

Deliberation n ° D-97-2020 of 03/26/2020
on the extension of a moratorium
on facial recognition

The National Commission for the Protection of Personal Data,

Under the chairmanship of Mr. Omar Seghrouchni;

Taking into consideration the observations of the members Mrs Souad El Kohen, Messrs Driss Belmahi, Abdelaziz Benzakour, Brahim Bouabid;

Considering article 24 of the Constitution of the Kingdom which provides that: "Everyone has the right to protection of his private life "

Considering the law n ° 09-08 promulgated by the Dahir 1-09-15, of February 18, 2009, relating to the protection of natural persons with regard to the processing of personal data (BO n ° 5714 of 05/03/2009);

Considering Decree n ° 2-09-165 of May 21, 2009 taken for the application of the aforementioned law n ° 09-08 (BO n ° 5744 of 06/18/2009);

Having regard to the Internal Regulations of the CNDP (approved by decision of the Prime Minister n ° 3-33-11 of 28 March 2011 / BO n ° 5932 of 07/04/2011);

Having regard to Decree-Law No. 2.20.292 enacting specific provisions for the State of Health Emergency and the measures of its declaration;

Having regard to Decree No. 2.20.293 declaring the State of Health Emergency throughout the Territory National in order to stop the spread of the Coronavirus "Covid-19";

Having regard to Convention No. 108 of the Council of Europe for the protection of individuals with regard to automated processing of personal data to which the Kingdom of Morocco has adhered as of 05/28/2019;

Having regard to the deliberation of the National Commission n ° D-194-2019 of 08/30/2019 relating to a moratorium on facial recognition, which expires on March 31, 2020;

After hearing certain economic operators who have asked the National Commission, to authorize them to implement biometric authentication systems, in general, and based on facial recognition technologies, in particular;

After taking into consideration the economic importance and the challenges related to the deployment of facial recognition technologies;

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After having had access to international expertise in biometrics in general, and facial recognition in particular,

Having regard to the observations of Messrs Brahim Bouabid and Driss Belmahi, rapporteurs appointed by the National Commission.

Give the following notice:

Based on the principle that technologies are at the service of citizens and the economy;

The National Commission,

- undertakes to promote and support national players, or those operating in the territory national, in their strategy of emergence of an economy of data and values added induced by the benefits of “data-governance”;
- expresses strong reservations about the fact that each service provider constitutes its "own" biometric database, that of its customers and / or prospects, sometimes hosted outside the territory national;
- wishes to promote the advisability of a national decision for the use of a third party system of trust, in terms of authentication, without multiplication of databases or registers authentication, whether in the private sector or in the public sector.

This trusted third party system can be established on the basis of technological developments promising CNIE2 (National Electronic Identity Card version 2);
- recommends that, on the one hand, usage data and that, on the other hand, data authentication systems are not stored within the same architecture and by the same entity;
- recommends the use of sector identifiers, with a granularity to be defined according to the requirements of each industry. This provision does not in any way preclude targeting policies, framed by specific laws (for the social, finance, tax, health, etc.) or by force majeure actions relating to security inside or outside the state. The use of a unique identifier is then a mechanism technique secured by tokenization policies, ensuring that this unique identifier, but technical, is not public and is under the imperative protection of the authorities regal. The CNDP thus recommends, at the national level, an architecture of identifiers that takes into account constitutional, economic, societal and technical requirements;

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The National Commission, with regard to security measures,

- draws the attention of public authorities that the hypothesis put forward by certain operators and subcontractors, announcing that their solutions do not allow data storage biometric beyond the so-called “matching” phase, either duly verified, confirmed, attested and certified;
- submits to the DGSSI (General Directorate of Systems Security Information), examining the advisability of this national trusted third party system retained as infrastructure of vital importance, involving the rules of management and adequate security.

Also, in the approach it undertakes, while seeking the support of all institutions and actors from the public and private sectors, the National Commission:

- notes that some solutions are not of direct or indirect interest for the management the state of health emergency decreed by the government of His Majesty the King;
- notes that other solutions that contribute to the management of the COVID-19 crisis and to that of the state of health emergency, and which are the responsibility of certain institutions and bodies regulation, must be evaluated in partnership in order to allow an assessment their proportionality in relation to the targeted purposes;
- proposes, for the post-state of emergency period, to evaluate with all the actors concerned, the strategy for returning to normal, on a case-by-case basis, taking into account the investments and financial commitments made by each of the operators.

In view of the above, and noting that in the light of the hearings and working sessions carried out to date, the difficulty of being able to rule on all the rules of use to be put in place, the National Commission decided, Thursday March 26, 2020:

- To extend the moratorium on facial recognition to December 31, 2020;
- Continue :
 - o on the one hand, experimentation with biometrics and recognition technologies facial on a case-by-case basis,
 - o and on the other hand, that of any solution that can contribute to reducing, directly or indirectly the health risk, in this period of emergency.

Rabat, March 26, 2020
The President of the CNDP