

Law n ° 2004-801 of August 6, 2004 relating to the protection of natural persons with regard to the processing of personal data and amending law n ° 78-17 of January 6, 1978 relating to data processing, files and to freedoms (1).

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Title I: Provisions amending the law of 6 January 1978 relating to computing, files and freedoms. (Articles 1 to 13)

Article 1

Modified the following provisions

- Amends Law n ° 78-17 of January 6, 1978 - art. 2 (M)
- Amends Law n ° 78-17 of January 6, 1978 - art. 3 (V)
- Amends Law n ° 78-17 of January 6, 1978 - art. 4 (V)
- Amends Law n ° 78-17 of January 6, 1978 - art. 5 (V)

Article 2

Modified the following provisions

- Amends Law n ° 78-17 of January 6, 1978 - art. 10 (M)
- Amends Law n ° 78-17 of January 6, 1978 - art. 6 (M)
- Amends Law n ° 78-17 of January 6, 1978 - art. 7 (M)
- Amends Law n ° 78-17 of January 6, 1978 - art. 8 (M)
- Amends Law n ° 78-17 of January 6, 1978 - art. 9 (M)

Article 3

Modified the following provisions

- Amends Law n ° 78-17 of January 6, 1978 - art. 11 (V)
- Amends Law n ° 78-17 of January 6, 1978 - art. 12 (Ab)
- Amends Law n ° 78-17 of January 6, 1978 - art. 13 (V)
- Amends Law n ° 78-17 of January 6, 1978 - art. 14 (Ab)

Article 4

Modified the following provisions

- Amends Law n ° 78-17 of January 6, 1978 - art. 22 (M)
- Amends Law n ° 78-17 of January 6, 1978 - art. 23 (Ab)
- Amends Law n ° 78-17 of January 6, 1978 - art. 24 (Ab)
- Amends Law n ° 78-17 of January 6, 1978 - art. 25 (M)
- Amends Law n ° 78-17 of January 6, 1978 - art. 26 (V)
- Amends Law n ° 78-17 of January 6, 1978 - art. 27 (M)
- Amends Law n ° 78-17 of January 6, 1978 - art. 28 (V)
- Amends Law n ° 78-17 of January 6, 1978 - art. 29 (M)
- Repeals Law n ° 78-17 of January 6, 1978 - art. 29-1 (Ab)
- Amends Law n ° 78-17 of January 6, 1978 - art. 30 (M)
- Amends Law n ° 78-17 of January 6, 1978 - art. 31 (M)

Article 5

Modified the following provisions

- Created Law n ° 78-17 of January 6, 1978 - art. 32 (V)
- Amends Law n ° 78-17 of January 6, 1978 - art. 33 (V)
- Repeals Law n ° 78-17 of January 6, 1978 - art. 33-1 (Ab)
- Amends Law n ° 78-17 of January 6, 1978 - art. 34 (V)
- Amends Law n ° 78-17 of January 6, 1978 - art. 35 (M)
- Amends Law n ° 78-17 of January 6, 1978 - art. 36 (V)
- Amends Law n ° 78-17 of January 6, 1978 - art. 37 (M)
- Amends Law n ° 78-17 of January 6, 1978 - art. 38 (V)
- Amends Law n ° 78-17 of January 6, 1978 - art. 39 (M)
- Created Law n ° 78-17 of January 6, 1978 - art. 40 (M)
- Transfer Law n ° 78-17 of January 6, 1978 - art. 40 (T)
- Amends Law n ° 78-17 of January 6, 1978 - art. 41 (M)
- Amends Law n ° 78-17 of January 6, 1978 - art. 42 (M)
- Amends Law n ° 78-17 of January 6, 1978 - art. 43 (V)

Article 6

Modified the following provisions

- Created Law n ° 78-17 of January 6, 1978 - art. 44 (V)

Article 7

Modified the following provisions

- Amends Law n ° 78-17 of January 6, 1978 - art. 45 (V)
- Amends Law n ° 78-17 of January 6, 1978 - art. 46 (V)
- Amends Law n ° 78-17 of January 6, 1978 - art. 47 (V)
- Amends Law n ° 78-17 of January 6, 1978 - art. 48 (V)
- Created Law n ° 78-17 of January 6, 1978 - art. 49 (V)

Article 8

Modified the following provisions

- Created Law n ° 78-17 of January 6, 1978 - art. 50 (V)
- Created Law n ° 78-17 of January 6, 1978 - art. 51 (V)
- Created Law n ° 78-17 of January 6, 1978 - art. 52 (V)

Article 9

Modified the following provisions

- Transfer Law n ° 78-17 of January 6, 1978 - art. 40-1 (T)
- Transfer Law n ° 78-17 of January 6, 1978 - art. 40-2 (T)
- Transfer Law n ° 78-17 of January 6, 1978 - art. 40-3 (T)
- Transfer Law n ° 78-17 of January 6, 1978 - art. 40-4 (T)
- Transfer Law n ° 78-17 of January 6, 1978 - art. 40-5 (T)
- Transfer Law n ° 78-17 of January 6, 1978 - art. 40-6 (T)
- Transfer Law n ° 78-17 of January 6, 1978 - art. 40-7 (T)
- Transfer Law n ° 78-17 of January 6, 1978 - art. 40-8 (T)
- Created Law n ° 78-17 of January 6, 1978 - art. 53 (M)
- Created Law n ° 78-17 of January 6, 1978 - art. 54 (M)
- Created Law n ° 78-17 of January 6, 1978 - art. 55 (M)
- Created Law n ° 78-17 of January 6, 1978 - art. 56 (M)
- Created Law n ° 78-17 of January 6, 1978 - art. 57 (M)
- Created Law n ° 78-17 of January 6, 1978 - art. 58 (M)
- Created Law n ° 78-17 of January 6, 1978 - art. 59 (M)
- Created Law n ° 78-17 of January 6, 1978 - art. 60 (M)
- Created Law n ° 78-17 of January 6, 1978 - art. 61 (M)

Article 10

Modified the following provisions

- Transfer Law n ° 78-17 of January 6, 1978 - art. 40-11 (T)
- Transfer Law n ° 78-17 of January 6, 1978 - art. 40-12 (T)
- Transfer Law n ° 78-17 of January 6, 1978 - art. 40-13 (T)
- Transfer Law n ° 78-17 of January 6, 1978 - art. 40-14 (T)
- Transfer Law n ° 78-17 of January 6, 1978 - art. 40-15 (T)
- Created Law n ° 78-17 of January 6, 1978 - art. 62 (Ab)
- Created Law n ° 78-17 of January 6, 1978 - art. 63 (Ab)
- Created Law n ° 78-17 of January 6, 1978 - art. 64 (Ab)
- Created Law n ° 78-17 of January 6, 1978 - art. 65 (Ab)
- Created Law n ° 78-17 of January 6, 1978 - art. 66 (Ab)

Article 11

Modified the following provisions

- Created Law n ° 78-17 of January 6, 1978 - art. 67 (M)

Article 12

Modified the following provisions

- Created Law n ° 78-17 of January 6, 1978 - art. 68 (V)
- Created Law n ° 78-17 of January 6, 1978 - art. 69 (V)
- Created Law n ° 78-17 of January 6, 1978 - art. 70 (Ab)

Article 13

Modified the following provisions

- Created Law n ° 78-17 of January 6, 1978 - art. 71 (M)
- Created Law n ° 78-17 of January 6, 1978 - art. 72 (M)

Title II: Provisions amending other legislative texts. (Articles 14 to 19)

Article 14

Modified the following provisions

- Amends Criminal Code - art. 226-16 (M)
- Creates the Penal Code - art. 226-16-1 (V)
- Creates the Penal Code - art. 226-16-1-A (Ab)
- Amends Criminal Code - art. 226-17 (V)
- Amends Criminal Code - art. 226-18 (V)
- Creates the Penal Code - art. 226-18-1 (V)
- Amends Criminal Code - art. 226-19 (V)
- Creates the Penal Code - art. 226-19-1 (V)

Article 15

Modified the following provisions

- Amends Law n ° 95-73 of January 21, 1995 - art. 10 (M)

Article 16

Modified the following provisions

- Creates Law n ° 99-944 of November 15, 1999 - art. 14-1 (V)

Article 17

Modified the following provisions

- Amends Law n ° 84-575 of July 9, 1984 - art. 1 (V)
- Amends Law n ° 85-10 of January 3, 1984 - art. 78 (V)
- Amends Law n ° 95-116 of February 4, 1995 - art. 64 (V)
- Modifies CODE OF CRIMINAL PROCEDURE - art. 777-3 (V)
- Modifies the Code of social action and families - art. L262-33 (M)
- Modifies the Code of social action and families - art. L522-8 (M)
- Modifies the Social Security Code - art. L115-2 (Ab)
- Modifies the Postal and Electronic Communications Code - art. L34 (M)
- Amends Labor Code - art. L311-5-1 (M)
- Amends Rural Code - art. L723-43 (V)

Article 18

Modified the following provisions

- Amends Law n ° 51-711 of June 7, 1951 - art. 7a (M)
- Modifies CODE OF CRIMINAL PROCEDURE - art. 60-2 (V)
- Modifies CODE OF CRIMINAL PROCEDURE - art. 706-53-11 (M)
- Modifies the Code of social action and families - art. L262-51 (V)
- Modifies the Consumer Code - art. L353-4 (M)
- Amends Public Health Code - art. L1111-8 (M)
- Modifies the Social Security Code. - art. L115-7 (VT)

TITLE III: TRANSITIONAL PROVISIONS. (Articles 20 to 22)

Article 20

I. - Those responsible for processing personal data whose implementation work has regularly occurred before the publication of this law have, to from this date, a period of three years to put their treatments in compliance with the provisions of Law No. 78-17 of 6 January 1978 relating to data processing, files and freedoms, in their wording resulting from this law.

When this compliance does not have the effect of modifying the characteristics of the treatments mentioned in article 30 of the aforementioned law n ° 78-17 of 6 January 1978, in its wording resulting from this law, the processing operations are deemed to have satisfied the provisions provided for in Chapter IV.

The provisions of the aforementioned law n ° 78-17 of 6 January 1978, in its wording prior to this law, remain applicable to the processing operations subject to it until they have been brought into conformity with the provisions of Law No. 78-17 of 6 January 1978 mentioned above, in the wording resulting from this law, and, at the latest, until the expiration of the three-year period provided for in the previous paragraph. However, the provisions of articles 38, 44 to 49 and 68 to 70 of law n ° 78-17 of January 6, 1978 aforementioned, in their wording resulting from this law, are immediately applicable.

II. - By way of derogation from the provisions of I, data controllers who are not automated personal data systems, the implementation of which is regularly intervened before the date of publication of this law have, for bring their processing into line with Articles 6 to 9 of Law No. 78-17 of 6 January 1978 cited above, in their wording resulting from this law, a period of until October 24, 2007.

The provisions of article 25, of I of article 28 as well as of articles 30, 31 and 37 of the aforementioned law n ° 78-17 of 6 January 1978, in their wording prior to this law, remain applicable to non-automated processing that was subject to it until that they have been brought into conformity with the provisions of Articles 6 to 9 of Law no.

By the President of the Republic:

Jacques Chirac

The Prime Minister,

Jean Pierre Raffarin

The Keeper of the Seals, Minister of Justice,

Dominique perben

The overseas minister,

Brigitte Girardin

(1) Law n ° 2004-801.

- Community directives:

Directive 95/46 of the Parliament and of the Council of 24 October 1995 on the protection of natural persons with regard to the processing of personal data and to the circulation of these data.

- Preliminary activities :

National Assembly :

Bill n ° 3250;

Report by Mr. Gérard Gouzes, on behalf of the Law Commission, n ° 3526;

Discussion and adoption January 30, 2002.

Senate:

Bill, adopted by the National Assembly, n ° 203 (2001-2002);

Report by Mr. Alex Türk, on behalf of the Law Commission, n ° 218 (2002-2003);

Discussion and adoption April 1, 2003.

National Assembly :

Bill, amended by the Senate, n ° 762;

Report by Mr. Francis Delattre, on behalf of the Commission des lois, n ° 1537;

Discussion and adoption April 29, 2004.

Senate:

Bill, adopted with modifications by the National Assembly, n ° 285 (2003-2004);

Report by Mr. Alex Türk, on behalf of the Law Commission, n ° 367 (2003-2004);

Discussion and adoption July 15, 2004.

- Constitutional Council :

Decision n ° 2004-499 DC of July 29, 2004 published in the Official Journal of this day.