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The Effectiveness of Legal Protection for Personal Data in Algeria in the Era of Digital Transformation

Dr. Hafed Benzellat

Lecturer, Class A, Salhi Ahmed University, Naama, Algeria., h.benzellat@cuniv-naama.dz

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***Abstract*—**Digital transformation has raised significant legal challenges in the field of personal data protection, highlighting the need for effective safeguards against the misuse of personal information. This article examines the legal framework governing personal data protection in Algeria, focusing on the mechanisms established to ensure such protection and the responsibilities arising from unlawful data processing. It also analyzes the developments introduced by Law No. 25-11, amending and supplementing Law No. 18-07, and assesses their contribution to strengthening legal protection in response to technological advancements.

***Keywords*—**Personal data, legal protection, digital transformation, legal responsibility, Algerian legislation.

Introduction

In the context of accelerating digital transformations, personal data is no longer merely ordinary information relating to individuals; rather, it has become a fundamental component of digital activities. This has made its protection one of the contemporary legal challenges. While technological development has created extensive opportunities for the exchange of data and information, it has also given rise to increasing legal difficulties concerning the extent to which individuals' right to respect for their private lives is guaranteed and their data is protected against various forms of exploitation and unlawful processing.

In this context, the Algerian legislator sought to establish a legal framework governing the processing of personal data through Law No. 18-07 on the Protection of Natural Persons in the Processing of Personal Data [1], as amended and supplemented by Law No. 25-11, dated 28 Muharram 1447 AH, corresponding to 24 July 2025. This legislative development reflects the importance of keeping pace with digital advancements and strengthening the effectiveness of the legal protection afforded to data subjects.

The significance of this subject lies in regulating the processes of collecting and processing personal data and defining the obligations incumbent upon those responsible for such processing. It also lies in safeguarding the rights of data subjects and providing guarantees capable of protecting individuals' private lives. Furthermore, the legislation establishes institutional mechanisms responsible for overseeing the implementation of these provisions. Foremost among these is the National Authority for the Protection of Personal Data, which exercises a supervisory role aimed at ensuring compliance with legal provisions, monitoring the extent to which the entities concerned fulfil their obligations, and promoting a culture of data protection.

Moreover, the Algerian legislator has introduced strict deterrent mechanisms to enhance the effectiveness of such protection by establishing legal liability arising from violations of the provisions governing personal data processing. This applies whether the criminal liability concerns natural persons or legal persons, thereby demonstrating the importance of integrating supervisory rules with legal penalties.

In light of the foregoing, the following research problem arises:

To what extent has the development of the Algerian legal framework, particularly under Law No. 25-11, contributed to strengthening the effectiveness of legal protection for personal data, and to what extent do supervisory mechanisms and rules governing legal liability contribute to ensuring the implementation of

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this protection and addressing the challenges imposed by digital transformation?

To address this research problem, the descriptive approach has been adopted to establish the concept of personal data, alongside the analytical approach through the examination and analysis of the relevant legal provisions, particularly Law No. 18-07, as amended and supplemented by Law No. 25-11. This is intended to assess the extent to which legal safeguards and supervisory mechanisms respond to the requirements of protection in the context of digital transformation.

Accordingly, this study is divided into two sections. The first section examines the legal framework governing personal data protection in Algeria, while the second addresses the assessment of criminal liability established for violations of the rules governing such protection.

Section One: The Legal Framework for Personal Data Protection in Algeria

Within the framework of protecting personal data, the Algerian legislator has established legal provisions addressing this subject by defining its fundamental concepts, clarifying the rights of data subjects, specifying the obligations imposed on the other entities involved in data processing, establishing supervisory mechanisms as preventive measures, and determining criminal liability in cases where legislative provisions are violated.

Subsection One: The Concept of Personal Data

Addressing the subject of personal data requires examining its concept and clarifying its meaning by defining it and identifying its different types. This makes it possible to understand its scope and distinguish it from other forms of information.

Modern legal scholarship distinguishes personal data, as symbols and information relating to an individual's identity and personal characteristics, such as a person's age, date of birth, or even social status [3]. When such data undergoes technical processing, it is subsequently transformed into information. This information then becomes capable of circulation and distribution. Accordingly, information constitutes the result of the automated processing of data [4].

Subsection One, Paragraph One: Definition and Types of Personal Data

First: Definition of Personal Data

A. Terminological Definition

A strand of legal scholarship considers personal data to be any information associated with an identified individual to whom such information relates. Examples include the individual's name [5], which constitutes one of the rights inherently attached to one's personality [6], in addition to their place of residence, social status, and criminal record.

B. Legal Definition

1. Under French Legislation

In keeping with developments in comparative legislation, the French legislator introduced specific provisions governing the concept of personal data within its legal framework for personal data protection in the digital environment. In this regard, reference may be made to Article 2 of Law No. 78-17 of 6 January 1978, as amended by French Law No. 2004-801 of 6 August 2004 concerning the protection of personal data. This provision defines personal data as any information relating to an identified or identifiable natural person, whether directly or indirectly, particularly by reference to an identification number [7].

It can be inferred from this definition that the French legislator does not require information to reveal the identity of its owner directly. Consequently, even digital identifiers, such as an email address, may acquire the nature of personal data whenever they make it possible to identify the person concerned. The legislator also requires that the information relate to a natural person, whether it concerns their identity or their personal or professional circumstances. Once this condition is met, the information falls within the category of personal data.

The same provision also refers to an identifiable person, namely a person who can be identified through the means available to the data controller, even if their identity is not immediately apparent. This reflects the effectiveness of the legal protection afforded to personal data.

2. Under International Law

International legislation has devoted considerable attention to defining personal data in order to protect individuals' private lives. In this context, Article 2 of European Convention No. 108 defines personal data as any

information relating to an identified or identifiable natural person [8].

Similarly, the European Union's General Data Protection Regulation (GDPR), Regulation (EU) 2016/679, supports this definition in Article 4. It specifies that personal data includes a person's name, identification number, electronic identifiers, and other information that makes it possible to identify individuals, either directly or indirectly [9].

Second: Types of Personal Data

Special Categories of Personal Data

These data are characterized by their sensitive nature and require enhanced protection because they reveal aspects closely related to an individual's private life. Their disclosure to the public, or even their unlawful use, may infringe upon that individual's privacy and dignity and expose them to harm, including damage to their reputation. Accordingly, appropriate measures must be taken to prevent unauthorized access to or unlawful disclosure of such data.

This is confirmed by Article 2 of Law No. 18-07, which requires respect for human dignity and individual rights. Article 3 of the same Law classifies certain categories as special categories of data, which the Algerian legislator refers to as *sensitive data*. These include biometric and genetic data, religious beliefs, health-related information, and other similar categories. These matters are addressed in Article 2, as amended by Law No. 25-11.

Example: A medical clinic that retains patients' medical test results or information about the type of treatment they receive holds medical personal data that must be protected.

Ordinary Personal Data

These are data that are not subject to enhanced protection, such as a person's first name, surname, telephone number, residential address, email address, and identification number, provided that they relate to an identified or identifiable person.

Paragraph Two: The Legislative Framework for the Protection of Personal Data

The legislative framework governing personal data protection has undergone significant development with the enactment of Law No. 18-07 of 10 June 2018, which established the fundamental rules for protecting natural persons and defining their rights, as well as the obligations imposed on entities responsible for processing their data.

However, the increasing pace of digital transformation made it necessary to revise this framework to bring it into line with these developments. This was reflected in the adoption of Law No. 25-11, amending and supplementing the aforementioned Law. It introduced substantial amendments and additions relating to legal concepts, strengthened supervisory mechanisms through the establishment of key specialized units within the National Authority, and introduced provisions aimed at preventing crime. These developments reflect the legislator's efforts to keep pace with technological progress.

Subsection Two: Legal Safeguards for the Protection of Personal Data

The protection of personal data requires the establishment of a set of legal safeguards designed to ensure respect for individuals' rights and prevent the unlawful use of their data.

Paragraph One: Rights of Data Subjects and Obligations Imposed on Data Controllers

First: Rights Granted to Data Subjects

The Algerian legislator has granted data subjects a set of rights that place them in a legal position enabling them to know how their data is collected and how it is protected against any unlawful use. These rights include the following:

1. The Right to Information

This is one of the most important rights granted by the Algerian legislator to data subjects, as it enables them to obtain information about the mechanisms used to collect their personal data.

Professor Belil defines this process as involving the collection, storage, processing, and dissemination of data, whether relating to information, images, or facts, with the aim of clarifying the various circumstances surrounding an individual [10].

The Algerian legislator addressed this right in Article 32 of Law No. 18-07, which provides:

"The data controller or their representative must inform, in advance, explicitly and unambiguously, every person contacted for the purpose of collecting their personal data of the following:

- The identity of the data controller and, where applicable, the identity of their representative.
- The purposes of the processing.
- Any additional useful information, particularly the recipients of the data, whether providing a response is mandatory, the consequences arising from failure to respond, the individual's rights, and the transfer of data to a foreign country."

2. The Right of Access

This right is considered one of the most important rights enabling data subjects to exercise control over their personal data. It allows them to access their data and verify whether it is being processed, in addition to determining whether its collection and use are lawful. This is confirmed by Article 34.

3. The Right to Rectification

The right to rectification constitutes one of the most important safeguards granted to individuals, as it enables them to request the amendment of their personal data when it is inaccurate, incomplete, or incorrect. This ensures the integrity of the information relating to them and its conformity with the facts. The Algerian legislator addressed this right in Article 35.

4. The Right to Object

Article 36 provides that:

"Every person has the right to object to the processing of their personal data.

They also have the right to object to the use of data relating to them for advertising purposes, particularly commercial purposes, by the current data controller or by a subsequent data controller."

Second: Obligations Imposed on Data Controllers

1. Ensuring the Confidentiality and Integrity of Personal Data

This is one of the most important legal principles, requiring that personal data not be processed by persons who are not authorized to do so. It therefore guarantees protection against any unlawful disclosure or circulation of personal data, while also ensuring that such data remains accurate [11].

2. Processing Information Related to Electronic Authentication and Electronic Signatures

This involves the use of personal information necessary to verify individuals' identities and confirm the validity of electronic signatures. An electronic signature makes it possible to establish a link between the signature and its holder through the use of an electronic means [12].

3. Processing Personal Data within the Electronic Communications Sector

This concerns the processing operations carried out when using telephones or browsing the Internet. The entities concerned must comply with the rules ensuring lawful processing and adopt the necessary measures to guarantee the confidentiality and integrity of such data. If the data is lost or damaged, the service provider must immediately notify the data subject [13].

Paragraph Two: The Role of the National Authority for the Protection of Personal Data

Given the expansion of operations involving the collection, processing, and potential circulation of personal data, the need arose to establish a specialized body responsible for ensuring compliance with the legislative rules governing these operations. Although legal provisions establish the rights of data subjects and define the obligations incumbent upon data controllers, their effective implementation requires a body capable of preventing violations affecting individuals' private lives.

The Algerian legislator established the National Authority for the Protection of Personal Data under Law No. 18-07. However, the creation of this Authority did not mean that it could immediately exercise its functions, since its operational activation required additional measures relating to the appointment of its members and its organizational structure. Accordingly, Presidential Decree No. 22-187 of 18 May 2022 was issued, providing for the appointment of the President and members of the National Authority [14]. This was followed by Presidential Decree No. 23-73 of 14 February 2023, which established the procedures governing the organization and operation of the Authority [15]. Subsequently, Law No. 25-11 introduced new provisions

concerning its powers and organizational structure.

The Algerian legislator has entrusted the Authority with a range of powers intended to ensure compliance with the rules governing personal data processing. It now exercises a supervisory function by monitoring whether data controllers comply with the rules regulating their activities and verifying the lawfulness of their processing operations.

The Authority also performs an advisory role, as it may provide guidance to the institutions concerned and raise individuals' awareness of their rights and obligations. Furthermore, it contributes to the processing of personal data for purposes related to crime prevention, investigations, and even criminal proceedings. This is provided for in Articles 45 to 45 bis 14 of Law No. 25-11.

It can therefore be stated that Law No. 18-07 has not been repealed; rather, it has been amended by Law No. 25-11, which introduced additional provisions. Among these is the establishment of regional units under Article 27 bis, thereby consolidating the principle of expanding the Authority's territorial scope of action and strengthening effective supervision in the field of personal data protection.

Section Two: Legal Liability Arising from Breaches of Data Protection Obligations

Ensuring the protection of personal data requires the determination of the legal liability arising from violations of the applicable rules, in a manner that guarantees compensation for the harm suffered by individuals and deters practices that violate the sanctity and confidentiality of their personal information.

Subsection One: Forms of Violations Affecting Personal Data

Violations affecting personal data take various forms, consisting of acts that contravene the legal provisions governing the manner in which such data is processed.

Paragraph One: Violations Relating to Individuals' Rights

The following acts constitute violations relating to the rights of data subjects:

- Processing personal data without the explicit consent of the data subject, contrary to Article 7 of Law No. 18-07.
- Processing a child's data without the consent of their legal representative or authorization from the judge, in accordance with Article 8 of the same Law.
- Refusing to provide information, grant access, carry out rectification, or recognize the right to object, contrary to Articles 32, 34, 35, and 36 of the aforementioned Law.
- Violating Article 12 by carrying out processing operations without obtaining prior authorization from the National Authority.
- Disclosing confidential data that requires protection and confidentiality, contrary to Article 38 and the subsequent provisions of Chapter One, Title Five.

Paragraph Two: Violations Relating to Non-Compliance with the Legal Obligations of Data Controllers

The following acts constitute violations of the legal obligations imposed on data controllers:

- **Failure to comply with the conditions governing data processing:** Article 9 expressly requires the data controller to process data on lawful grounds and for specific purposes, and to ensure that the data is adequate and not excessive.
- **Violation of Article 12:** This concerns failure to comply with the procedures governing data processing, including the requirement to submit a declaration to the National Authority.
- **Processing special-category or sensitive personal data without fulfilling the required conditions.**
- **Disclosure of data subject to confidentiality requirements**, as provided for in Article 45 bis 07.
- **Failure to notify the data subject of a personal data breach likely to result in a high risk to their rights and freedoms**, as established under Article 45 bis 10 of Law No. 25-11.

Subsection Two: Penalties Established for the Protection of Personal Data

The existence of legal provisions defining the forms of violations without establishing legal consequences for committing them may reduce or undermine the effectiveness of the protection afforded to personal data. This highlights the importance of the penal system in achieving deterrence and ensuring compliance with legislative provisions. On this basis, it is necessary to examine the legal penalties applicable in the field of personal data protection and assess the extent to which they are proportionate to the criminalized acts.

Paragraph One: Penalties Applicable to Natural Persons

- **Violation of Article 2 of Law No. 18-07:** This Article requires the protection of private life and human dignity. Any person committing an offence in violation of this provision is punishable under Article 54 by imprisonment for a term of two (2) to five (5) years and a fine ranging from DZD 200,000 to DZD 500,000.
- **Processing personal data without the explicit consent of the data subject:** The offender is punishable by imprisonment for a term of one (1) to three (3) years and a fine ranging from DZD 100,000 to DZD 300,000, as provided for in Article 55 of the same Law.
- **Processing personal data without submitting a prior declaration to the National Authority:** Any person committing this offence is punishable by imprisonment for a term of two (2) to five (5) years and a fine ranging from DZD 200,000 to DZD 500,000. The same penalties apply to anyone making false declarations.

Paragraph Two: Penalties Applicable to Legal Persons

Legal liability for violations of the rules governing personal data protection is not limited to natural persons; it also extends to legal persons carrying out activities related to the processing of such data.

In this regard, the Algerian legislator established this liability under Article 394 bis 4, which provides that a legal person committing the acts stipulated in this section shall be punished by a fine equivalent to five (5) times the maximum fine prescribed for a natural person.

It may be observed that, taking into consideration the resources available to legal persons and their capacity to process data easily, the Algerian legislator has established deterrent penalties intended to limit such violations.

Conclusion

Based on the findings of this study, it has become clear that the effectiveness of legal protection for personal data cannot be achieved merely through the existence of legal provisions establishing such protection. Rather, it requires the provision of effective and practical safeguards to preserve individuals' private lives, through holding anyone who violates the prescribed legal obligations accountable and addressing violations before they occur.

On this basis, the study has reached a number of findings and proposed several recommendations, which are presented below.

Findings

- The protection of personal data reinforces one of the most important legal principles, namely the principle of respect for private life. Legal protection is therefore one of the legal means through which individuals' privacy is safeguarded.
- It is essential to distinguish between the obligations imposed on the data controller and those incumbent upon the other entities involved in data processing.
- Ensuring personal data protection is not limited to establishing liability after harm has occurred; it also requires preventive mechanisms capable of preventing violations from arising in the first place.
- The scope of legal liability extends to legal persons when they commit any of the acts classified as criminal offences.

Recommendations

- Strengthening the National Authority for the Protection of Personal Data by providing the necessary human and material resources to enable it to exercise its powers efficiently and independently and to ensure the effectiveness of the measures it adopts in addressing emerging challenges.
- Ensuring coordination between the competent National Authority and judicial bodies in order to improve investigation and prosecution mechanisms and enhance the detection of offences and identification of their perpetrators.
- Ensuring proportionality between the seriousness of the violations committed and the nature of the penalties prescribed for them.
- Intensifying awareness-raising programmes on personal data protection and enabling individuals to understand the legal rights and obligations associated with data collection and processing, including raising awareness of the risks arising from unlawful processing.
- Supporting scientific research in the field of personal data protection by encouraging comparative studies that make it possible to examine successful legislative experiences and draw on them in a manner consistent with

the provisions of the Algerian legal system.

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