/0223/FR - SERV - INFORMATION SOCIETY SERVICES

5. Draft Decree amending Decree No 2022-603 of 21/04/2022 laying down the list of independent

administrative and public authorities which may use the support of the centre of expertise for digital regulation and on the methods of data collection implemented by that service in the context of its experimentation activities

6. Methods of data collection implemented by that service in the context of its experimentation activities

7.

8. The Center of expertise for digital platform regulation (Pôle d'Expertise de la Régulation Numérique – PEReN) is a service with national competence created by Decree No 2020-1102 of 31 August 2020 and placed under the joint authority of the French Ministers of Economy, Culture and Digital Technology. PEReN provides state services with state-of-the-art technical expertise to support them in their tasks of designing, implementing and evaluating the regulation of digital players. It does not itself have any regulatory role of its own and consequently no powers of constraint, oversight or sanction.

Article 36 of Law No 2021-1382 of 25 October 2021 on the regulation and protection of access to cultural works in the digital age provides that PEReN shall, on its own initiative, carry out public research activities within the meaning of Article L112-1 of the Research Code. The provisions of Article 36 also permit PEReN to carry out experimentation activities aimed at using, designing or evaluating technical tools aimed at reflecting on the regulation of digital services falling within the scope of its expertise. In the context of these experimentation activities, PEReN is authorised, under certain conditions, to collect publicly accessible data on these services in an automated manner. The data collection methods used on this occasion must be strictly necessary and proportionate and are specified in Decree No 2022-603 of 21 April 2022, which was the subject of a notification under Directive 2015/1535 (2022/0009/F), without being the subject of comments from the European Commission or any other Member State.

Law No 2024-449 of 21 May 2024 on securing and regulating the digital space amended the aforementioned Article 36. In the first place, the aforementioned law broadens the range of digital players and services falling within the scope of PEReN expertise. Secondly, it states that PEReN research activities may contribute to the detection, identification and understanding of systemic risks in the European Union, within the meaning of Article 34(1) of Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services.

Finally, it provides that PEReN may implement automated collection methods for publicly accessible data, not only in the context of its experimentation activities, as already provided for in the Law of 25 October 2021, but also in the context of its research activities, under the same conditions and with the same safeguards. This data may be collected from players falling within the aforementioned extended range. The text empowers PEReN to collect publicly accessible data, notwithstanding the general conditions of use or licences provided for by these players, and provides that such collection shall be carried out while preserving the security of the services of these operators. This collection must also be carried out in compliance with the rights of beneficiaries of the services. The data must be destroyed no later than 5 years after its collection (this period is 9 months in the context of the experimentation activities) and may not be used for purposes other than research.

The aforementioned Decree of 21 April 2022 must be amended to take into account the contributions provided for in the aforementioned Law of 21 May 2024; the guarantees previously provided for data collection in the context of PEReN experimentation activities (original Decree No 2022-603 of 21 April 2022) are extended to data collection implemented in the context of its research activities. This amending Decree is

the subject of this notification, for the purposes of correctly informing the Commission.

9. In the context of the drafting of Law No 2024-449 of 21 May 2024 aimed at securing and regulating the digital space, Article 16 of the draft Law (now Article 42 of the adopted Law) amending Article 36 of the aforementioned Law 2021-1382 of 25 October 2021 had been notified to the Commission.

During the parliamentary procedure, the French authorities adjusted the wording of Article 36 of the aforementioned Law of 25 October 2021. Thus, the wording 'For this collection, the platform operators referred to in the same first subparagraph may not object to the service referred to in that first subparagraph or refuse access to the programming interfaces that they have developed and made accessible to third parties, or limits on extractions from publicly accessible databases, or prohibitions laid down in the general conditions for the use of the services making the data in question available to the public', which might suggest that it placed obligations on operators, has been replaced by the wording 'This service may implement with the platform operators referred to in the same first paragraph ... This implementation is carried out notwithstanding the general conditions of use or licences of the services of the operators concerned or their applications making the data in question available to the public'.

This draft Decree, adopted to implement these provisions, specifies the collection arrangements and the procedure to be followed by PEReN when setting up a system for collecting and processing personal data in the context of its research activities. It ensures that the safeguards necessary to comply with the principles of transparency, as well as those of proportionality, minimisation and protection of the data collected, will be upheld in the context of research projects.

The Decree does not impose any obligation on the operators affected by the data collection to comply with the request for information addressed to them by PEReN pursuant to Article 3 of the Decree of 21 April 2022. This request relates, firstly, to their observations regarding preservation of the security of their services, secondly and if necessary, to the procedures for using the API (application programming interface) enabling the data collection and, finally, to any issues of quality and bias relating to the data collected of which they might be aware. Although the text sets a time limit of 6 weeks for operators to communicate their observations, this is intended only to manage the procedures for communication of these observations, which the PEReN is required to take into account pursuant to the last paragraph of Article 3. The Decree therefore only imposes an obligation on PEReN – that of taking into account any observations made by the operator within that period concerning the data collection of which PEReN has notified it, particularly in order to take appropriate measures to preserve the security of its services.

10. References to reference texts: 2023/0632/FR, 2022/0009/F

The basic texts were forwarded with an earlier notification:

2023/0632/FR

2022/0009/F

11. No

12.

13. No

14. No

15. No

16.

TBT aspects: No

SPS aspects: No

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European Commission

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