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## The Issues on the Application of Article 56(1) Telecommunications Act

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### Abstract

This article was to analyze the practice concerning Article 56(1) of Telecommunications Act. The courts apply Article 56(1) by virtue of the criteria set by the Supreme Court. However, these criteria deviate from the text of Article 56(1), which states the offense conducted through “wire-based, wireless or other electromagnetic means.” Furthermore, the judges used to and still dose misinterpret the legal text of Article 56(1). As a result, a large number of cases fell into the scope of Article 56(1), even if they did not involve electromagnetic means. The requirement of the means indicates the basis for the penalty and therefore should not be neglected. The author argues that the “unauthorized access or use of another person’s telecommunications facilities” in Article 56(1) refers only to the actions conducted through electromagnetic means. The actions, which relate to the electromagnetic devices, such as using mobile phones of others, do not constitute the offense provided for in Article 56(1). On the other hand, criminal regulation is not suitable for the problem situation. The demand for penalty arose from weakness of civil relation status, but penalty cannot relieve it.

**Keywords:** Telecommunications Act, Electromagnetic Means, Unauthorized Access, Unauthorized Use, Criminal Regulation

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