

LEGAL ALERT

RADIO EQUIPMENT

On April 16, 2014, [Directive 2014/53/EU](#) of the European Parliament and of the Council (“**Directive**”) was published in the Official Journal of the European Union. The Directive repeals [Directive 1999/5/EC](#) of the European Parliament and of the Council, of 9 March 1999, and establishes the regulatory framework for the making available on the market and putting into service radio equipment in the European Union.

However, there are two major areas that are outside the scope of the Directive: equipment identified in detail in Annex I of the Directive (*i*) radio equipment used by radio amateurs, unless the equipment is made available on the market, (*ii*) marine equipment, (*iii*) airborne products, parts and appliances and (*iv*) custom-built evaluation kits designed for professionals to be used solely at research and development facilities for such purposes) and radio equipment exclusively used for activities concerning public security, defence, State security, including the economic well-being of the State in the case of activities pertaining to State security matters, and the activities of the State in the area of criminal law.

On June 9, 2017, the Directive was implemented in Portugal through [Decree-Law no. 57/2017](#) (“**Decree-Law**”), which revoked [Decree-Law no. 192/2000](#), of 18 August.

The Decree-Law introduces significant modifications in the obligations of the economic operators involved in the commercial circuit of radio equipment. Economic operators intervening in the supply and distribution chain should take appropriate measures to ensure that they only make available on the market radio equipment which is compliant with the Directive.

Without claiming to be exhaustive, economic operators’ duties established by the Decree-Law implementing the Directive are:

- Manufacturers shall ensure that radio equipment that is being placed on the market:
 - Has been designed and manufactured in accordance with the essential requirements set out in Decree-Law (which broadly correspond to article 3 of the Directive);
 - Is accompanied by instructions and safety information in Portuguese which are clear, understandable and intelligible; and
 - Has been evaluated under the relevant conformity assessment procedure.

- Importers shall only place on market radio equipment that is compliant with the terms set forth in Decree-Law. Importers shall make sure that:
 - Manufacturers carried out the relevant conformity assessment procedure;
 - The radio equipment carries the EC marking; and
 - The radio equipment is accompanied by the instructions and safety information in Portuguese and presented in a clear manner.

When appropriate, considering the risks posed by radio equipment and in order to protect the health and safety of end-users, manufactures and importers shall carry out sample testing of radio equipment made available on the market, investigate, and, if necessary, keep a register of complaints, of non-conforming radio equipment and radio equipment recalls, and shall keep distributors informed of any such monitoring.

- Distributors who make radio equipment available on market shall:
 - Confirm that the radio equipment carries the EC marking; and
 - Confirm that the radio equipment is accompanied by the instructions and safety information in Portuguese.

Manufacturers, importers and distributors shall provide to the relevant national authorities (*i.e.*, Authority for Economic and Food Safety or National Communications Authority), upon a reasoned request, all the information and documentation in paper or, preferably, electronic form, necessary to demonstrate the conformity of the radio equipment, in Portuguese or in a language which can be easily understood by those authorities.

The Decree-Law entered into force on June 10, 2017.

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