

Law on Amendment of the Wireless Law

Law No: 5392

Date of Adoption : 2.7.2005

ARTICLE 1. – Following sub-paragraphs have been added to the article 3 of Wireless Law

f) “Electronic Identity Information” means the identity assigned to the wireless devices as a single and unique identifier,

g) “Subscriber Identity and Communication Information” means private information assigned to subscriber by operator which belong to governmental entity and Authorities or corporation and real person,

h) “Electronic Communication” means the transmission, emission and reception through cable, wireless, optical, electric, magnetic, electro magnetic, electro chemical, electro mechanic and other transmission systems of all kinds of sign, symbol, voice and image and all kinds of data which can be converted into electric signals

i) “Operator” means, in the framework of the authorization, the corporation which provides electronic communication services or runs telecommunications infrastructure,

k) “Authority” means the Telecommunication Authority,

l) “Board” means Telecommunication Board,

m) EIR (Equipment Identity Register) means mobil device identity definition and database,

n) “CEIR (Central Equipment Identity Register)” means central mobil device identity definition and database,

o) “Device” means the device or related accessory which connects to the wireless or electronic communication network,

p) “SMS (Short Message Service)” means short message service,

r) “IMEI (International Mobil Equipment Identity)” means international mobile device identity

ARTICLE 2.- The following part shall be annexed to Article 25 of the Law No. 2813, and other sections shall be numerated accordingly.

THIRD PART

Devices Possessed Electronic Identity Information

Devices with electronic identity information

Article 25 a.- Without consent of the Authority the private information contained subscriber

identity and communication information supplied by operator or electronic identity information may not be recreated, changed, reproduced by copying or be dispatched for any other purpose.

Importation, manufacturing, distribution or promotion, possession and trading of any devices, cards, tools and instruments, whose identity information is changed, as well as any software, devices or instruments intended for such change shall be strictly prohibited.

Any devices, cards, tools and instruments, whose identity information is changed, as well as any software, devices or instruments intended for such change shall be confiscated in accordance with Article 127 of the Turkish Criminal Procedure Code No. 5271 dated 4.12.2004 upon a request of the Authority.

Trading of new or used devices with electronic identity information against Authority regulations is not allowed.

Security of subscriber and device identity information

ARTICLE 25b.- Any software, cards, devices and instruments, which have subscriber and communication information as well as electronic identity information of devices, may not be copied, kept, distributed, or used for own or others' benefits without a valid authorization and permission.

The operator or its duly authorized representative shall not be given false documentation and information regarding subscription information during the subscription process,

Subscription registration shall not be done by the operator or its authorized representative without first verifying the identity information required for subscription,

Procedures and principles regarding subscription agreements shall be addressed in a regulation to be issued by the Authority.

Operators

ARTICLE 25c.- Operators, may not provide service to lost, smuggled or stolen devices as well as devices whose electronic identity information stored in Authority's CEIR is changed..

The operators shall have the obligation to ensure interoperability of EIR systems and the Authority's CEIR system, to ensure security and reliability of their related technical infrastructure and system within five months of the entry into force of this Law and to operate them without any delay, for purposes of stopping the abovementioned illegal devices from connecting to communications networks.

From the date of ascertaining and immediate notification of the problem, which stems from the system operation, by the operator or Authority, the operator shall be given five working days to remedy the problem. In case of any failure to remedy the problem, the operator shall immediately make a written application with the Authority for time extension.

Information and call centre

ARTICLE 25d.- The Authority shall set up or cause to be set up an information and call center for devices with electronic identity information. The person in possession of a device with electronic identity information registered with the Authority's system, which is stolen, looted, lost or somehow taken away beyond his/her control, shall first make an application with the Authority's information and call centre to break the device's connection to electronic communication networks. The Authority shall notify the Chief Criminal Prosecution Office accordingly, if it obtains any information regarding the offence which is attributed to the suspect.

ARTICLE 3. – The wording 'heavy monetary penalty from thirty thousand to one hundred thousand liras' and 'heavy monetary penalty from ten thousand to thirty thousand liras' used in paragraph two of item (i) of Article 32 of the Law No. 2813 shall be amended as 'judicial monetary penalty from fifty days to two thousand days'; and following items shall be annexed to follow item (g) of the second paragraph of the article and the other items shall be sequenced accordingly. Also, the following paragraph has been annexed to the article.

h) Those who infringe the first and second paragraphs of Article 25a of this law be sentenced to imprisonment of one to five years and to monetary penalty of one hundred to five thousand days; and those who act contrary to the fourth paragraph shall be subjected to an administrative penalty of one hundred to ten thousand YTL. This administrative penalty shall be imposed by the police.

Where the offences defined in this article are committed within the framework of an organized act, the penalties to be imposed shall be increased by half. If the person who is involved in such acts or activities is a legal person, specific security measures laid down in the Turkish Criminal Code No. 5237 dated 26.09.2004 shall be invoked.

i) Those who infringe the first paragraph of Article 25b of this law shall be sentenced to imprisonment of one to three years; those who infringe second paragraph of Article 25b of this law shall be sentenced to imprisonment of six months to two years; those who infringe third paragraph of Article 25b of this law shall be sentenced to imprisonment of six months to two years.

Where the offences defined in this article are committed within the framework of an organized act, the penalties to be imposed shall be increased by half. If the person who is involved in such acts or activities is a legal person, specific security measures laid down in the Turkish Criminal Code No. 5237 dated 26.09.2004 shall be invoked.

j) Those who infringe the first paragraph of Article 25c of this law shall be given an administrative penalty of twenty to forty thousand YTL for each device, except the cases indicated in paragraph three of the article.

Those who infringe the second paragraph of Article 25c of this law shall be given ten million YTL monetary penalty.

Those who will infringe the third paragraph of Article 25c of this law shall be given an administrative penalty of five hundred thousand to one million YTL.

The administrative penalties provided for in this item shall be imposed by the Authority.

Every kind of notification to be made by the Authority shall be in accordance with the Notification Law No. 7201 dated 11.2.1959.

ARTICLE 4. – The following paragraph shall be annexed to the Law No. 2813 to follow the second paragraph of Article 33 thereof.

Issues relating to the implementation of articles 25a, 25b, 25c and 25d shall be addressed in a regulation or Board decisions to be issued by the Authority within two months of the entry into force of this Law.

ARTICLE 5.- Following provisional articles shall be annexed to the Law No. 2813.

PROVISIONAL ARTICLE 6.- Users of the devices electronic identity information, which are found to be not registered with the Authority prior to the entry into force of this Law, shall make an application to and have their devices registered with the Authority or other authorized agencies to be designated by the Authority within five months of the entry into force of this law.

For the registry of each unregistered device, five YTL shall be collected as a registration fee by the agency designated by the Authority. The registration fee is exempt from any kind of duties, taxes and treasure allocation. The designated agencies shall deduct one YTL from the registration fee collected for each device in consideration of services costs, consisting of sending SMS and correction of IMEI number of cloned devices, etc., and the remaining amount shall be transferred to the Authority accounts within the ten days of the collection to be used as a contribution to CEIR and the information and call center.

At the end of the period of application, all devices not registered with the Authority shall be permanently disabled by disconnecting their connection to the electronic communications networks. But, if the user has reasonable excuses under the Regulation for delaying the registration requirement, their connection to the electronic communications networks shall be re-established, provided that they pay the abovementioned registration fee.

PROVISIONAL ARTICLE 7.- The Authority shall ensure that any software, hardware and auxiliary equipment for the establishment and operation of the CEIR and an information and call center are supplied within forty five days as from the date of the entry into force of this law.

ARTICLE 6.- This regulation shall enter into force on the date of its publication.

ARTICLE 7.- Provisions of this Regulation shall be enforced by the Council of Ministers.

12 July 2005