


COMPLIANCE WITH LAW 09-08 CONCERNING THE PROTECTION OF PERSONAL DATA

Detailed report

Version 3.0



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Reminders and Background

New information and communication technologies are booming in our society and require monitoring developments by laying out an appropriate legal framework to deal with new legal issues.

Moroccan legislature has, in this context, adopted the law relating to the protection of individuals with regard to the processing of personal data: Law 09-08 promulgated by Dahir N° 1-09-15 of 22 Safar 1430 (February 18, 2009).

The purpose of this law is to protect the privacy of individuals against possible attacks during the processing, particularly automated, of personal data concerning them.


Indeed, the objective of Law 09-08 is to provide the Moroccan legal arsenal with a legal instrument for the protection of individuals, against abuse of the use of data likely to infringe upon their private lives and harmonize the national system for personal data protection with that of its partners as defined by the European authorities.

From November 15, 2012, legal entities who carry out personal processing in the course of their activity must comply with the obligations laid down by Law 09-08.

It is in this context that the obligation for MAROCLEAR to comply with the requirements of the above-mentioned law falls, in order to fulfill its role as a responsible and honest company with regard to the protection of personal data which it manages and, also to avoid any risk of diversion from the purpose of use of such data.

Consequently, a project to bring MAROCLEAR into compliance with Law No. 09-08 has been initiated, following specific phases allowing, as set out by this Law, the definition of personal data, its processing and level of protection.

Introduction :

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The strategic vision of the Central Depository aims to strengthen the compliance of its operation on the legislative and regulatory level. Indeed, the project to bring MAROCLEAR into compliance with law 09-08 relating to the protection of personal data, is part of a process of concretization of a vision which is certainly perfectionist, but whose objective is to bring it into compliance with all the laws and standards to which it is subject.

The purpose of this report is to convey to the governance bodies of MAROCLEAR first, and then to the general public, the situation in 2016, the processing of personal data, implemented by the Central Depository in accordance with the requirements of Law 09-08 on personal data.

This document outlines the actions implemented by Law No. 09-08 and addresses the focal points listed below:

- The process of bringing MAROCLEAR into compliance with Law 09-08;
- Overview of the compliance plan regarding the processing of personal data within MAROCLEAR;
- Implementation status of the cornerstones of the internal system.

This report also presents the roadmap for 2016.


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I. Procedure for bringing MAROCLEAR into compliance with Law 09-08


1. Steps taken to comply with Law 09-08:

The project of compliance with Law 09-08 relating to the protection of personal data within MAROCLEAR was implemented through steps which resulted in a detailed action plan by Service within each Department, as follows:

STEP	DESCRIPTION
1. Diagnosis of business activities and processes	An assessment of the activities of each Department is carried out in order to identify those related to the processing of personal data.
2. Inventory of personal data	The personal data managed by the services are inventoried with precise records of storage, owner, etc.
3. Classification of processed data	The inventoried data are classified according to the categories defined by law 09-08 and on the CNDP forms (Sensitive, financial, professional data, etc.)
4. Analysis of data criteria	The data are analyzed to verify compliance with the quality criteria.
5. Processing inventory	Processing is identified and listed. A brief description is made regarding purpose, the number of people concerned, etc.
6. Identification and classification of processing media	Processing media are identified and classified according to whether the treatments are manual or automated.
7. Analysis of consent criteria	Processing is analyzed to assess the need for subjects' consent.
8. Inventory of data transfers abroad	No personal data is transferred abroad, the data which may be transferred abroad will be listed, specifying recipients, country of destination, scope

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	of protection of personal data in this country, and subsequently communicated to the CNDP.
9. Establishment of an internal system responsible for Law 09-08	MAROCLEAR plans to set up responsibilities and roles with regard to processing (Management representative, main contact, data owners, owners of processing media, etc.).
10. Gap analysis in terms of communication and security with interested parties.	An analysis of the current status is carried out on the information (purposes, destination, etc.), approval, right of access and rectification of the persons concerned as well as the protection of the personal data processed and processing media.
11. Communication and security action plan	A communication action plan is defined and implemented in relation to the discrepancies detected, to reinforce data security in view of the themes set out in the CNDP forms.
12. Sensitization	Staff are made aware of the management and appropriate protection of personal data, through awareness sessions and emails on the protection of personal data.
13. Processing declaration and processing authorization requests	The treatment declaration and authorization request forms are filled in with the information collected upstream and sent to the CNDP.
14. File follow-up and discussions with the CNDP	The Main Contact monitors the progress of the CNDP's processing of the file and constitutes the interface with MAROCLEAR in the event that clarifications or corrections are necessary.
15. Receipts and processing authorizations	The main contact is responsible for the withdrawal and classification of CNDP authorizations and receipts.

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16. Implement the defined security action plan	Ensure the effective implementation of the protection measures selected in the defined action plan.
17. Regulatory monitoring	For all new activities or for any new personal data processed by MAROLCLEAR, an analysis is carried out to identify compliance and reporting requirements with the CNDP.

2. Present day evaluation results:

The project of compliance with law n ° 09-08 relating to the protection of personal data, was initiated in January 2015. An inventory of personal data collected within the framework of MAROCLEAR processing was carried out through interviews with processing managers based on pre-established internal frameworks.

The inventory campaign was carried out on all MAROCLEAR entities based on a mapping of the processes in which personal data are processed. Thus, during the interviews with all the processing managers, a list of all processing implemented by MAROCLEAR was drawn up.


As such, eleven prior authorizations, notably those related to human resources management, video surveillance and visitor access management, and eighteen processing declarations such as associate management and inspection, have been transmitted.

3. Opinion of the National Commission for the Protection of Personal Data (CNDP)

Following the study of the MAROCLEAR declaration dossier by the CNDP, it was recommended that certain prior authorizations and declarations be combined by processing purpose, which made it possible to reduce the total number from twenty-nine to ten.

At the end of the aforementioned step, modifications were made to the documents for the collection of personal data which incorporated the mention of mandatory information required by the CNDP. Several documents have been modified, in particular, the employment contract, the service provider charter and commitment contracts, as well as the visitor access card.

In the end, MAROCLEAR obtained a favorable opinion from the CNDP for all the processing operations assessed.

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The declarations to the CNDP gave rise to acknowledgments of receipt marking the CNDP's approval of the proposed system, as well as the conditions for the implementation of said processing as specified by the Central Depository.

MAROCLEAR undertakes, as part of the continuity of its process of compliance with Law 09-08, to notify, via new declarations, when new processing has been created following a change, or a specific decision.

II. Overview of riskiest processing managed by MAROCLEAR:

1. HR management

Efficient human capital management has become a necessary and complex operation for human resources professionals. In fact, their role consists primarily of collecting data on each employee, related to health, offenses and convictions as well as biometric data.

Human resources management therefore poses significant risks because management which does not take into account the protection of personal data can have an impact on the quality of the corporate climate.

2. Video surveillance


Video surveillance is a system used to monitor the conditions of respect for security, safety or the execution of a particular procedure. It should be noted that significant risks presented by processing related to video surveillance have a direct impact on the freedom of the subjects in identifying the nature of subjects concerned.

III. Overview of compliance plan for processing personal data at MAROCLEAR:

1. Development process

The Compliance team in charge of the project collected the following elements for each process identified:

- Automated or manual nature of the processing;
- nature of the personal data which is the subject of the processing in question;
- interconnections, overlaps and other forms of possible reconciliation;
- description of processing manager and service responsible for implementation;
- service to which data subjects can exercise their access rights;
- form of subject's consent;

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- measures taken to inform interested parties.

In addition, a confidentiality agreement related to personal data is to be signed by MAROCLEAR processing managers in order to involve them in this process of compliance with Law 09-08 and encourage them to respect the procedures for the protection of personal data.

2. Compliance actions :

Compliance actions have been listed in a detailed action plan showing the actions by entity within each Department.

Compliance actions focus in particular on the consent of the data subject, the rights of the data subjects (information on processing, access rights, rectification, deletion or opposition, and contact for each processing).

3. Results of dialogue with managers concerned

The consultation meetings were held with the processing managers within each Department. In this sense, the actions determined are actions to review the models of letters and forms used in order to allow the data subject to be informed of the characteristics of the processing, and actions to configure IT tools in order to allow the deletion of data after expiration of the retention period.

According to an analysis of the processing operations recorded at MAROCLEAR level, it was noted that the discrepancies detected relate in particular to the request for consent of the persons concerned, the measures to access their personal data both internally and externally as well as a clear indication of the contact facilitating access to this information.

IV. Establishment of an Internal Personal Data Protection System:

Since MAROCLEAR's objective is not only to bring the existing system into compliance, but to maintain this compliance over time, the establishment of an internal system for managing this compliance has proved necessary.

The establishment of an internal device for the protection of personal data aims to define the roles and responsibilities of each stakeholder in the process of managing compliance with respect to Law No. 09-08, this system will allow the Central Depository, in particular, to:

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- guarantee the proportionality of the data collected for the purposes of the processing operations identified;
- guarantee the application of the appropriate procedure (authorization or declaration) to each processing operation depending on the nature of the data;
- ensure proper management of data collection and information media for the persons concerned;
- integrate compliance with Law No. 09-08 in contracts and agreements binding it to "subcontractors";
- determine and manage the data retention periods in accordance with the purposes of the declared or authorized processing;
- control the flow of information;
- train and sensitize all of its managers and agents;
- support regulatory and operational changes (monitoring and compliance).

A. Actors in the system:

The personal data protection system is based on the distribution of powers and roles between the various actors involved in compliance with the regulations in this area.

1. Head of Processing :

MAROCLEAR is the head of processing implemented by its various entities within the framework of the exercise of their respective functions.

2. Main contact with the CNDP :

The President and CEO of MAROCLEAR has appointed a Main Contact who will be the permanent correspondent and the privileged interlocutor with the CNDP.

The Main Contact is assisted, at the level of processing managers, by intermediaries who play the role of first level of advice to managers and disseminate the information and messages of the Main Contact to managers. It was considered appropriate to entrust this responsibility to the persons designated by each Director within each Department.

3. Processing Managers:

Managers have a delegation of Data Processors (MAROCLEAR) to take all the necessary measures to comply with legal requirements.

To this end, several interviews were held with managers to raise awareness of the challenges of implementing Law No. 09-08, to identify the processing of personal data that they implement and finally to examine the conditions of this

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implementation for the compliance of the means of collection and processing of personal data at their level.

4. Monitoring and compliance managers:

The Compliance position ensured compliance with Law 09-08 during all the phases of the project, permanent monitoring of the implementation of the internal system for the protection of personal data as well as all the formalities of declarations, work procedures and processing managed within MAROCLEAR.

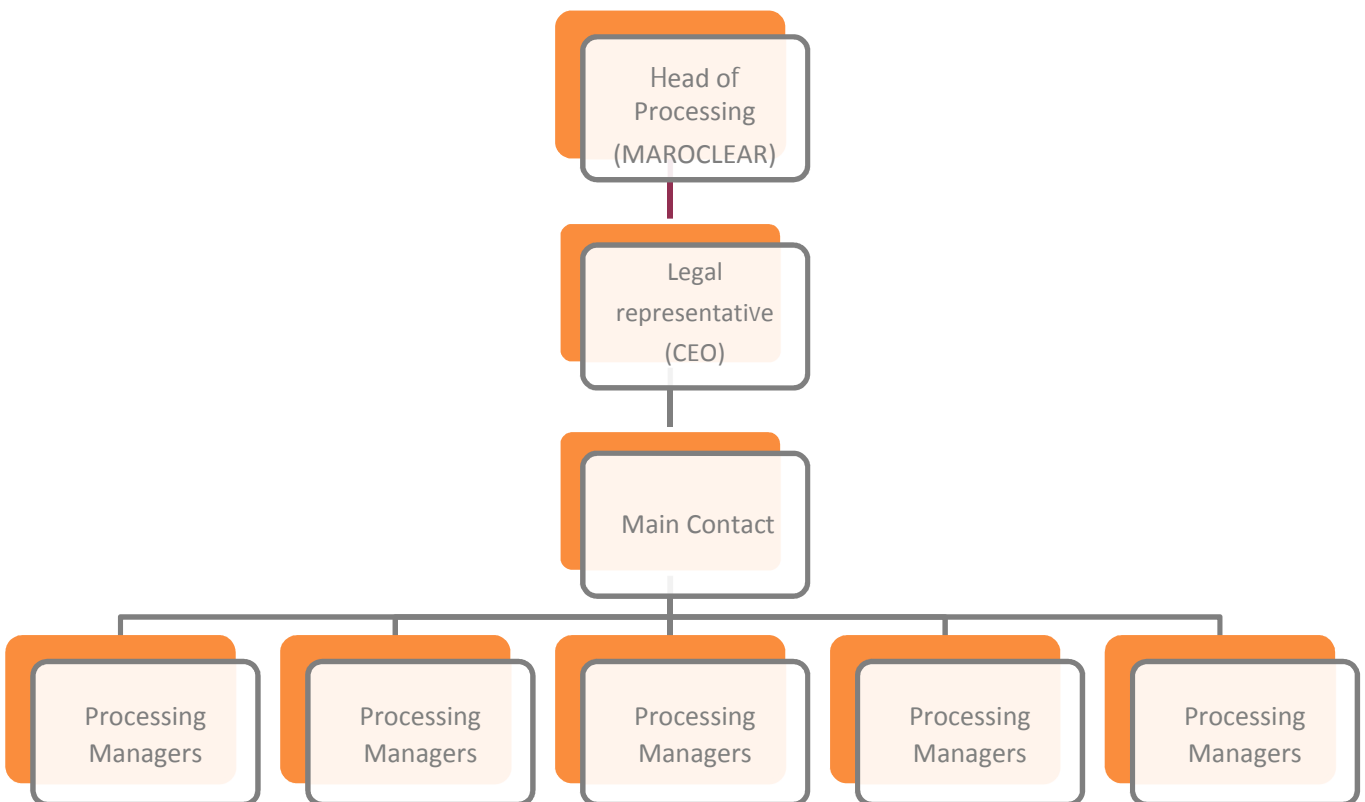



Figure 1: Internal organizational chart for Law 09-08

B. Work Procedures:

As part of the implementation of procedures relating to compliance with law 09-08, it was decided to formalize internal procedures for the implementation of new processing operation, the processing requests for access to rectification, and opposition, and other procedures as needed by MAROCLEAR to formalize the requirements of the law in question.

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V. Roadmap for 2016 fiscal year:

Action	Objectives
Development of work procedures	<p>Work meetings on :</p> <ul style="list-style-type: none"> ▪ The internal protection system for personal data; ▪ The powers of the actors concerned ; ▪ The work procedures, concerning the implementation of a new processing operation, the modification or deletion of an existing operation, and the processing of requests by data subjects to exercise their rights.
Establishment of a MAROCLEAR Central Processing Register	Implementation of the MAROCLEAR Central Data Processing Register after consolidation of the processing of each manager within the Central Depository.
Day Focused on Protection of Personal Data	A day which aims to introduce Law 09-08, MAROCLEAR's processing operations and the personal data protection system to all MAROCLEAR staff.