

## decrees and ministerial orders

### MINISTRY OF THE INTERIOR AND LOCAL DEVELOPMENT

#### Decree n°2007-3002 dated 27 November 2007, regulating the particular status of first delegates.

(Published only in Arabic and French)

### MINISTRY OF JUSTICE AND HUMAN RIGHTS

#### Decree n° 2007-3003 dated 27 November 2007, fixing the operating methods of the national instance for protection of personal data.

The President of the Republic,

On a proposal from the Minister of Justice and Human Rights,

Having regard to organic law n° 2004-63 dated 27 July 2004, on the protection of personal data, and notably article 75,

Having regard to organic law n° 83-112 dated 12 December 1983, regulating the general status of the state, local collectivities and public establishments having an administrative nature staff, all amending and completing texts, and notably law n° 2003-20 dated 17 March 2003,

Having regard to decree n°2006-1245 dated 24 April 2006, fixing the scheme of granting and withdrawing the central administration functional posts,

Having regard to the opinion of the Minister of Finance,

Having regard to the opinion of the administrative court,

Decrees the following:

Article one - The decree herein sets the operating methods of the national instance for protection of personal data.

Art. 2 - The national instance for protection of personal data shall comprise :

-a president chosen from among the competent personalities in the field,

-a member chosen from among the members of the Chamber of Deputies,

-a member chosen from among the members of the Chamber of Advisors,

-a representative of the Prime Ministry,

-two third-ranked magistrates,

-two magistrates of the administrative court,

-a representative of the Ministry of the Interior and Local Development,

-a representative of the Ministry of National Defence,

-a representative of the Ministry of Communication Technologies,

-a researcher from the Ministry charged of scientific research,

-a doctor from the Ministry charged of public health,

-a member from the high institute of human rights and fundamental freedoms,

-a member chosen from among experts in communication technologies.

The president and the members of the instance are appointed by decree for three years on a proposal from the Minister charged of human rights.

The meetings of the instance are held in camera. The president may invite, in an advisory capacity, any experienced person whose presence is presumed useful for the matters fixed in the agenda.

Art. 3 - The national instance for protection of personal data meets on a calling from its president at least once quarterly, and when it is deemed necessary. It may not legally meet unless majority of the members are present.

If the quorum is not reached, the instance meets for a second time in the seven days following its first meeting whatever the number of the members present be.

Upon the request of the president, any member who leaves the meetings three succeeding times without reason will be replaced.

Art. 4 - In case of impediment or absence of the president of the instance, the latter appoints his substitute from among either members full-time practicing. If it is impossible, the oldest one from among them shall preside temporarily the instance.

Art. 5 - The president of the national instance for protection of personal data shall make up the meetings agenda. The instance issues its opinions with the majority of the members present and voting, and in the event of equality of votes, the president has a casting vote.

The instance meeting is recorded in a report signed by the president of the instance and all the present members.

Art. 6 - The president of the instance may charge one or more members of studying or monitoring certain projects within his responsibility.

He may also charge specialists in the field of protection of personal data of ensuring some missions within the instance duties.

In any case, these contracts are first submitted to the Minister charged of human rights for approval.

Art. 7 - The members of the national instance for protection of personal data shall carry on exercising their

original profession, except the president of the instance as well as one of either third ranked magistrates or one of either magistrates of the administrative court full-time practicing.

Art. 8 - The remuneration of the president is set by decree.

An allowance is granted by decree to the members in addition to the allowances and benefits linked to the grade.

Art. 9 - The president of the national instance for protection of personal data is also its legal representative; he orders the expenses and receipts and runs the instance administratively and financially.

Art. 10- The president may entrust some of his duties or all of them, as well as the power of signature to the personnel under his responsibility.

Art. 11- A permanent secretariat is established within the national instance for protection of personal data. It shall :

- receive the statements of the authorizations, notices and complaints requests,
- prepare the files submitted to the instance,
- organize the instance meetings,
- draw up and keep the reports,
- achieve all the duties entrusted by the instance or its president,
- keep the instance documents,
- assist the president in the administrative and financial management.

Art. 12 - Under the president's supervision, the permanent secretariat is run by a secretary general having the allowances and benefits granted to a central administration director.

The secretary general is appointed by decree, on a proposal from the Minister charged of human rights, in accordance with the conditions provided for by the above mentioned decree n° 1245-2006 dated 24 April 2006.

Art. 13 - The instance has a budget linked to the budget of the Ministry charged of human rights. Its receipts are made up of:

- the subsidies granted by the state,
- the receipts generated by the instance activities and services,
- the donations furnished to the instance according to the legislation and regulations in force,
- the other receipts granted to the instance by law or the regulations. Its expenses are made up of:
  - the annual and permanent payments relating to the management of administrative affairs of the instance,
  - the temporary and exceptional expenses of the instance.

Art. 14 - The instance personnel are governed by the general status of the personnel of the state, local collectivities and public establishments having an administrative nature.

Art. 15 - The Minister of Justice and Human Rights and the Minister of Finance, each in his respective capacity,

shall implement the decree herein which shall be published in the Official Gazette of the Republic of Tunisia.

Tunis, 27 November 2007.

Zine El Abidine Ben Ali

### **Decree n° 2007-3004 dated 27 November 2007, fixing the conditions and procedures of declaration and authorization of personal data treatment.**

The President of the Republic,

On a proposal from the Minister of Justice and Human Rights,

Having regard to organic law n° 2004-63 dated 27 July 2004, relating to the protection of personal data and notably articles 7, 8 and 81,

Having regard to decree n° 93-982 dated 3 May 1993, relating to the administration and its users, as completed by decree n° 2007-1259 dated 21 May 2007,

Having regard to decree n° 94-1692 dated 8 August 1994, relating to the administrative forms,

Having regard to decree n° 2007-1260 dated 21 May 2007, fixing the cases when the silence of the administration is deemed approval,

Having regard to decree n° 2007-3003 dated 29 November 2007, fixing the modalities of functioning of the national instance of protection of data with personal nature,

Having regard to the opinion of the administrative court.

Decreases the following :

Article one – The decree herein shall fix the conditions and procedures of prior declaration and authorization request of personal data treatment as well as the withdrawal of authorization and the treatment prohibition procedures.

#### Chapter one

#### **Common provisions**

Art. 2 - Every operation of personal data treatment shall be submitted to a prior declaration or to an authorization in the cases provided for in the abovementioned organic law relating to the personal data protection.

Art. 3 - The prior declarations and authorizations of personal data treatment shall be presented through a form in paper format or electronic version put at the public's disposal.

The forms shall personally be signed by the person in charge of the treatment if he is a natural person and by the legal representative on behalf of a legal entity.

Art. 4 - The declaration and authorization request shall directly be deposited at the national instance of personal data protection for a receipt or dispatched through registered letter with acknowledgment of receipt or by any other mean leaving writing record.

Art. 5 - The national instance of personal data protection may ask for additional data or other necessary documents for the declaration examination or to rule on authorization request.

In case of lack of sufficient data protection is observed, the instance may require to the declarant or authorization applicant to provide supplementary guarantees.