

The Regulation on Market Surveillance and Audit of Wireless Equipment Entered into Force

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Regulation On Market Surveillance And Audit Of Wireless Equipment ("Regulation"), published in the Official Gazette dated 27 March 2024 and numbered 32502, introduced the Regulation came into force and the Regulation on Market Surveillance and Inspection of Radio and Telecommunication Terminal Equipment published in the Official Gazette dated 6 February 2013 and numbered 28551 was repealed.

The purpose of the Regulation is to ensure that the radio equipment under the duty and responsibility of the Information and Communication Technologies Authority ("BTK") is safe and in compliance with the relevant technical regulations.

Accordingly, models illegally placed on the market or models with illegal changes in their technical specifications, including the IMEI number, will be excluded from the scope of the Regulation.

Devices for which the inspection process has been completed until the date of entry into force of the Regulation, but no administrative sanction is required to be imposed, will be subject to the provisions of this Regulation. Devices whose inspection process started after the entry into force of the Product Safety and Technical Regulations Law dated 5 March 2020 and numbered 7223 and before the entry into force of this Regulation are subject to the provisions of this Regulation. The favorable provisions shall apply to the transactions applied to the devices whose inspection process has not been completed until the date of entry into force of this Regulation.

Devices that comply with the provisions of the technical regulations on human health and safety, health and safety at work, consumer protection, the environment and other public interests and the essential requirements of the Radio Equipment Regulation (2014/53/EU) are placed on the market, kept on the market and put into service. A device that is marketed, advertised, promoted, sold and rented through printed and visual media, radio and television, internet and all similar remote communication tools or physically, shall be deemed to have been placed on the market and will be included in the scope of the Regulation.

In the absence of a technical regulation on the device or does not contain provisions on human health and safety or does not contain provisions on specific risks or risk categories, the device is considered safe in accordance with the national standards corresponding to the European standards on the safety of the device whose reference numbers are published in the Official Journal of the European Union.

BTK conducts surveillance of the devices and systems for which it is responsible ex officio, upon notice or complaint, as well as planned inspections.

In market surveillance activities; technical documents, user manual, warranty certificate, invoice and other necessary information and documents of the device may be requested for examination within the framework

of the relevant legislation. During the inspection, the economic operator is informed about the relevant legislation and technical regulations.

With the provisions of the Regulation, it is also stated that if the economic operator submits documents and test reports showing conformity from a conformity assessment body accredited within the framework of the Regulation on Conformity Assessment Bodies and Notified Bodies and the Radio Equipment Regulation (2014/53/EU) or, where required by the relevant legislation, from a conformity assessment body authorized by the competent authorities, and if deemed appropriate by the Authority, these documents and reports will also be taken into consideration.

If it is determined that the inspected device is safe and in compliance with technical regulations and relevant standards and no administrative sanction is imposed;

Test or inspection expenses and other related expenses shall be covered by the Authority and the result of the test or inspection shall be notified to the economic operator in writing. The economic operator may take back the samples or have them taken back within one month from the date of notification of this notification.

If the importer or distributor places the device on the market under its own name or trademark, keeps it on the market, changes the device in a way that affects its compliance with its technical regulation, relevant standards or other legislation, it is considered responsible as the manufacturer.

If the economic operator fails to take the necessary measures on time or at all, or if the measures taken are incomplete or insufficient, or if the economic operator cannot be identified.

- Stopping the placing of the device on the market, preventing its placement on the market, withdrawing it from the market, recalling it, stopping its advertising and display,
- Taking the necessary measures to ensure that distributors are aware of and comply with the measures,
- Warning consumers about the risks of the device,
- Destruction or rendering the device unusable under appropriate conditions.

The full text of the Regulation is available at this [link](#). (Only available in Turkish)

Related Attorneys

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