

Consecration of Personal Data Protection Right in Algerian Law.

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Abstract:

Most countries worldwide have become aware of the risks arising from the technological revolution, through which personal information and data have become the monopoly of large corporations. The situation has worsened to the point that personal data is now the subject of commercial transactions—bought and sold—without the knowledge or consent of the individual concerned.

The Algerian Constitution, as amended by the revision of 2016 and the latest revision of 2020 via Presidential Decree No. 20-442 of December 30, 2020, enshrines the right to the protection of natural persons with regard to the processing of personal data.

Indeed, pursuant to Article 47, paragraph 4 of the Constitution, such protection has been established as a fundamental right. Consequently, in addition to the right of every individual to the protection of their private life, the Basic Law guarantees the protection of individuals in the processing of their personal data.

In furtherance of this fundamental right, Law No. 18-07 of June 10, 2018—as amended and supplemented by Law No. 25-11 of July 24, 2025, relating to the protection of natural persons in the processing of personal data—prescribes the principles and conditions for the implementation of this protection.

Furthermore, a National Authority for the Protection of Personal Data has been established to ensure that data processing complies with statutory provisions and that the use of information and communication technologies does not infringe upon individual rights, public liberties, or the right to privacy.

Keys words: personal data protection, consent, data controller, data processing, national authority, personal data processing.

Introduction:

The concept of personal data doesn't appear at a specific moment but developed gradually with evolution of computing.

It can be traced back to the 1960 and 1970's when government and companies began using computers to store information about individuals raising concerns about privacy.

A crucial step was the French Data Protection Act of 1978, which, for the first time, regulated the use of personal data. More recently, at the European level, the General Data Protection Regulation (GDPR), which came into force in 2018, provided a clear and harmonized definition of personal data.



The development of transactions across various fields has led to the creation of new methods for providing services and selling goods.

With the technological advancements the world has witnessed the emergence of modern transaction methods, and the risk of individuals being exposed to cybercrimes has increased, especially with the Algerian trade sector moving towards electronic commerce.

To this end, the Algerian legislator, by amending the Constitution in **2016**, included the protection of personal data as a constitutional right to guarantee the rights of natural persons.

To enshrine this new concept, law No. **18-07** relating to the protection of individual persons in the field of processing personal data was enacted, which came with several obligations on the shoulders of those responsible for processing, and on the one hand, giving many rights to the individual persons concerned with the processing.

After two years, the Algerian Constitution, according to its latest revision enacted in 2020 by Presidential Decree 20-442 of December 30, 2020, enshrined the right to the protection of personal data, in addition to the right granted to every person to the protection of their private life,

Indeed, the fundamental law guarantees the protection of individuals in the processing of personal data, through article 47, paragraph 4, this protection became a fundamental right.¹

After 07 years' law 25/11 of July 24, 2025 supplementing and amending law 18-07, introduced new definitions such as biometric data, profiling, pseudonymization, personal data breaches, and international organizations.

It also established regional hubs responsible for monitoring and auditing institutions and individuals processing personal data.

We'll analyze how did the Algerian legislator enshrine the protection of individual persons in the field of personal data processing through Law 18-07 of 10/06/2018 relating to the Protection of individuals in the Processing of Personal Data modified and completed by the law 25-11 of July 24, 2025

PART1: Concept of personnel data

This part will address the notion of personal data in Section 1, while Section 2 will present the various principles related to the processing of personal data under Algerian law.

SECTION 1: Notion of personal data:

Through Law 18-07 amended and supplemented in 2025, the Algerian legislator has set all definitions and actors regarding the protection of personal data, we'll present the most important notions defined by the law to better understand the meaning and the terminology of personal data field after presenting the definition of this notion.

A/ Definition of personal data:

Personal data refers to any information, regardless of the medium, relating to an identified or identifiable person (referred to as the data subject), in a direct or indirect way, in particular by

¹Article 47-4 of the constitution : "The protection of individuals in the processing of personal data is a fundamental right"



reference to an identification number or to one or specific elements of their physical, physiological, genetic, biometric, psychic, economic, cultural, or social identity (Article 3 of Law No 18-07).

Personal data is any information relating to an identified or identifiable individual person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person²

B/Types of personal data:

- Name
- Address
- Telephone number
- Bank account number
- National insurance number
- Email
- Student ID
- The IP address of computer
- CCTV footage
- Fingerprints
- Iris recognition

C/Notions defined by law 18-07 amended and modified by law 25-11:

Several concepts have been defined by Law No. 18-07 amended and supplemented by Law No. 25-11.

This section will address the most impactful notions cited by the aforementioned law within the field of personal data processing.

1-Data controller:

The law defines this actor as a natural or legal person, public or private or any other entity which, alone or jointly with others, determines the purposes and means of the processing of data (Article 3 of Law No. 18-07). The data Controller can be a service, so it may be any natural person, such as a merchant or craftsman, or any legal person, such as a company, association, or public administration, in accordance with the provisions of Article 40 of the Civil Code.

2-Data processor:

Any natural or legal person, public or private, or any other entity that processes personal data on behalf of the data controller (Article 3 of Law No. 18-07).

3-Sensitive data:

Personal data revealing racial or ethnic origin, political opinions, religious, or philosophical beliefs or union membership of the data subject or which relate to their health, including genetic data (Article 3 of Law No. 18-07).

4-Health data:

²A Guide for Policy Engagement On Data Protection (The Keys to Data protection) August 2018 privacy international



Any information relating to the physical and/or mental condition of the data subject, including genetic data (Article 3 of Law No. 18-07).

5-Biometric data:

The definition of biometric data is provided in article 3 of law No. 25-11 as personal data resulting from specific technical processing relating to the physical, physiological, or behavioral characteristics of a natural person, which allow or confirm their unique identification."³

biometric data refers to unique biological or behavioral "blueprints" used to identify a person, it boils down to three things:

- Physical: Who you are (e.g., fingerprints, face).
- Physiological: How your body works (e.g., iris, DNA).
- Behavioral: How you act (e.g., your walk or signature).

The goal is to use technology to prove the identity of a natural person.

Section 2: Data Protection Principles:

The Algerian legislator has stipulated general principles in order to restrict all data controller and ensure a data processing that preserves public freedoms and protects honor and private life. Pursuant to the provisions of Article 2 of the Law, the legislator stipulated that data processing, regardless of their source or form, must be made within the framework of respect for human dignity, private life, and public freedoms, and must not harm the rights, honor, or reputation of individuals.⁴

A/ respect of human dignity:

The protection of privacy should be based directly on the protection of human dignity, not indirectly, through other rights such as that to property or to freedom of expression. In other words, privacy should be grafted as a first-order branch to the trunk of human dignity, not to some of its branches, as if it were a second-order right⁵.

B/ Respect of private life:

One of the most important rules surrounding the field of processing personal data is respect for privacy. Often, data is processed in a brutal manner and the sanctity of private life is violated by spying on people and trying to find out their whereabouts, especially when processing location data.

C/ respect of public freedom:

Public freedoms are considered historical gains resulting from several popular and political struggles. The Algerian legislator has enshrined public freedoms through Algerian constitutions, such as the freedom to form unions, establish associations, form political parties,

³LAW 11-25 July 24,2025 published at the Official Journal of the Algerian Republic, No. 48. July 24, 2025 corresponding to 28 Moharram 1447, amending and supplementing Law No. 18-07, relating to the protection of individuals in the processing of personal data.

⁴ Article 2 of the law 18.07 amended and complemented by law 25-11, official journal n°34.

⁵ Philos Technol. On Human Dignity as a Foundation for the Right to Privacy Published online: 26 April 2016 Springer Science+Business Media Dordrecht 2016

freedom of expression, and others. Therefore, when processing personal data, it is necessary not to infringe upon those freedoms in any way.

D/Inviolability of rights of honor, or reputation of individuals:

When processing personal data, it is essential not to harm or even prejudice an individual's honor or reputation. This is achieved by ensuring complete confidentiality of the processing and ensuring the preservation of personal data. Not identifying the individuals involved in the data processing is a mandatory measure to ensure that these rights are not infringed upon. For example, a divorced woman submits her birth certificate to a company seeking employment. Processing this information must not pose any risk to her honor or even her reputation

Part 2: The legal framework of personal data protection:

Law 18.07 amended and completed in 2025 b law 25-11 establishes a balance between the necessary management of data by administrations and companies and the protection of individuals' private lives.

Law 18-07 listed, within article 09 the conditions that personal data must fulfill

Regulations regarding personal data therefore follow several principles aimed at maintaining this balance.

We will examine the scope of application of the Data Protection Law (Section 1), the conditions for personal data processing (Section 2), and the compliance procedure with the Algerian Data Protection Law (Section 3).

Section1: scope of application of law relating to personal data protection

A/Territorial scope

Article 4 of Law No. 18-07 applies to the processing of personal data:

- 1● carried out by a natural or legal person whose responsible person is established on the Algerian territory or on the territory of a State which legislation is recognized as equivalent to Algerian legislation in terms of personal data protection; and
- 2● when the responsible person is established outside the Algerian territory but uses automated or non-automated means located in the Algerian territory to process the data (excluding processing for transit purposes).

B/Material scope

Article 4 of Law No. 18-07 applies to the processing of personal data by automatic means, in whole or in part, as well as to the non-automatic processing of personal data contained or intended to be contained in manual files.

Law No. 18-07 does not apply to personal data (Article 6 of Law No. 18-07):

- 1- processed by a natural person for the exercise of exclusively personal or household activities, provided that these are not intended for communication to third parties or To be circulated;
- 2-collected and processed in the interest of national defence and national security; or collected and processed for the purpose of prevention, prosecution, and law enforcement, as well as those contained in judicial databases, which are governed by the texts relating to their creation.

Article 5 of Law No. 18-07amended and complemented by law25-11 of 14/07/2025 provides that the following processing activities are excluded from its scope⁶:

⁶ Algeria - Data Protection Act



3- Processing of personal data for the purposes of individual therapeutic or medical monitoring/follow-up of patients;

4-Processing activities for the purpose of carrying out studies on the basis of the data collected in application of the previous point (patients' individual therapeutic or medical monitoring/follow-up) when these studies are carried out by the personnel ensuring the patients' monitoring and intended for their exclusive use;

5-Processing carried out for the purposes of reimbursement or controls by health insurance bodies;

6-Processing carried out within health establishments by the doctors responsible for medical information.

D/ the légal bases:

Le traitement des données est intimement lié à l'accord préalable de la personne concerné

A-Consent

According to Article 7 of Law No. 18-07, personal data processing cannot be carried out unless the considered person by the processing gave it explicit consent.

The explicit consent is defined as any expression of the will of the person concerned or his legal representative, who accepts the personal data related to him, either manually or electronically.⁷

If the person concerned is incapable or lacks capacity, the consent shall be subject to the provisions stipulated in the general law.

The legislator added that the person concerned may withdraw his consent at any time.

B-Contract with the data subject

The data subject's consent is not required where the processing is necessary for the performance of a contract entered into by the data subject or the implementation of pre-contractual measures taken upon the request of the data subject. For example, in the case of a purchase contract between a company and an individual, explicit consent is not required because the parties are bound by a contractual relationship. Even pre-retirement procedures, such as a request or a demand note, are not required.

Others examples, an employment contract, or a contract in a club like the gym. Sing un in general conditions in a web is also a contract

C-Legal obligations

The data subject's consent is not required to process personal where the processing is necessary to comply with a legal obligation to which the data subject or the data controller is the subject. For example, the employer, in the context of insuring his employee in the national employee insurance fund, collects the data of his employee in this case and in application of law 90-11 and the social security law, the employer is exempt from collecting consent

D-Vital interest

The data subject's consent is not required to process personal data where the processing is necessary to protect the vital interests of the data subject, if the latter is physically or legally incapable to provide their consent

⁷ Art 3 of law 18-07 amended and supplemented by law 25-11 July 24 ,2025, relating to protection of individuals in the processing of personal data.



For example, a doctor surgery' works with patient data so in the case of medical emergency he could access to.

E-Public interest

The data subject's consent is not required to process personal data where the processing is necessary for the performance of a task of public interest or carried out in the exercise of official authority, which may be vested upon the data controller or the third party to whom the personal data is disclosed

For example, the policeman can collect personal data in order to prevent or investigate a crime.

E-Legitimate interests of the data controller

The data subject's consent is not required where the processing is necessary for the fulfilment of the legitimate interest pursued by the data controller or by the recipient of personal data, provided that the interest or the fundamental rights and freedoms of the data subject are not disregarded

For example, collecting CCTV footage for persevering rights and security.

F-To safeguard the life of the person concerned

Treatment in this context must respond to an emergency situation when the person's life is in immediate or potential danger⁸

For example, if someone is suffering from a serious health condition that requires them to be taken quickly to the hospital, and collect their blood type and other information, such as age, name, surname, or even the type of chronic illness, in this case the prior consent is not required to process this information. This can also be done in the event of a natural disaster.

5) the data subject's rights

Law 18- 07 provides several rights for the persons concerned with the processing and makes them an obligation for those data controller, right of information, right to access, right to rectification,

a/The right to be informed

The right to information is among the most important rights granted to person's subject to processing under this law. This right grants the person subject to processing the right to obtain information regarding the person responsible for processing, their address, or even their qualified representative, as well as the data they have collected and processed and the purposes for which they have been processed.

The obligation to inform is not mandatory if the person responsible for processing is unable to inform the person concerned about the processing. Or, in the event of a legal obligation, the employer is not required to inform his workers of the data he has collected for the purpose of providing them with social security, out of respect for his legal obligations.

Another exception that if the processing is used exclusively for journalistic, artistic or literary purposes.

b/Right to access

The person concerned by the processing can:

⁸ Moundji MAOUI, protection des données personnelles en Algérie, guide pratique pour l'application de la loi 18-07, BERTI Editions, page 19



- Confirm of whether or not personal data relating to them is being processed;
- Purposes of the processing, the categories of data concerned, and the recipients;
- Communication, in an intelligible form, of the data being processed, as well as any available information on the origin of the data.

c/Right to rectification

The data subject has the right to obtain, free of charge, from the data controller:

- the updating, rectification, erasure, or blocking of personal data whose processing does not comply with this law, in particular due to the incomplete or inaccurate nature of such data or whose processing is prohibited by law.
- The data controller is required to make the necessary rectifications free of charge to the requester, within ten (10) days of the request.

In the event of refusal or no response within the aforementioned period, the data subject may submit a request for rectification to the national authority, which shall instruct one of its members to conduct all necessary investigations and make the necessary rectifications as soon as possible. The data subject shall be kept informed of the outcome of their request; b) notification to third parties to whom the personal data have been disclosed of any update, rectification, erasure, or blocking of personal data carried out in accordance with point a) above, if this proves not impossible. The data subject's heirs may exercise this right.

Law 18-07 was issued determining the general rules that protected the physical persons in matters of processing personal data, and which must be implemented on the basis of respect.

d- Right to object to the processing of the data:

The article 36 of law 18-07 provides that data subject has the right to object, on legitimate grounds, to the processing of personal data relating to him.

He has the right to object to the use of his or her personal data for prospecting purposes, particularly commercial ones, by the data controller.

Section 2: Conditions of personal data proceeding:

Article 09 of the law 18-07 provides a set of conditions that must be respected at the data proceeding.

A/Legitimacy:

Art 09 of the law 18-07 provides that personal data must be processed lawfully and fairly, this signifies that processing can only be based on consent, contractual necessity, a legal obligation, the protection of human life, a public interest, or a legitimate interest of the data controller.

B/Transparency:

This concerns the purposes and the identity of the data controller, as well as any other information necessary to ensure fair data collection.

C/Proportionality:

Data must be adequate, relevant, and limited, and must be necessary in relation to the purpose

D/Respect for purpose:

The purpose must be explicit, legitimate, and defined — further processing for archiving in the public interest, scientific or historical research, or statistical purposes is presumed compatible.



The first paragraph of article 09 of law 18-07 provides that Personal data must be processed lawfully and fairly.

E/Security:

This refers to the obligation to implement appropriate technical and organizational measures, taking into account the risks involved and the nature of the personal data.

For example, article 10 of the law 18-07⁹ provides that the processing of criminal records and sentences exclusively to the judiciary, public authorities, and legal professionals acting within their official duties. It prevents private entities from managing such sensitive data to protect individuals from discrimination and "private blacklists." Furthermore, any authorized use of this data must strictly document the person in charge, the specific purpose, and the security measures applied.

F/Accountability:

This requires the data controller to implement a compliance approach that includes an ethical component¹⁰

G/Mandatory appointment of a data protection officer:

This obligation is limited to public authorities, activities requiring regular and systematic monitoring, as well as activities involving large-scale processing of sensitive data.

Section3: Compliance Procedure with the Algerian Data Protection Law

Compliance is a complex process requiring the involvement of both an IT specialist and a legal expert.¹¹

Indeed, it involves ensuring adequate IT security and data organization that limits the amount of data processed.

A/ Parties Responsible for Compliance:

It is important to note that the **Data Controller** (the entity defining the processing) holds the ultimate obligation to implement security measures¹², whereas the **DPO** acts as an independent supervisor ensuring those measures meet the legal standards of **Article 41 bis 1**

a-The data controller:

The Data Controller is the central actor in the processing of personal data.

He must be clearly distinguished from technical intermediaries such as communication service providers and internet access providers—who also participate in the data processing ecosystem. The data controller is the entity that decides to process data and is legally responsible for it.

b-Data Protection Officer:

1-definition:

⁹Article 10 of Law No. 18-07 of June 10, 2018, relating to the protection of individuals in the processing of personal data, Official Gazette of the People's Democratic Republic of Algeria, No. 34, June 10, 2018.

¹⁰ Mickael Le BORLOCH, 100 fiches pour comprendre le droit numérique 2^e édition Bréal juillet 2022, p.198.

¹¹ Michael Le Borloch, 100 fiches de droit numérique, Bréal Studama, 2^e édition p 211.

¹²Article 38 of Law 18-07 of June 10, 2018, relating to the protection of individuals in the processing of personal data, Official Gazette of the People's Democratic Republic of Algeria, No. 34, June 10, 2018



The data controller and the competent authority each appoint a data protection officer, chosen based on their professional qualifications, particularly their specialized knowledge of data protection law and practices.

Courts are exempt from this obligation when exercising their judicial functions.¹³

The DPO is the expert who ensures that the controller follows the rules¹⁴

2-The functions of the data protection officer:

The functions of a DPO can be categorized into three pillars: compliance monitoring, advisory leadership, and risk management.

The data protection officer (DPO) is responsible according to Article 41 bis 1¹⁵:

- a) **Advisory Role:** The DPO informs and guides the organization and its employees to ensure they understand and fulfill their legal obligations regarding data privacy.
- b) **Compliance Monitoring:** oversee internal operations, including audits and staff training, to verify that all data processing strictly follows the law and internal policies.
- c) **Risk Management:** provide expert advice on impact assessments for high-risk projects and track their implementation to protect individual privacy.

B/The steps of Compliance Process

The process for **achieving compliance** with the personal data protection law consists of four steps

Step 1: Appointment and Mandate of the Data Protection Officer (DPO)

The foundational step toward compliance is the formal appointment of a DPO. Pursuant to article 41 bis 2 of Law 25-11 (amending and supplementing Law 18-07), the DPO serves as the cornerstone of the data protection architecture, tasked with the following core responsibilities:

- **Advisory Role:** Informing and advising the data controller and personnel regarding their statutory obligations.
- **Compliance Monitoring:** Overseeing adherence to the law and internal policies, including the allocation of responsibilities, staff awareness-raising, and relevant audits.
- **Impact Assessments:** Providing expert advice on Data Protection Impact Assessments (DPIA) and monitoring their execution in accordance with Article 45 bis 6.

Step 2: Mapping and Organization of Processing Activities

Once the DPO is in place, the organization must move toward "Cartography" or the mapping of data flows. This stage focuses on transparency and documentation :

- **The Processing Register:** The data controller and processor are each required to maintain a comprehensive register (or automated logbook). This document reviews all categories of processing activities, including names, contact details, and purposes of processing.¹⁶

¹³Article 41 bis 1 of Law No. 18-07 of June 10, 2018, relating to the protection of individuals in the processing of personal data, Official Gazette of the People's Democratic Republic of Algeria, No. 34, June 10, 2018

¹⁴ Arezki SI HADJ MOHAND, *Protection of Personal Data in Algerian and Comparative Law*, Baghdad Editions, 2023, p. 55.

¹⁵ Article 41 bis 1 of Law No. 18-07 of June 10, 2018, relating to the protection of individuals in the processing of personal data, Official Gazette of the People's Democratic Republic of Algeria, No. 34, June 10, 2018

¹⁶ Article 41 bis2 of Law No. 25-11 of July 25, 2025, relating to the protection of individuals in the processing of personal data, Official Gazette of the People's Democratic Republic of Algeria, No. 48, July 25, 2025.



- Establishment of Priorities: By reviewing the sensitivity of the data identified during the mapping phase, the organization can prioritize interventions for high-risk data sets.

Step 3: Risk Management and Data Controller Protection

This phase transitions from documentation to active defense. The primary objective is to shield the data controller from legal and operational liabilities through:

- Proactive Risk Management: Identifying vulnerabilities in how personal data is handled and stored.
- Mitigation Strategies: Implementing technical and organizational measures to prevent data breaches and unauthorized access.

Step 4: Internal Optimization and Audit Readiness

The final stage ensures the sustainability of the compliance framework through standardized internal organization:

- Optimization of Internal Processes: Developing robust IT security protocols and internal workflows to mitigate the risk of security breaches.
- Compliance Documentation: Consolidating all evidence of compliance—including the dual processing registers and audit trails—to ensure the entity is prepared for inspections by the National Authority for the Protection of Personal Data.

Conclusion

The Algerian legal order, which is oriented towards protection and prevention, adopted in 2018—and subsequently in 2025—a new law on the protection of personal data processing. This initiative is part of a global movement to strengthen privacy in the face of requirements for transparency in economic life, on the one hand, and the challenges of computerization and digitalization, on the other.

Indeed, several elements demonstrate a state-level commitment to reinforcing the protection of personal data processing and modernizing the related legal framework: the constitutional enshrining of the principle of personal protection in data processing since 2016; its recognition as a fundamental principle; and the promulgation of Law No. 18-07, as amended and supplemented by Law No. 25-11, which established the National Authority for the Protection of Personal Data. Furthermore, the establishment of strict principles and rules for the processing of personal data reflects an awareness of the threats posed by digitalization, such as fraudulent intrusions into entity databases, cyberattacks leading to the theft of user and client data, and the unauthorized sale of personal data for commercial or advertising purposes without the consent of the subjects of the most sensitive data.

Consequently, it remains the ongoing role of the legislator and legal experts involved in this sensitive field to ensure a balance is maintained between the requirements of economic transparency and the rules of personal data processing, while simultaneously upholding the freedom of private life, which is subject to both national and international protection and recognition.

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