

Lex Huawei. Germany is tightening control over 5G

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According to media reports, the Federal Ministry of the Interior and Community (BMI, Bundesministerium des Innern und für Heimat) has ordered telecommunications service providers to submit a list of devices used in the network infrastructure by April. If it is found that the installations used pose a threat to “public order or the security of the Federal Republic”, the ministry may decide to prohibit their further use and order them to be removed.

The ministry's initiative is the result of inspections undertaken in recent months by the Federal Office for Information Security (BSI, Bundesamt für Sicherheit in der Informationstechnik). They were aimed at estimating the risk associated with the use of installations susceptible to hacking, espionage and illegal data transfer in the 5G network, which is currently under construction. Although the authorities found no direct evidence of the dangers posed by cooperation with individual suppliers, they recommended applying far-reaching prevention measures.

The BMI and the BSI took measures on the basis of the so-called Second Act to Increase the Security of Information Technology Systems (known as IT-Sicherheitsgesetz 2.0), adopted in the previous term of the Bundestag. According to it, starting from September 2021, telecommunications service providers must apply for permission to install new devices in the network infrastructure. The same act also envisages more far-reaching actions: the inspection of already installed equipment and, if a threat is identified, its removal.

Commentary

- Officially, the government's stricter IT security policy is not targeted at any specific companies. However, it is an open secret that it in fact concerns Huawei and ZTE, the Chinese suppliers of network installations. Huawei has a particularly large share in the German infrastructure: up to 60% of Deutsche Telekom, Vodafone and Telefonica systems rely on its devices.
- The German government believes that such a high level of dependence could create risks for national security, especially considering Huawei's links with Chinese government structures. The fact that the company is massively subsidised by the Chinese state raises some concerns. However, the suspicion that Chinese companies cooperate with the secret services provokes the biggest fears. Under Chinese law, they cannot refuse to provide data to the government. If relations with Beijing deteriorate, for example, due to arms supplies to Russia or an invasion of Taiwan, Huawei may be used to exert political pressure on Germany. Furthermore, the company would not have to make any openly confrontational moves. Alleged device failures and problems with software updates would be enough to

cause serious disruptions in the network's operation.

- The German government's moves are reasonable, considering the new assessment of the technical conditions of the ICT infrastructure. So far, service providers have claimed that the separation of the user data traffic from the network's management data traffic guarantees security in the currently dominant LTE standard. The Chinese manufacturers' devices were intended to operate only in the user data traffic section of the network, where no major risk can be generated. The problem, however, is that this separation will probably be impossible in the 5G network. Currently, during the transition period, LTE infrastructure is often used to increase 5G coverage, and this makes the BSI officials even more concerned.
- The telecom operators, Deutsche Telekom, Vodafone and Telefonica, have reacted to the government's announcement fairly calmly, even though this may entail multi-billion costs for them. However, they hope that, if they have to dismantle the installations, they will be able to receive financial compensation or that a long transition period will be set. This would enable them to gradually replace the existing Chinese devices with new installations from reliable manufacturers, primarily Ericsson and Nokia. Their calculations are rational and the government is aware of the fact that the need to rebuild the network will slow down the transition to the 5G standard. The industry wants to have 5G as soon as possible. Without it, it is difficult to imagine autonomous transport or the construction of automated production lines.
- It is still unclear when and to what extent the BMI's initiative will be implemented. Nevertheless, it certainly marks a change in the German government's approach to external economic dependencies. Berlin does not want to repeat the mistakes it made in energy policy, which ultimately led to excessive dependence on Russian suppliers, chaos on the markets and huge costs. In the case of telecommunication technologies, Germany wants to limit the risk in advance. This is why the government decided to intervene, even though there is no hard evidence of suspicious activity from Huawei and ZTE. It is increasingly likely that this model will soon be applied to other areas of critical infrastructure. The Ministry of the Interior is working on an amendment to the BSI Act which will allow the government to supervise pipelines and ports and ban all installations of a given supplier more quickly without the need to carry out complicated analyses of the supplier's 'credibility'. Germany will thus join the group of European countries (including the United Kingdom, France, Poland, Romania, Sweden and the Baltic states) which have excluded Chinese manufacturers from cooperation in the development of their strategic ICT infrastructure.
- The regulation does not impose a formal ban, but it will de facto lead to the removal of Chinese suppliers from a key market segment. This may lead to worsening relations with Beijing. The Chinese embassy in Germany has already published a statement in response to the German government's decision stressing its "surprise and dissatisfaction". Given the importance of the Chinese market for German industry (trade volume between China and Germany reached €297.9 billion in 2022), any possible retaliation could be painful. However, this scenario seems unlikely. The Chinese government is not currently interested in escalating the conflict, as it would strengthen the supporters of decoupling in Europe and contribute to enhancing cooperation with the US as part of an anti-Chinese economic and political alliance.