

Unofficial Translation of Ordinance on Personal Information Processing and Protection of Privacy in The Telecommunications Sector

Important Notice: In case of divergent interpretation, the original Turkish text shall prevail.

**Ordinance on Personal Information Processing and Protection of Privacy in The Telecommunications Sector**

**PART ONE  
General Provisions**

**Purpose and Scope**

**Article 1-** The purpose of this ordinance is to define the procedures and principles related to guaranteeing personal information processing and protection of privacy in the telecommunications sector.

This ordinance covers real and legal persons providing or using services in the telecommunications sector.

**Legal Basis**

**Article 2-** This Ordinance is prepared on the basis of Telegram and Telephone Law No: 406 of 4/2/1924 and Wireless Law No: 2813 of 15/4/1983.

**Definitions**

**Article 3-** The definitions and abbreviations used in this Ordinance have the following meanings;

- a) **Board:** Telecommunications Board,
- b) **Authority:** Telecommunications Authority,
- c) **Subscriber:** The real or legal person who signs a agreement with an operator providing telecommunication services to benefit from a related service,
- d) **Buyer:** All kinds of real or legal persons and all kinds of public organizations which have accessible personal information except the organizations which have personal information only accessible by means of official ways,
- e) **Call:** A connection used for communication performed by using a public telecommunication service,
- f) **Interconnection:** Contact between two different telecommunication networks to perform the telecommunications traffic,
- g) **Electronic Mail:** A written, voice or image message sent over network which can be stored in network or terminal equipment of buyer before the moment which the telecommunication service user takes it,
- h) **Operator:** Profit oriented firm including Türk Telekom which provides telecommunication services using a duty agreement, privilege agreement and/or license or general permission,
- i) **Making Anonymous:** Hiding the appearance or view of private information about the calling or called party,
- j) **Value Added Telecommunication Services:** Telecommunication services performing computer or other processes over the form, content, code, protocol and similar matters of each kind of message including the voice and data transmitted

between subscribers and conveying a different or a restructured message to the user of subscriber or Telecommunication services providing transmission between subscribers by means of loaded or saved messages and data,

- k) Personal Information/Data:** Any information related with real and/or legal persons which can be defined directly or indirectly by using one or more elements of identity card number or physical, psychological, intellectual, economic, cultural and social identities or health related, genetic, ethnic, religious, family related and political information,
- l) Personal Information Processing:** Automatically or not, any process or a sum of processes which are performed over personal information by gathering, saving, preparing, adopting, changing, calling back, consulting, using, making known by transferring, broadcasting or making accessible by means of any other way, arranging, merging, blocking and erasing,
- m) Short Message:** A service that creates the opportunity of sending and receiving written short messages to the user using a telecommunications equipment,
- n) User:** Real or legal persons, whether they are subscriber or not, benefiting from telecommunications services,
- o) Network:** The net of any communications system including switching equipment and lines used for providing telecommunications between one or more locations,
- p) Traffic Data:** Any processed data for billing or the transmission of communication,
- q) Telecommunications:** Sending and receiving each kind of sign, symbol, voice and picture and each kind of data that can transformed to electrical signal by means of cable, radio, optical, electric, magnetic, electro-magnetic, electro-chemical, electro-mechanic and other ways,
- r) Telecommunication Service:** Providing the whole or partial activities as services which are contained in the definition of Telecommunications.
- s) Third Party:** Public organizations and any type of real or legal persons or the persons related with data, any organization or person except the ones authorized for processing the data under the supervisory of Authority or operator,
- t) Location Data:** Any kind of data processed in the network to determine the location of telecommunications equipment that is belonging to a publicly open telecommunications service.

## **PART TWO**

### **Basis of Application**

#### **Application**

**Article 4-** This ordinance is used for personal information processing and protection of privacy related with providing telecommunications service in networks.

#### **Application Scope**

**Article 5-** Article 12, 13, 14 and 18 of this ordinance is only applied for the subscribers who benefit from the service using digital telephone exchanges and suitable signaling systems.

If it is technically impossible or too expensive to apply this article, operators inform Authority about this situation with a justification. If the Authority determines that the situation brings technical impossibility or extra financial burden. These articles are not put into practice.

## **Security**

**Article 6-** Operators shall take the approval of Authority for the technical and structural measures of network security which are aimed at providing the security of their services.

## **Informing About The Risks**

**Article 7-** If there is a possibility of violation in the security of network creating extraordinary risks which are beyond the measures taken by the operator, operators shall immediately inform the subscribers about the risks and the ways of eliminating them.

## **Secrecy of Telecommunications**

**Article 8-** Listening, saving, keeping, stopping and supervision of telecommunications by third parties is strictly prohibited without the permission of all the parties involving in communication except the cases depending on laws and court orders.

Saving, keeping and supervision of related traffic data in a way that is not consistent with the service aims is also strictly prohibited.

## **PART THREE**

### **Traffic Data**

#### **Approval and Period**

**Article 9-** If the subscribers or users approve the usage of their personal data for marketing telecommunication services or providing value added service, operators can only process these data in the period required for marketing. Subscribers and users can always cancel their approval for the processing of their data.

Operators shall inform subscribers or users about the period and type of process for marketing or providing value added services.

#### **Authorization To Process Traffic Data**

**Article 10-** Authorization to process traffic data belongs to people authorized by operators and people performing billing, organizing traffic, working for customer relationships, determining illegal act, marketing electronic telecommunications services and providing value added services.

#### **Informing Authorities**

**Article 11-** Traffic data can be given to a court or a real or legal authority in charge of solving the problems related with interconnection, billing or similar disagreements.

#### **Itemized Billing**

**Article 12-** Subscribers have a right to obtain itemized or unitemized bills according to their demands.

#### **Prevention Of Revealing The Identity Of Caller Party**

**Article 13** – Operator shall enable the user who makes the call to prevent the calling line's identity from being disclosed, by a simple method and without charging any money for it.

### **Barring Connection Of The Caller's Line**

**Article 14** – Where identity of the caller line is hidden, operator enables the subscriber who is called to refuse upcoming calls by a simple method and free of charge.

### **Location Data**

**Article 15** – Where, in connection with users and subscribers of telecommunication, location data can also be processed other than traffic data, such data may only be processed in a scope and time in which subscribers and users are made anonymous or time that is required for provision of a value-added service, and by agreement of subscribers and users. Prior to obtaining such agreement, operator has to inform users and subscribers of type of location data other than traffic data, time and purpose of the processing and whether it shall be sent to third parties for the purpose of providing value-added service. Users and subscribers shall always be free to withdraw their consent to processing location data.

### **Provisional Refusal**

**Article 16** – When approval is obtained with regard to processing of location data of users or subscribers, such users and subscribers shall be furnished with the ability to provisionally refuse processing of such data for each connection to the network and/ or telecommunication transmission, by a simple method and free of charge.

### **Limitation To Number Of Persons**

**Article 17** – Processing of location data other than traffic data is limited to the persons under the authority of the network and/ or operator or the third parties that provide value-added service. However, such limitation should be made according to the nature of provision of value-added service and to an extent entailed by its purpose.

### **Exceptional Situations**

**Article 18** – Operators pursue a transparent policy in the following exceptional situations:

- a) Where identity of caller line is provisionally disclosed upon application by subscriber for the purpose of surveilling ill intentioned or disturbing calls, information containing identity of calling subscriber should be kept and made accessible by the network and/ or operators in conformity with the legislation.
- b) In order to enable governmentally-recognized authorities and agencies to respond to emergency calls, including security forces, ambulance and firefighting services, information including location data and identity of the caller line for disclosure or processing of caller line shall be kept and made accessible, on a single-line basis, even if user or subscriber does not consent thereto.

### **Directories Prepared For Subscribers**

**Article 19** – Subscribers shall be provided with the information as to purpose of publishing written and electronic subscriber directories, free of charge, prior to registration process.

Subscribers are always free to request correction, verification or exclusion of their subscriber information in the directories without any charge.

Additional consent of subscriber is required for directory services further than access to personal information of subscribers based on names and surnames.

#### **Unwanted Communications**

**Article 20** – Operators may not use automatic calling systems such as fax devices, electronic mail, short messages that do not require user control as a means to perform direct marketing or political propaganda. Furthermore, subscribers shall be furnished with means to refuse to admit each received message in the future, by a simple way without any charge.

Electronic mails, which are sent for direct marketing and hide sender identity that would indicate with whom communication is made or which fail to possess an address from which receiver of such mail request termination of communication in question, shall be barred.

#### **Technical Characteristics And Arrangements**

**Article 21** – Operators supply terminal equipment required for processing and protecting privacy of personal information.

### **PART FOUR Other Provisions**

**Provisional Article 1** – Personal information of subscribers of fixed or mobile telephony system, whose information has been available in public directories prior to publication of this Regulation, shall remain available in electronic or printed directories until such time that they request otherwise.

#### **Coming Into Force**

**Article 24** – This Regulation shall come into force as of the date of publication.

#### **Enforcement**

**Article 25** – Provisions of this ordinance shall be enforced by Chairman of Telecommunication Board.