

Organic Law No. 2004-63 of July 27, 2004, on the protection of personal data (1).

On behalf of the people,
The Chamber of Deputies having adopted,
The President of the Republic promulgates the following organic law:

CHAPTER I

General provisions

Article 1. - Everyone has the right to the protection of personal data relating to their private life as one of the fundamental rights guaranteed by the Constitution and such data may only be processed in a transparent and fair manner, with respect for human dignity and in accordance with the provisions of this law.

Art. 2. - This law applies to the automated processing, as well as the non-automated processing of personal data carried out by natural persons or legal entities.

Art. 3. - This law does not apply to the processing of personal data for purposes not exceeding personal or family use, provided that such data is not transmitted to third parties.

Art. 4. - For the purposes of this law, personal data means any information, regardless of its origin or form, which directly or indirectly identifies a natural person or makes them identifiable, with the exception of information related to public life or considered as such by law.

Art. 5. - A natural person is considered identifiable if they can be identified, directly or indirectly, through several pieces of data or symbols relating in particular to their identity, physical, physiological, genetic, psychological, social, economic, or cultural characteristics.

Art. 6. - For the purposes of this law, the following definitions apply:

- processing of personal data: operations carried out automatically or manually by a natural or legal person, with the aim of collecting, recording, storage, organization, modification, exploitation, use, dispatch, distribution, dissemination, or destruction, or consultation of personal data, as well as all operations relating to the exploitation of databases, indexes, directories, files, or interconnection.

(1) Preparatory work:

Discussion and adoption by the House of Representatives at its meeting on July 21, 2004.

- file: a structured and grouped set of personal data that can be consulted according to specific criteria and that allows a specific person to be identified.

- Data subject: any natural person whose personal data is being processed.

- controller: any natural or legal person who determines the purposes and means of the processing of personal data.

- third party: any natural or legal person or public authority, as well as their subordinates, with the exception of the data subject, the beneficiary, the data controller, the data processor and their subordinates.

- processor: any natural or legal person who processes personal data on behalf of the controller.

- the Authority: the National Authority for the Protection of Personal Data.

- communication: the act of giving, handing over or bringing personal data to the attention of one or more persons other than the data subject, in any form and by any means.

- interconnection: the act of correlating data contained in one or more files held by one or more controllers.

- recipient: any natural or legal person receiving personal data.

CHAPTER II

Conditions for the processing of personal data

Section I - Preliminary procedures for the processing of personal data

Art. 7. - Any personal data processing operation is subject to prior notification filed at the headquarters of the national personal data protection authority against receipt or notified by registered letter with acknowledgment of receipt or by any other means leaving a written record.

The declaration shall be made by the data controller or their legal representative.

The declaration does not exempt the controller from liability towards third parties.

The conditions and procedures for submitting the declaration shall be laid down by decree.

The Authority's failure to object to the processing of personal data within one month of the submission of the declaration shall be deemed to constitute acceptance.

Art. 8. - In cases where this law requires authorization from the Authority for the processing of personal data, the request for authorization must include the following information:

- the surname, first name, and address of the data controller, and if it is a legal entity, its corporate name, registered office, and the identity of its legal representative;
- the identity of the persons concerned by the personal data and their addresses;
- the purposes of the processing and its standards;
- the categories of processing, its location, and the date of processing;
- the personal data to be processed, as well as their origin;
- the persons or authorities likely to become aware of these data in view of their function;
- the recipients of the data being processed;
- the location where the personal data subject to processing will be stored and for how long;
- the measures taken to ensure the confidentiality and security of the processing;
- a description of the databases to which the data controller is connected;
- the commitment to process personal data in accordance with the provisions of the law;
- a declaration that the conditions set out in Article 22 of this law are met;

In the event of any change in the above information, authorization must be obtained from the Authority.

The request for authorization shall be submitted by the data controller or their legal representative.

Authorization does not exempt the controller from liability to third parties.

The conditions for submitting the authorization request and the procedures for doing so shall be laid down by decree.

Section II - The data controller and his obligations

Art. 9. - The processing of personal data must be carried out with respect for human dignity, privacy, and civil liberties.

The processing of personal data, regardless of its origin or form, must not infringe on the rights of individuals protected by applicable laws and regulations, and in all cases, it is prohibited to use such data to harm individuals or their reputation.

Art. 10. - Personal data may only be collected for lawful, specific and explicit purposes.

Art. 11. - Personal data must be processed fairly and within the limits necessary for the purposes for which it was collected. The data controller must also ensure that this data is accurate, precise, and up to date.

Art. 12. - Personal data may not be processed for purposes other than those for which it was collected, except in the following cases:

- if the data subject has given their consent.
- if processing is necessary to protect the vital interests of the data subject;
- if the processing is necessary for specific scientific purposes.

Art. 13. - The processing of personal data relating to offenses, their detection, criminal proceedings, penalties, preventive measures, or criminal records is prohibited.

Art. 14. - The processing of personal data relating, directly or indirectly, to racial or genetic origin, religious beliefs, political, philosophical or trade union opinions, or health is prohibited.

However, the processing referred to in the previous paragraph is possible when it is carried out with the express consent of the person concerned, given by any means that leaves a written record, or when such data has become manifestly public, or when such processing is necessary for historical or scientific purposes, or when such processing is necessary to safeguard the vital interests of the person concerned.

The processing of personal data relating to health is governed by the provisions of Chapter V of this Act.

Art. 15. - The processing of personal data referred to in Article 14 of this law is subject to authorization by the National Authority for the Protection of Personal Data, with the exception of data relating to health.

The authority must respond to the request for authorization within a period not exceeding thirty days from the date of receipt. Failure to respond within this period shall be deemed a refusal.

The authority may decide to accept the request while imposing on the data controller the obligation to take precautions or measures that it deems necessary to safeguard the interests of the data subject.

Art. 16. - The provisions of Articles 7, 8, 27, 28, 31, and 47 of this law shall not apply to the processing of personal data concerning the employee's professional situation, where such processing has been carried out by the employer and is necessary for the functioning of the work and its organization.

The provisions of the articles referred to in the previous paragraph shall not apply to the processing of personal data required for monitoring the state of health of the data subject.

Art. 17. - In all cases, it is strictly prohibited to link the provision of a service or the granting of a benefit to a person to their acceptance of the processing of their personal data or its use for purposes other than those for which it was collected.

Art. 18. - Any person who processes personal data, either personally or through a third party, is required to take all necessary precautions to ensure the security of such data and to prevent third parties from modifying, altering, or consulting it without the consent of the data subject.

Art. 19. - The precautions provided for in Article 18 of this law must:

- prevent the equipment and facilities used in the processing of personal data from being placed in conditions or locations that allow unauthorized persons to access them;
- prevent data media from being read, copied, modified, or moved by an unauthorized person;
- prevent the unauthorized introduction of any data into the information system, as well as any access to, erasure or deletion of recorded data;
- prevent the information processing system from being used by unauthorized persons;
- ensure that the identity of persons who have accessed the information system, the data that has been entered into the system, the time of entry, and the person who entered it can be verified retrospectively;
- prevent data from being read, copied, modified, deleted, or erased during communication or transport of the medium;
- back up data by creating secure backup copies;

Art. 20. - When entrusting certain or all processing operations to third parties under a subcontracting agreement, the data controller must choose the subcontractor with great care.

The subcontractor must comply with the provisions of this law and must act only within the limits authorized by the data controller; he must also have all the necessary and appropriate technical means to carry out the tasks entrusted to him.

The controller and the processor shall be liable for any breach of the provisions of this Act.

Art. 21. - The data controller and the data processor must correct, complete, modify, or update the files in their possession, and delete personal data from these files if they become aware of the inaccuracy or insufficiency of such data.

In this case, the data controller and the data processor must inform the data subject and the legitimate recipient of the data of any changes made to the personal data they have previously received.

The notification shall be made within two months of the date of the modification, by registered letter with acknowledgment of receipt or by any other means leaving a written record.

Art. 22. - Without prejudice to the laws and regulations in force, the natural person or legal representative of the legal entity wishing to process personal data and their agents must meet the following conditions:

- be of Tunisian nationality;
- be a resident of Tunisia;
- have no criminal record.

These conditions also apply to the processor and its agents.

Art. 23. - The data controller, the processor, and their agents, even after the end of the processing or the loss of their status, must preserve the confidentiality of personal data and the information processed, except for those whose disclosure has been accepted in writing by the data subject or in the cases provided for by the legislation in force.

Art. 24. - The data controller or processor who intends to permanently cease their activity must inform the Authority three months before the date of cessation of activity.

In the event of the death of the data controller or processor, or their bankruptcy, or in the event of the dissolution of the legal entity, the heirs, bankruptcy trustee, or liquidator, as applicable, must inform the Authority within a period not exceeding three months from the date of the occurrence.

The Authority shall, within a period not exceeding one month from the date of its notification in accordance with the previous paragraph, authorize the destruction of the personal data.

Art. 25. - The authority may decide to disclose personal data in the event of cessation of activity for the reasons indicated in the previous article, in the following two cases:

- 1) if it considers that such data are useful for historical and scientific purposes;
- 2) if the person who made the notification proposes to disclose all or part of the personal data to a natural or legal person, specifying their identity precisely. In this case, the authority may decide to accept the disclosure of personal data to the proposed person. The actual disclosure shall only take place after obtaining the consent of the person concerned, their guardian or their heirs, received by any means leaving a written record.

If this consent is not obtained within three months of the date on which it was requested, the personal data must be destroyed.

Art. 26. - In the event of the cessation of the activity of the data controller or processor for the reasons indicated in Article 24 of this law, the data subject, their heirs, or any interested party or the public prosecutor may, at any time, request that the Authority take all appropriate measures for the preservation and protection of personal data, as well as their destruction.

The Authority shall render its decision within ten days of the date of referral.

Section III - Rights of the person concerned

Subsection I - Consent

Art. 27. - Except in the cases provided for by this law or the laws in force, the processing of personal data may only be carried out with the express written consent of the person concerned; if the person concerned is incapacitated or prohibited from signing, consent shall be governed by the general rules of law.

The data subject or their guardian may withdraw consent at any time.

Art. 28. - The processing of personal data concerning a child may only be carried out after obtaining the consent of their guardian and the authorization of the family court judge.

The family court judge may order the processing even without the consent of the guardian when the best interests of the child so require.

The family court judge may revoke their authorization at any time.

Art. 29. - The processing of personal data is not subject to the consent of the data subject when it is clear that such processing is in their interest and they cannot be contacted, or when obtaining their consent involves disproportionate effort, or if the processing of personal data is provided for by law or by an agreement to which the data subject is a party.

Art. 30. - Consent to the processing of personal data in a specific form or for a specific purpose does not apply to other forms or purposes.

The processing of personal data for advertising purposes is prohibited unless the data subject, their heirs, or their guardian has given their express and specific consent. Consent in this regard is subject to the general rules of law.

Where the data subject is a child, the provisions of Article 28 of this Law shall apply.

Art. 31. - After the expiry of the period set by Article 7 of this Act for the Authority to object, the persons concerned by the collection of personal data must be informed in advance and by any means leaving a written record of the following:

- the nature of the personal data concerned by the processing;
- the purposes of the processing of personal data;
- whether their response is mandatory or optional;
- the consequences of failure to respond;
- the name of the natural or legal person receiving the data, or of the person who has the right of access and their address;

- the name and first name of the data controller or its corporate name and, where applicable, its representative and domicile;

- their right to access data concerning them;
- their right to withdraw their consent to the processing at any time;

- their right to object to the processing of their personal data;

- the period for which the personal data will be stored;
- a summary description of the measures implemented to ensure the security of personal data.

- the country to which the data controller intends, where applicable, to transfer the personal data.

The notification shall be made by registered letter with acknowledgment of receipt or by any other means leaving a written record at least one month before the date set for the processing of personal data.

Subsection II - Right of access

Art. 32. - For the purposes of this law, the right of access means the right of the data subject, their heirs, or their guardian to consult all personal data concerning them, as well as the right to correct, complete, rectify, update, modify, clarify, or erase such data when it proves to be inaccurate, ambiguous, or when its processing is prohibited.

The right of access also covers the right to obtain a copy of the data in clear language and in accordance with the content of the records, and in an intelligible form when processed using automated means.

Art. 33. - The right of access cannot be waived in advance.

Art. 34. - The right of access shall be exercised by the data subject, his or her heirs, or his or her guardian at reasonable intervals and in a non-excessive manner.

Art. 35. - The right of access of the data subject, his or her heirs or guardian to personal data concerning him or her may be restricted only in the following cases:

- when the processing of personal data is carried out for scientific purposes and provided that such data affects the privacy of the data subject only in a limited way;
- if the reason for limiting the right of access is to protect the data subject themselves or third parties.

Art. 36. - Where there are several controllers of personal data or where the processing is carried out by a processor, the right of access shall be exercised with each of them.

Art. 37. - The controller of the automated processing of personal data and the processor shall implement the technical means necessary to enable the data subject, his or her heirs or guardian to send by electronic means a request for the rectification, modification, correction or erasure of personal data.

Art. 38. - The request for access shall be submitted by the data subject or their heirs or guardian in writing or by any means that leaves a written record. The data subject, their heirs or guardian may request copies of the data in the same manner within a period not exceeding one month from the date of the request.

In the event that the data controller or processor refuses to allow the data subject, his or her heirs, or guardian to consult the requested personal data, or delays access to such data, or refuses to provide them with a copy of such data, the data subject, his or her heirs or guardian may submit a request to the Authority within a maximum period of one month from the date of refusal.

After hearing both parties and carrying out the necessary investigations, the Authority may order the consultation of the requested information or the delivery of a copy of that information, or approve the refusal, within a period not exceeding one month from the date of referral.

The person concerned, their heirs, or their guardian may submit a request to the Authority, where appropriate, to take all appropriate measures to prevent the destruction or concealment of personal data. The Authority shall rule on the request within seven days of the date on which the request was submitted.

The destruction or concealment of such data shall be prohibited as soon as the request is submitted.

Art. 39. - In the event of a dispute over the accuracy of personal data, the data controller and the data processor shall mention the existence of the dispute until a decision is made.

Art. 40. - The data subject, his or her heirs or guardian may request that personal data concerning him or her be rectified, supplemented, modified, clarified, updated or erased where it is inaccurate, incomplete or ambiguous, or request its destruction where its collection or use has been carried out in violation of this law.

They may also request, free of charge and after completing the required procedures, a copy of the personal data and indicate what has not been done with regard to such data.

In this case, the data controller or processor must provide them with a copy of the requested data within one month of the date of submission of the request.

In the event of an explicit or implicit refusal of the request, the matter may be referred to the Authority within a period not exceeding one month from the date of expiry of the period referred to in the previous paragraph.

Art. 41. - The Authority shall be seized of any dispute relating to the exercise of the right of access.

Subject to the specific time limits provided for in this law, the Authority shall render its decision within one month of the date on which the matter is referred to it.

Subsection III - The right to object

Art. 42. - The data subject, his or her heirs or guardian shall have the right to object at any time to the processing of personal data concerning him or her on valid, legitimate and serious grounds, except in cases where the processing is provided for by law or is required by the nature of the obligation.

In addition, the data subject, his or her heirs or guardian has the right to object to the disclosure of personal data concerning him or her to third parties for advertising purposes.

The objection shall immediately suspend the processing.

Art. 43. - The National Personal Data Protection Authority shall hear any dispute relating to the exercise of the right to object.

The authority shall render its decision within the time limit provided for in Article 41 of this Act.

The family court shall rule on disputes relating to opposition where the person concerned is a child.

CHAPTER III

Collection, storage, erasure, and destruction of personal data

Art. 44. - Personal data may only be collected from the persons directly concerned.

The collection of personal data from third parties shall only be permitted with the consent of the person concerned, their heirs or their guardian. Consent is not required when the collection of data from third parties is provided for by law, or when collection from the person concerned involves disproportionate effort, or if it is clear that the collection does not affect their legitimate interests, or when the person concerned is deceased.

Where the data subject is a child, the provisions of Article 28 of this Act shall apply.

Art. 45. - Personal data must be destroyed upon expiry of the period specified for its retention in the declaration or authorization or specific laws, or when the purposes for which it was collected have been achieved, or when it becomes unnecessary for the activity of the data controller. A report shall be drawn up by a bailiff in the presence of an expert appointed by the Authority.

The expert's fees set by the Authority and the bailiff's costs shall be borne by the data controller.

Art. 46. - Personal data communicated or likely to be communicated to the persons referred to in Article 53 of this law may only be destroyed or deleted after obtaining the opinion of those persons and the authorization of the National Personal Data Protection Authority.

The Authority shall rule on the request within a period not exceeding one month from its submission.

CHAPTER IV

Communication and transfer of personal data

Art. 47. - It is prohibited to communicate personal data to third parties without the express consent given by any means leaving a written record, by the person concerned, their heirs or their guardian, unless such data is necessary for the performance of tasks entrusted to public authorities in the context of public security or national defense, or is necessary for the implementation of criminal proceedings or the performance of tasks entrusted to them in accordance with the laws and regulations in force.

The Authority may authorize the disclosure of personal data in the event of a written and explicit refusal by the data subject, his or her heirs, or guardian, when such disclosure is necessary for the fulfillment of their vital interests, or for the completion of historical or scientific research or studies, or for the performance of a contract to which the data subject is a party, provided that the person to whom the personal data is disclosed undertakes to implement all necessary safeguards for the protection of the data and related rights in accordance with the Authority's guidelines, and to ensure that it will not be used for purposes other than those for which it was disclosed.

Where the data subject is a child, the provisions of Article 28 of this Act shall apply.

Art. 48. - The request for authorization shall be submitted to the Authority within a period not exceeding one month from the date of the data subject's refusal to disclose their personal data to third parties.

The Authority shall rule on the request within a period not exceeding one month from its submission.

The Authority shall inform the applicant of its decision within fifteen days of the date on which the decision is taken, by registered letter with acknowledgment of receipt or by any other means leaving a written record.

Art. 49. - Personal data processed for specific purposes may be disclosed for further processing for historical or scientific purposes, provided that the consent of the data subject, his or her heirs or guardian, and the authorization of the National Personal Data Protection Authority are obtained.

The Authority shall decide, on a case-by-case basis, whether to delete data that could identify the data subject or to leave it in place.

Where the data subject is a child, the provisions of Article 28 of this law shall apply.

Art. 50. - It is prohibited, in all cases, to communicate or transfer personal data to a foreign country when this is likely to undermine public security or the vital interests of Tunisia.

Art. 51. - The transfer to another country of personal data that is being processed or is intended to be processed may only take place if that country ensures an adequate level of protection, assessed in light of all factors relating to the nature of the data to be transferred, the purposes of its processing, the duration of the intended processing, and the country to which the data will be transferred, as well as the necessary precautions taken to ensure data security. In all cases, the transfer of personal data must be carried out in accordance with the conditions set out in this law.

Art. 52. - In all cases, authorization from the Authority is required to transfer personal data abroad.

The Authority must rule on the request for authorization within a maximum period of one month from the date of submission of the request.

Where the personal data to be transferred concerns a child, the request shall be submitted to the family court judge.

CHAPTER V

Certain specific categories of processing

Section I - Processing of personal data by public authorities

Art. 53. - The provisions of this section shall apply to the processing of personal data by public authorities, local authorities, and public administrative institutions in the context of public security or national defense, or for the purpose of criminal prosecution, or when such processing is necessary for the performance of their duties in accordance with the laws in force.

The provisions of this section shall also apply to the processing of personal data by public health institutions and public institutions not belonging to the category mentioned in the previous paragraph, in the context of the tasks they perform by exercising public authority in accordance with the legislation in force.

Art. 54. - Processing carried out by the persons referred to in the previous article is not subject to the provisions of Articles 7, 8, 13, 27, 28, 37, 44, and 49 of this law.

The processing carried out by the persons referred to in the first paragraph of Article 53 of this Act shall also not be subject to the provisions of Articles 14, 15, and 42 and the provisions of Section 4 of Chapter 5 of this Act.

Article 55. - The persons referred to in Article 53 of this Act shall rectify, complete, modify, or update the files in their possession, and delete the personal data contained in those files if the data subject, guardian, or heirs have reported, by any means leaving a written record, the inaccuracy or insufficiency of such data.

Art. 56. - The right of access to personal data processed by the persons referred to in Article 53 may not be exercised.

However, for data processed by the persons mentioned in the second paragraph of Article 53 of this law, the data subject, his or her guardian, or his or her heirs may, for valid reasons, request that the data be corrected, supplemented, rectified, updated, modified, or erased when it proves to be inaccurate and they have become aware of it.

Art. 57. - The persons referred to in Article 53 of this Act are prohibited from communicating personal data to private individuals without the express consent of the data subject, his or her guardian, or his or her heirs, given by any means that leaves a written record. Where the data subject is a child, the provisions of Article 28 of this Act shall apply. Other communications remain subject to the provisions of the specific laws in force.

Art. 58. - The data subject, his or her guardian, or his or her heirs may object to the processing of personal data by the persons referred to in the second paragraph of Article 53 of this Act if such processing is contrary to the provisions of this Act that are applicable to him or her.

Art. 59. - The National Personal Data Protection Authority shall be seized, at the request of the data subject, his or her guardian, or his or her heirs, of any dispute relating to the application of the provisions of the second paragraph of Article 56 and Article 58 of this law. It shall render its decision within one month of the date on which the matter was referred to it.

Art. 60. - In the event of the dissolution or merger of the persons referred to in Article 53 of this law, the supervisory authority shall take the necessary measures to preserve and protect the data processed by the dissolved or merged person.

The supervisory authority may decide to destroy the personal data or to disclose it if it considers that such data is useful for historical and scientific purposes.

In all cases, an administrative report shall be drawn up.

Art. 61. - The persons referred to in Article 53 of this Act shall destroy personal data if the period for their retention determined by specific laws has expired or if the purpose for which they were collected has been achieved. The same shall apply if such data are no longer necessary for the activity pursued in accordance with the laws in force. An administrative report shall be drawn up.

Section II - Processing of personal data relating to health

Art. 62. - Without prejudice to the provisions of Article 14 of this Act, personal data relating to health may be processed in the following cases:

1. when the data subject, their heirs, or their guardian has given their consent to such processing. When the data subject is a child, the provisions of Article 28 of this law shall apply;

2. when the processing is necessary for the fulfillment of purposes provided for by law or regulations;

3. when the processing is necessary for the development and protection of public health, including for research on diseases;

4. where circumstances show that the processing is beneficial to the health of the data subject or is necessary for preventive or therapeutic purposes for the monitoring of his or her state of health;

5. when the processing is carried out in the context of scientific research in the field of health.

Art. 63. - The processing of personal data relating to health may only be carried out by doctors or persons who, by virtue of their position, are subject to professional secrecy.

Doctors may disclose personal data in their possession to persons or institutions conducting scientific research in the field of health following a request from such persons or institutions, and on the basis of authorization from the National Data Protection Authority.

The authority must rule on the application for authorization within a maximum period of one month from the date of submission of the application.

Art. 64. - Processing may not exceed the time necessary to achieve the purpose for which it is carried out.

Art. 65. - When issuing the authorization referred to in the second paragraph of Article 63 of this law, the authority may lay down the precautions and measures to be implemented to ensure the protection of personal data relating to health.

It may prohibit the dissemination of personal data relating to health.

Section III. - Processing of personal data in the context of scientific research

Art. 66. - Personal data collected or recorded for scientific research purposes may only be processed or used for scientific research purposes.

Art. 67. - Personal data shall not contain elements that could reveal the identity of the data subject where the requirements of scientific research so permit. Data concerning the situation of an identified or identifiable natural person shall be recorded separately and may only be combined with data concerning that person if necessary for research purposes.

Art. 68. - The dissemination of personal data processed for scientific research purposes may only take place when the data subject, their heirs or guardian have given their express consent by any means that leaves a written record; or when such dissemination is necessary for the presentation of research results relating to events or phenomena existing at the time of said presentation.

Where the data subject is a child, the provisions of Article 28 of this Act shall apply.

Section IV - Processing of personal data for video surveillance purposes

Art. 69. - Subject to the legislation in force, the use of video surveillance means is subject to prior authorization by the National Personal Data Protection Authority.

The Authority shall decide on the request for authorization within a maximum period of one month from the date of submission of the request.

Art. 70. - The surveillance equipment referred to in the previous article may only be used in the following places:

1. places open to the public and their entrances;
2. car parks, public transport, stations, seaports, and airports;
3. collective workplaces.

Art. 71. - The video surveillance measures mentioned in the previous article may only be used in the places indicated in the previous article if they are necessary to ensure the safety of persons, the prevention of accidents, the protection of property, or the organization of entry into and exit from these spaces.

In all cases, video recordings may not be accompanied by audio recordings.

Art. 72. - The public must be informed in a clear and permanent manner of the existence of video surveillance equipment.

Art. 73. - It is prohibited to disclose video recordings collected for surveillance purposes except in the following cases:

1. when the person concerned, their heirs, or their guardian have given their consent. When the person concerned is a child, the provisions of Article 28 of this law apply;
2. when the disclosure is necessary for the performance of tasks assigned to public authorities;
3. when the disclosure is necessary for the detection, investigation, or prosecution of criminal offenses.

Art. 74. - Video recordings must be destroyed when they are no longer necessary for the purposes for which they were made or when the interests of the person concerned require their deletion, unless such recordings prove useful for the investigation and prosecution of criminal offenses.

CHAPTER VI

The National Personal Data Protection Authority

Art. 75. - Pursuant to this law, a body called the "National Personal Data Protection Authority" is hereby established, with legal personality and financial autonomy. Its headquarters are located in Tunis.

The Authority's budget shall be attached to the budget of the Ministry responsible for Human Rights.

The operating procedures of the Authority shall be determined by decree.

Art. 76. - The National Authority for the Protection of Personal Data shall be responsible for the following tasks:

- granting authorizations, receiving declarations for the processing of personal data, or withdrawing them in the cases provided for by this law;
- receiving complaints lodged within the scope of its competence under this law;
- determining the essential safeguards and appropriate measures for the protection of personal data;
- accessing personal data being processed in order to verify it and collect the information necessary for the performance of its duties;
- give its opinion on any matter relating to the provisions of this Act;
- develop rules of conduct relating to the processing of personal data;
- participate in research, training, and study activities related to the protection of personal data, and in general in any activity related to its field of intervention.

Art. 77. - The Authority may conduct the necessary investigations by taking statements from any person whose testimony is deemed useful and by ordering inspections of the premises and locations where the processing took place, with the exception of residential premises. The Authority may be assisted in its tasks by sworn agents of the Ministry responsible for communication technologies to carry out specific research and expert assessments, or by judicial experts, or by any person whose participation it deems useful.

The Authority shall inform the public prosecutor with territorial jurisdiction of all offenses that come to its attention in the course of its work.

Professional secrecy may not be invoked against the Authority. Art. 78. - The Authority shall be composed as follows:

- a chair chosen from the competent figures in the field;
- one member chosen from among the members of the House of Representatives;
- one member chosen from among the members of the Senate.
- a representative of the Prime Minister's Office;
- two third-grade magistrates;
- two magistrates from the administrative court;
- a representative of the Ministry of the Interior;
- a representative of the Ministry of National Defense;
- a representative of the Ministry of Communication Technologies;
- a researcher from the Ministry responsible for Scientific Research;
- a doctor from the Ministry of Public Health;
- a member of the Higher Committee on Human Rights and Fundamental Freedoms;

- a member chosen from among experts in communication technologies;

The president and members of the Authority shall be appointed by decree for a term of three years.

Art. 79. - The president of the Authority and its members are prohibited from having, directly or indirectly, any interest in any company that carries out activities in the field of personal data processing, whether automated or manual.

Art. 80. - The president and members of the Authority must safeguard the confidentiality of personal data and information that has come to their knowledge by virtue of their position, even after they have ceased to hold that position, unless otherwise provided by law.

Art. 81. - The Authority may decide, after hearing the controller or processor, to withdraw the authorization or prohibit the processing if it has breached the obligations laid down in this Act.

The procedures for withdrawing authorization or prohibiting processing shall be laid down by decree.

Art. 82. - The decisions of the Authority shall be reasoned and notified to the persons concerned by a bailiff.

The decisions of the Authority may be appealed before the Tunis Court of Appeal within one month of their notification. The appeal shall be decided in accordance with the provisions of the Code of Civil and Commercial Procedure.

The decisions of the Authority shall be enforced notwithstanding any appeal lodged against them. The first president of the Tunis Court of Appeal may order the suspension of their enforcement in summary proceedings until a decision has been made on the appeal where such enforcement is likely to cause irreversible harm. The decision ordering the suspension shall not be subject to any appeal. The court hearing the case must rule on the appeal within a period not exceeding three months from the date on which it was referred to it.

The judgments handed down by the Tunis Court of Appeal may be appealed to the Court of Cassation.

Art. 83. - The applicant shall pay the costs of expert opinions and notification of decisions, as well as the various necessary costs determined by the president of the Authority.

Art. 84. - The movable or immovable property of the State necessary for the performance of the Authority's tasks may be allocated to it. In the event of the dissolution of the Authority, its property shall be transferred to the State, which shall fulfill the obligations and commitments of the Authority in accordance with the legislation in force.

Art. 85. - The Authority shall submit an annual report on its activities to the President of the Republic.

CHAPTER VII

Penalties

Art. 86. - Anyone who violates the provisions of Article 50 of this law shall be punished by imprisonment for two to five years and a fine of five thousand dinars to fifty thousand dinars.

Attempted violations shall also be punishable.

Art. 87. - Anyone who violates the provisions of Article 13, as well as the first paragraph of Article 14, the first paragraph of Article 28, the first paragraph of Article 63, and Articles 70 and 71 of this law shall be punished by imprisonment for two years and a fine of ten thousand dinars.

Anyone who violates the provisions of the first paragraph of Article 27 and Articles 31, 44, and 68 of this law shall also be punished with the same penalties provided for in the previous paragraph.

Art. 88. - Anyone who induces a person to give their consent to the processing of their personal data by means of fraud, violence, or threats shall be punished by one year's imprisonment and a fine of ten thousand dinars.

Art. 89. - Anyone who intentionally communicates personal data for personal gain or for the gain of others, or to cause harm to the person concerned, shall be punished by one year's imprisonment and a fine of five thousand dinars.

Art. 90. - Anyone who:

- intentionally processes personal data without submitting the declaration provided for in Article 7 or without obtaining the authorization provided for in Articles 15 and 69 of this law, or continues to process data after the processing has been prohibited or the authorization has been withdrawn.

- disseminates personal data relating to health notwithstanding the prohibition of the Authority referred to in the second paragraph of Article 65 of this Law;

- transfers personal data abroad without the authorization of the Authority;

- communicates personal data without the consent of the person concerned or the agreement of the Authority in the cases provided for by this law.

Art. 91. - The controller or processor who continues to process personal data despite the opposition of the data subject in accordance with the provisions of Article 42 of this law shall be punished by one year's imprisonment and a fine of five thousand dinars.

Art. 92. - Any data controller or processor who intentionally limits or hinders the exercise of the right of access in cases other than those provided for in Article 35 of this Law shall be punished by eight months' imprisonment and a fine of three thousand dinars.

Art. 93. - Anyone who intentionally disseminates personal data during its processing in a manner that harms the data subject or his or her privacy shall be punished by three months' imprisonment and a fine of three thousand dinars.

The penalty shall be one month's imprisonment and a fine of one thousand dinars where the dissemination was carried out without the intention of causing harm.

The person concerned may ask the court to order the publication of an extract from the judgment in one or more daily newspapers published in Tunisia, chosen by the person concerned. The costs of publication shall be borne by the convicted person.

Proceedings may only be initiated at the request of the person concerned.

Withdrawal shall terminate the prosecution, trial, or enforcement of the sentence.

Art. 94. - Anyone who violates the provisions of Articles 12, 18, and 19, as well as the first and second paragraphs of Article 20, and Articles 21, 37, 45, 64, and 74 of this law shall be punished by three months' imprisonment and a fine of one thousand dinars.

Anyone who collects personal data for unlawful purposes or purposes contrary to public order, or who intentionally processes personal data that is inaccurate, out of date, or unnecessary for the processing activity, shall also be punished with the same penalties provided for in the previous paragraph.

Art. 95. - Any person to whom the data has been communicated who fails to comply with the guarantees and measures imposed on them by the Authority in accordance with the provisions of the second paragraph of Article 47 and the first paragraph of Article 65 of this law shall be punished by a fine of ten thousand dinars.

Art. 96. - Anyone who:

- obstructs the work of the National Authority for the Protection of Personal Data by preventing it from carrying out investigations or by refusing to provide the required documents;

- communicates information to the Authority in bad faith or intentionally notifies the person concerned of inaccurate information.

Art. 97. - Article 254 of the Penal Code shall apply to the data controller, the data processor, their agents, the president of the Authority, and its members who disclose the content of personal data except in the cases provided for by law.

Art. 98. - The data controller, data processor, bankruptcy trustee, or liquidator who violates the provisions of Article 24 of this law shall be punished by a fine of one thousand dinars.

Art. 99. - The data controller or processor who violates the provisions of Article 39 of this law shall be punished by a fine of one thousand dinars.

Art. 100. - In addition to the penalties provided for in the preceding articles of this law, the court may, in all cases, decide to withdraw the authorization for processing or to suspend processing.

Art. 101. - Where the offender is a legal person, the penalties provided for above shall apply personally and, as the case may be, to the legal or de facto manager of the legal person whose responsibility for the acts committed has been established.

Art. 102. - The offenses referred to in this chapter shall be recorded by the judicial police officers mentioned in paragraphs 1 to 4 of Article 10 of the Code of Criminal Procedure, and by sworn agents of the Ministry responsible for communication technologies; reports shall be drawn up in accordance with the procedures laid down in the said code.

Art. 103. - Criminal mediation may be conducted in the case of offenses provided for in the second paragraph of Article 87, as well as Articles 89 and 91 of this law, in accordance with Chapter 9 of Book 4 of the Code of Criminal Procedure.

Miscellaneous provisions

Art. 104. - Provisions contrary to this law are repealed, in particular Articles 38, 41, and 42 of Law No. 2000-83 of August 9, 2000, on electronic commerce and trade.

Art. 105. - Persons engaged in the processing of personal data on the date of promulgation of this law must comply with its provisions within one year of its entry into force.

This organic law shall be published in the Official Journal of the Republic of Tunisia and enforced as a law of the State.

Tunis, July 27, 2004.

Zine El Abidine Ben Ali