

**Decree n°2007-3004 of November 27<sup>th</sup>, 2007** on the conditions and proceedings of notification and authorization for the processing of personal data

The President of the Republic,  
Upon proposition by the Minister of Justice and Human Rights,  
Having regard to the Organic Act n°2004-63 of July 27<sup>th</sup>,2004 on the protection of personal data and in particular articles 7, 8,and 81,  
Having regard to the decree n°93-982 of May 3d,1993 on the relationship between the administration and users of public services amended by the Decree n°2007-1259 of May 21<sup>st</sup>,2007,  
Having regard to the Decree n°94-1692 of August 8<sup>th</sup>,1994 on the administrative forms completed by the Decree n°2006-2967 of November 13<sup>th</sup>. 2007,  
Having regard to the Decree n°2007-1260 of May 21<sup>st</sup>, 2007 in the cases of absence of response of the administration is the equivalent of an implicit acceptance,  
Having regard to the decree n°2007-3003 of November 27<sup>th</sup>, 2007 on the functioning of the The National Authority for Protection of Personal Data.  
Having regard to the opinion of the Administrative Tribunal,  
Enacts:

**Article 1:**

The present decree determines the conditions and the proceedings of prior notification and the demand for authorization to process personal data as well as for the withdrawal proceedings of the authorization and the prohibition of processing.

## **Chapter I Common provisions**

**Article 2:**

The processing of personal data is submitted to prior notification or authorization according to the cases planned by the Organic Act on the protection of personal data afore mentioned.

**Article 3:**

The prior notification and the application for authorization for the processing of personal data are submitted on paper or through online forms.  
The forms shall be signed personally by the data controller for an individual or by the legal representative in case of legal entity.

**Article 4:**

The prior notification and the application for authorization are directly submitted to the The National Authority for Protection of Personal Data. in exchange for a receipt or are sent by registered letter with an acknowledgement on receipt or by any other means that leave a written trace.

**Article 5:**

The The National Authority for Protection of Personal Data. can ask for further information or any other useful document in order to review the notification or decide about the application for authorization.

In the case of a lack of sufficient protection of personal data, the Instance can require additional guarantees.

**Article 6:**

In the case where information, additional guarantees or other necessary documents are required in compliance with article 5 of the present decree, the The National Authority for Protection of Personal Data. allows enough time to the interested party in order to produce what has been required of him. In this case, the legal time limit to examine the declaration or decide on the application for authorization is interrupted. This time limit takes effect again from the date of the provision of what has been required for or from the explicit negative response of the interested party or expiration of the time limit planned to this effect by the "Instance" without having produced what has been required.

**Article 7:**

In the case where the interested party has not produced what he has been required within the fixed time limit, the "Instance" decides on the application for authorization as such.

## **Chapter II The notification**

**Article 8:**

The form of prior notification shall specify:

- The first name, the last name and residence of the data controller, the subcontractor and their employees for an individual and in case of legal entity the company name, its head office, the identity of its legal representative and the registration number with the Trade Register if necessary;
- The identities of data subjects and their residence;
- The purposes of the processing of personal data and its norms;
- The categories of the processing, its location and date;
- The personal data and their origins;
- The people or authorities who are allowed, regarding their functions, to take cognizance of the data;
- The recipients to whom the data may be disclosed;
- The place and period of storage of the processed information;
- The steps taken to ensure confidentiality and security of processing;
- The description of the combinations by the data controller with other data files;
- The undertaking of the processing of personal data according to the present Act.

- The statement that the conditions of Tunisian nationality, residency in Tunisia and lack of criminal record are fulfilled with regard to the data controller, the subcontractor and their employees.

**Article 9:**

Without prejudice of article 6 of the hereby decree, the The National Authority for Protection of Personal Data. shall review the notification within one month from the date of receipt of the application. However, when the "Instance" has not given its decision within this time limit, the application for notification shall be deemed to have been accepted.

### **Chapter III The authorization**

**Article 10:**

A prior authorization of the The National Authority for Protection of Personal Data. is required for the use of video surveillance means.

In addition to the information required in article 8 of the Organic Act on the protection of personal data afore mentioned, the application form shall mention the following:

- The registration number with the trade Register if necessary in case of legal entity;
- An overall description of the places of video surveillance means;
- The purpose of the use of video surveillance means.

**Article 11:**

An authorization must be given by the The National Authority for Protection of Personal Data. before carrying out the following operations:

- The communication of personal data to third parties without the express consent of the data subject, his heirs or his tutor,
- The transfer of personal data to a foreign State,
- The transfer of personal data related to health to people or entities which do scientific research in the field of health,
- The processing of personal data that reveals, directly or indirectly, racial and genetic origins, religious beliefs, political, philosophical and trade union affiliation or health.

In addition to the information required in article 8 of the Organic Act on the protection of personal data afore mentioned, the authorization form shall mention the following:

- The registration number with the Trade Register if necessary in case of legal entity;
- The personal data which shall be transferred and their nature,
- The foreign State where the data shall be transferred.

**Article 12:**

Without prejudice of article 6 of the hereby decree, the "Instance" shall consider the authorization form within one month from the date of receipt of the application. However, when the "Instance" has not given its decision within this time limit, the application for authorization shall be deemed to have been tacitly turned down. The "Instance" can decide to give the authorization on condition that the data controller's statement has taken all the required preventive measures, communicated in a written way.

The "Instance" cannot give its authorization without the aforesaid statement, having been signed and legalized.

**Chapter IV****Withdrawal of authorization or prohibition of processing****Article 13:**

The "Instance" shall decide, after fair proceedings with the data controller or the sub-contractor, to withdraw the authorization or to prohibit the processing in the case of non respect of legal duties.

The "Instance" may give them extra time in order to regularize the situation.

In case of emergency or if the processing constitutes a blatant violation of law, the "Instance" may temporarily prohibit the processing for a duration that cannot exceed one month. Within this duration, a final decision to withdraw the authorization or to prohibit the processing must be taken.

**Article 14:**

The parties concerned are summoned by the "Instance" for a hearing at least seven days before the deadline of the hearing by registered letter with an acknowledgement on receipt or by any other means that leave a written trace.

**Article 15:**

The Minister of Justice and Human Rights is responsible for the execution of the present decree which will be published in the "Journal Officiel de la République Tunisienne".

Tunis, November 27<sup>th</sup>, 2007

**Zine El Abidine Ben Ali**