



Brief thematic country of origin information
report concerning the principle of double
jeopardy, foreign judgments and privacy
legislation in Morocco

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Contents

	Publication details	2
	Contents.....	3
	Introduction	5
1	Double jeopardy	6
1.1	Laws and regulations in Morocco	6
1.2	Application of the principle of double jeopardy in Morocco	6
2	Foreign judgments	7
2.1	Laws and regulations in Morocco	7
2.2	Recognition of foreign criminal judgments in Morocco.....	7
3	Privacy legislation	8
3.1	Laws and regulations in Morocco	8
3.1.1	Moroccan Constitution	8
3.1.2	Data Protection Act	8
3.1.3	Other Moroccan legislation	8
3.2	Request for access, rectification and deletion	9
3.2.1	Right to access	9
3.2.2	Right to rectification	9
3.2.3	Right to object.....	9
3.3	Use for other purposes	10
3.4	Provision of data to other authorities in Morocco.....	10
3.5	Data Protection Authority	10
4	Appendices	12
4.1	List of abbreviations used.....	12
4.2	Reports and Publications	12
4.3	Websites	12
4.4	Moroccan laws and regulations.....	13

Introduction

This report was drawn up on the basis of the questions asked and points for consideration mentioned in the Terms of Reference (ToR) compiled by the Ministry of Justice and Security. The ToR for this country of origin information report were adopted on 11 April 2023. These ToR, together with the report, are available on the website of the Dutch Government.

This brief thematic country of origin information report examines the application of the principle of double jeopardy in Morocco, the recognition of foreign judgments by Morocco and privacy legislation in Morocco, to the extent relevant to the implementation practice of the Repatriation and Departure Service (RDS). This country of origin report is in part an update of the information report of 6 April 2010.¹ This country of origin information report constitutes a factual, neutral and objective account of the findings. It is not a policy document, nor does it reflect the government's vision or policy in relation to any given country or region. It does not contain any conclusions concerning immigration policy.

This country of origin information report has been compiled on the basis of public and confidential sources, using carefully selected, analysed and verified information. In the compilation of this report, use was made of information from various sources, including relevant government agencies. Except where the facts are generally undisputed or unless stated otherwise, the content in this country of origin information report is based on multiple sources. The public sources that were consulted are listed in Section 4.

This country of origin information report also draws on information obtained through the diplomatic representation of the Netherlands in Morocco and correspondence with expert sources, amongst other sources. The information gleaned in this way was mainly used to support and augment passages founded on publicly available information. Each of these sources is marked as a 'confidential source' in the footnotes and accompanied by a date.

Section 1 addresses the application of the principle of double jeopardy in Morocco. Section 2 addresses the recognition of foreign criminal judgments by Morocco. The brief thematic country of origin report concludes with a section on privacy legislation in Morocco.

¹ <https://www.dienstterugkeerenvertrek.nl/documenten/ambtsberichten/2010/05/28/ambtsbericht-marokko-ne-bis-in-idem>

1 Double jeopardy

The principle of double jeopardy means that no person can be prosecuted or punished again for the same acts if proceedings have been lawfully instituted against that person that have resulted in a final judgment.

1.1 Laws and regulations in Morocco

The principle of double jeopardy is contained within the legislation and regulations of Morocco. This principle is enshrined in Section 2, Book 7, of the Moroccan Code of Criminal Procedure (CP). In this section, the principle of double jeopardy proceeds from Article 707 CP.²

According to Article 707 CP, any offence described in Moroccan criminal law and committed outside the Kingdom of Morocco can lead to criminal prosecution in Morocco. Thereby, accused individuals cannot be prosecuted and convicted unless they return to Moroccan territory. In addition, accused individuals can be prosecuted and convicted only if it has not been proven that they have been irrevocably convicted of the offences abroad and that, if convicted, they have served the sentences imposed or that they have become time-barred or have been pardoned. In this article, there is no distinction according to the nature of the offence.³

The principle of double jeopardy also applies to offences committed in Morocco.⁴

1.2 Application of the principle of double jeopardy in Morocco

According to various sources, there is no reason to assume that the Moroccan authorities do not respect the principle of double jeopardy in practice.⁵ When applying the principle of double jeopardy, Moroccan authorities do not differentiate according to the nature of the offence. The sources consulted listed no further examples demonstrating this.⁶

According to one source, Moroccan authorities do not make any distinctions according to certain nationals when applying the principle of double jeopardy. The principle of double jeopardy is embedded within the Moroccan legal system. According to this source, there is no discrimination according to race, colour, sex, nationality, language, religion, political conviction or social origin.⁷

² DIS, *Morocco. Risk of double jeopardy in Morocco. Report based on interviews in Morocco 9 to 18 October 2016*, 21 March 2017, p. 6 and 11; Confidential source, 29 July 2022; Confidential source, 8 April 2023.

³ Council of Europe, *Royaume du Maroc. Législation sur la cybercriminalité. Équivalent national des dispositions de la Convention de Budapest*, May 2020, p. 26; Confidential source, 6 June 2023.

⁴ DIS, *Morocco. Risk of double jeopardy in Morocco. Report based on interviews in Morocco 9 to 18 October 2016*, 21 March 2017, p. 8 and 11.

⁵ DIS, *Risk of double jeopardy in Morocco*, 21 March 2017, p. 6-7; Confidential source, 13 August 2021; Confidential source, 14 December 2021; Confidential source, 29 July 2022; Confidential source, 6 June 2023.

⁶ Confidential source, 29 July 2022; Confidential source, 6 June 2023.

⁷ Confidential source, 8 April 2023.

2 Foreign judgments

2.1 Laws and regulations in Morocco

In Morocco, the laws and regulations include the recognition of foreign judgments. This proceeds from the aforementioned Article 707 CP. In this article, there is no distinction according to the nature of the offence.⁸

2.2 Recognition of foreign criminal judgments in Morocco

According to one source, there are no known cases in which foreign criminal penalties have not been recognised by Moroccan authorities.⁹ According to the same source, in applying the principle of double jeopardy, the Moroccan authorities take into consideration criminal judgments that have been pronounced to Moroccan nationals abroad and already executed.¹⁰

Judicial decisions that have been pronounced abroad are not automatically applicable within Moroccan territory. In obtaining an irrevocable foreign criminal judgement for which enforcement is sought in Morocco, the court carries out an exequatur procedure. The conditions by which a Moroccan court reviews a foreign criminal judgment in such cases are set out in Article 430 and Article 431 of the Civil Procedure Code (CPC). It follows that the court examines the validity of the foreign criminal judgment, verifies the jurisdiction of the foreign court that rendered the judgment, checks that the criminal judgment is final and determines whether the content of the foreign criminal judgment violates Moroccan public order.¹¹

⁸ Council of Europe, *Législation sur la cybercriminalité*, May 2020, p. 26; Confidential source, 6 June 2023.

⁹ Confidential source, 6 June 2023.

¹⁰ Confidential source, 6 June 2023.

¹¹ Jawhari Maha, *L'exécution des jugements étrangers au Maroc*, 27 January 2021; Benzakour Law Firm, *Dispute resolution/contentious*, <https://www.cbllawfirm.com/dispute/>, consulted on 27 July 2023; Mohamed Aghri, *L'exequatur des jugements étrangers en droit Marocain*, 2 August 2022, <https://alkanounia.info/?p=12342>, consulted on 27 July 2023; Confidential source, 6 June 2023.

3 Privacy legislation

3.1 Laws and regulations in Morocco

In Morocco, there are laws and regulations regarding privacy and the protection of personal data (see below). Morocco is also a signatory to several international treaties that guarantee privacy and the protection of personal data. Amongst others, Morocco is party to the International Covenant on Civil and Political Rights, the International Convention on the Rights of the Child and the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data.¹²

3.1.1 Moroccan Constitution

The right to privacy and protection of personal data is anchored in the Moroccan Constitution. According to the constitution, every individual has a right to the protection of private life.¹³ The constitution further states that citizens have the right of access to information from the government. This right to information may be limited only by law, in order to protect everything that affects the defence of the country, internal and external state security and the private lives of individuals, as well as to prevent infringement of the fundamental freedoms and rights enshrined in this Constitution and to protect the sources and areas, as specifically determined by law.¹⁴

3.1.2 Data Protection Act

The protection of personal data is regulated in Law 09-08. This law oversees the protection of natural persons in connection with the use of their personal data by public and private institutions and organisations.¹⁵ Decree 2-09-165 of 21 May 2009 (25 *jumada I* 1430) concerns the application of this Data Protection Act.¹⁶

3.1.3 Other Moroccan legislation

Morocco also has a number of other laws relating to the right to privacy and protection of personal data. One of them is Law 31-08, which establishes the measures according to which consumers are protected. Amongst other matters, this law addresses the right to information and the processing of consumer data.¹⁷ Another example is Law 53-05, which concerns the digital exchange of legal data, especially with regard to encryption and digital signatures.¹⁸ Yet another example is Law 24-96, which concerns postal and telecommunication.¹⁹

¹² Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data is also known as Convention 108; IAPP, *Moroccan data protection law: Moving to align with EU data protection?*, 11 September 2018; Council of Europe, *Welcome to Morocco, 55th state party to convention 108!*, 28 May 2019.

¹³ First sentence of Article 24 of the Moroccan constitution.

¹⁴ Second paragraph of Article 27 of the Moroccan constitution.

¹⁵ Law 09-08 was implemented by Royal Decree (*dahir*) 1-09-15 of 18 February 2009 (22 *safer* 1430). The Arabic-language version of this law was published in the Moroccan Official Gazette (*Bulletin officiel*) number 5711 of 23 February 2009 (27 *safer* 1430). The French-language version was published in the Moroccan Official Gazette 5714 of 5 March 2009 (7 *rabii I* 1430), p. 345-356.

¹⁶ Decree 2-09-165. The French-language version of this decree was published in the Moroccan Official Gazette 5744 of 18 June 2009 (24 *jumada II* 1430), p. 1006-1010.

¹⁷ In French: *Loi édictant des mesures de protection du consommateur*. Law 31-08 was implemented through Decree 1-11-03 of 18 February 2011 (14 *rabii I* 1432). The Arabic-language version of this law was published in the Moroccan Official Gazette 5930 of 31 March 2011 (26 *rabii II* 1432). The French-language version was published in the Moroccan Official Gazette 5932 of 7 April 2011 (3 *jumada I* 1432), p. 348-371.

¹⁸ In French: *Loi relative à l'échange électronique de données juridiques*. Law 53-05 was implemented through Decree 1-07-129 of 30 November 2007 (19 *kaada* 1428). The French-language version of the law was published in the Moroccan Official Gazette 5584 of 6 December 2007 (25 *kaada* 1428), p. 1357-1363.

¹⁹ In French: *Loi relative à la poste et aux télécommunications*. Law 24-96 was implemented through Decree 1-97-162 of 7 August 1997 (2 *rabii II* 1418). The French-language version of the law was published in the Moroccan Official Gazette 4518 of 18 September 1997 (15 *jumada I* 1418), p. 866-882.

3.2 Request for access, rectification and deletion

A data subject's request for access to, rectification and deletion of data transmitted to the Moroccan authorities is guaranteed in Law 09-08. This law sets out the rights of the person whose personal data have been collected, including the right to be informed. It is possible for the person whose personal data have been collected to exercise rights of access, rectification and deletion.²⁰

3.2.1 *Right to access*

Under Law 09-08, all individuals have the right to access processed data and their characteristics, such as their origin and the persons or bodies to whom the data were sent. The data controller may apply to the National Commission for the Protection of Personal Data (*Commission nationale de contrôle de la protection des données à caractère personnel*, CNDP) for an extension of the period in which lawful requests for access must be answered. The data controller may also refuse requests that are manifestly unreasonable because they are too frequent or excessive. The data controller must nevertheless corroborate any refusals with evidence.²¹

3.2.2 *Right to rectification*

Under Law 09-08, all individuals have the right to update or rectify, delete or block any personal data that are incomplete, incorrect or invalid. The data controller must make the requested adjustments free of charge within 10 full days, or to have them made by its services and by third parties to whom it has provided the relevant data. If the data controller refuses to do so or fails to respond, the data subject can turn to the CNDP, which will then investigate.²²

3.2.3 *Right to object*

Under Law 09-08, all individuals have the right to object to the processing of their personal data at any time, free of charge and on legitimate grounds. However, this right cannot be exercised if the data processing is done on the basis of a legal obligation or for which this right is explicitly excluded in a legal provision authorising the processing.²³

According to one source, appealing to the CNDP is the most appropriate way for Moroccan nationals to assert their rights against third parties, and especially against the authorities.²⁴

²⁰ Articles 7 and 8 of Law 09-08; Confidential source, 8 April 2023.

²¹ Article 7 of Law 09-08; CNDP, *Vos droits en matière de protection des données à caractère personnel – Exercer son droit d'accès*, <https://www.cndp.ma/fr/droits/vos-droits-en-mati%C3%A8re-de-protection-des-donn%C3%A9es-%C3%A0-caract%C3%A8re-personnel.html>, consulted on 27 July 2023.

²² Article 8 of Law 09-08; CNDP, *Vos droits en matière de protection des données à caractère personnel – Son droit de rectification*; Confidential source, 8 April 2023.

²³ Article 9 of Law 09-08; CNDP, *Vos droits en matière de protection des données à caractère personnel – Ainsi que son droit d'opposition*.

²⁴ Confidential source, 6 June 2023.

3.3 Use for other purposes

It follows from the Data Protection Act that personal data collected may not be further processed in a way that is inconsistent with the purpose for which such data were collected.²⁵

According to one source, the Moroccan authorities are prohibited from using in advance any criminal data provided by the Repatriation and Departure Service for the purpose of 'achieving deportation', for any other purposes. No complaint has ever been lodged with the CNDP or any investigation report published by the CNDP regarding the use of these data. There is a possibility that such data could be used for other purposes by other government departments (e.g. for security reasons).²⁶ Law 09-08 does not apply to the processing of personal data in the interests of the defence of the country and domestic or foreign state security, or to the processing of personal data for the purpose of preventing or combating crime, or to the processing of personal data obtained under a specific article of law.²⁷

According to one source, the creation, maintenance and processing of central files of persons suspected of illegal activities or of committing criminal or administrative offences and crimes, as well as decisions on sanctions, preventive measures, fines and additional penalties, are reserved exclusively for government departments with express authority under legally established procedures on the organisation and management of data, subject to the regulations of the CNDP, after consultation with this committee.²⁸

3.4 Provision of data to other authorities in Morocco

It follows from the Data Protection Act that personal data may not be disclosed to third parties without prior consent. There are exceptions to this regulation, however, as in the case that the provision of such data is in the public interest or if national security is considered to be at stake.²⁹

According to one source, in practice, it cannot be ruled out that Moroccan migration authorities (which fall under the Moroccan Ministry of Interior, whose entities also include several Moroccan security services) will exchange data with other government departments within legal frameworks.³⁰

3.5 Data Protection Authority

The CNDP is the premier data-protection authority in Morocco. By law, it is an independent agency.³¹ The working methods of the CNDP are detailed in its regulations.³² The CNDP reports to the Prime Minister. The members of the CNDP

²⁵ Article 3 of Law 09-08.

²⁶ Confidential source, 6 June 2023.

²⁷ Article 2(4) of Law 09-08; Confidential source, 8 April 2023.

²⁸ Confidential source, 8 April 2023.

²⁹ Article 44 of Law 09-08; Confidential source, 29 July 2022.

³⁰ Confidential source, 29 July 2022.

³¹ Section IV of Law 09-08 (Articles 27-42); Confidential source, 8 April 2023.

³² The regulations of the CNDP were approved by Prime Minister's Decree 3-33-11 of March 28, 2011 (23 *rabii II* 1432). The French-language version of these regulations was published in the Moroccan Official Gazette 5932 of 7 April 2011 (3 *jumada I* 1432), p. 392-400.

are appointed by the King for five-year terms. These terms may be extended once for a period of five years.³³ Members of the CNDP must be persons known for their impartiality, for their moral integrity and for their competence in legal issues and automation.³⁴

The CNDP tests whether national institutions respect the laws and regulations under privacy and personal data protection in practice.³⁵ In late December 2022, the CNDP reported that it was going to investigate a possible data breach at the Ministry of Higher Education, Scientific Research and Innovation.³⁶

The CNDP has the power to monitor and control the processing of personal data in accordance with the provisions of Law 09-08. To this end, its employees have direct access to all components involved in the processing processes (e.g. data, equipment, premises and data carriers). Such checks may result in sanctions (e.g. the imposition of fines, seizures or site closures by the CNDP).³⁷

Another task of the CNDP is to inform the public of reports made to the CNDP through a national register. In early 2023, the CNDP launched this public register on its website.³⁸

³³ Article 32 of Law 09-08.

³⁴ CNDP, *Commission Nationale*, <https://www.cndp.ma/fr/cndp/qui-sommes-nous/commission.html>, consulted on 27 July 2023.

³⁵ Confidential source, 8 April 2023.

³⁶ Maroc diplomatique, *Potentielles fuites de données à caractère personnel au niveau de la plateforme "tawjih.ma": La CNDP prendra les dispositions qui s'imposent*, 24 December 2022 ; Le Desk, *Leak de données de 50000 bacheliers: la CNDP pointe la défaillance de Tawjih.ma*, 26 December 2022.

³⁷ CNDP, *Communiqué: Infraction à la loi 09-08 suite à absence de notification à la CNDP*, 9 January 2023; Le360, *Données personnelles: que risque TLS contact après son audition par la CNDP?*, 11 January 2023; Médias24, *Données personnelles: voici vos obligations et voici les sanctions en cas de violation de la loi*, 1 July 2023; CNDP, *Missions – Contrôle et investigation*, <https://www.cndp.ma/fr/cndp/missions.html>, consulted on 27 July 2023; CNDP, *Liste des infractions à la loi n°09-08 et des sanctions prévues*, <https://www.cndp.ma/images/lois/CNDP-DEC-%20Liste%20des%20infractions%20%C3%A0%20la%20loi%20n%C2%B009-08%20et%20des%20sanctions%20pr%C3%A9vues.pdf>, consulted on 27 July 2023.

³⁸ CNDP, *Communiqué publication du registre national de la protection des données à caractère personnel (RN-PDP)*, 11 January 2023; IAPP, *Morocco's CNDP opens national data protection register*, 13 January 2023; CNDP, *Le registre national de la protection des données à caractère personnel*, <https://rn-pdp.cndp.ma/fr/list/1.html>, consulted on 27 July 2023.

4 Appendices

4.1 List of abbreviations used

AB	Country of Origin Unit
CNDP	National Committee for the Protection of Personal Data
RDS	Repatriation and Departure Service
CCP	Code of Civil Procedure
CP	Code of Criminal Procedure
ToR	Terms of Reference
PC	Penal Code

4.2 Reports and Publications

Danish Immigration Service (DIS)

- *Morocco. Risk of double jeopardy in Morocco. Report based on interviews in Morocco 9-18 October 2016*, 21 March 2017.

Council of Europe

- *Welcome to Morocco, 55th state party to convention 108!*, 28 May 2019.
- *Royaume du Maroc. Législation sur la cybercriminalité. Équivalent national des dispositions de la Convention de Budapest*, May 2020.

4.3 Websites

- Alkanounia.info, www.alkanounia.info
- Benzakour Law Firm, www.cbllawfirm.com
- International Association of Privacy Professionals (IAPP), www.iapp.org
- Jawhari Maha, www.avocat-jawhari.com
- National Committee for the Protection of Personal Data (CNDP), www.cndp.ma
- Le Desk, www.ledesk.ma
- Le360, www.fr.le360.ma
- Maroc diplomatique, www.maroc-diplomatique.net
- Médias24, www.medias24.com

4.4 Moroccan laws and regulations

- Decree 2-09-165 of 21 May 2009. The French-language version is available at <https://www.cndp.ma/images/lois/Decret-2-09-165-Fr.pdf>
- Constitution of Morocco. The French-language version is available at https://www.cndp.ma/images/lois/constitution_2011_Fr.pdf en <https://www.wipo.int/wipolex/fr/text/311565>. The Arabic-language version is available at <https://www.wipo.int/wipolex/fr/text/311586>. An English-language version is available at https://www.constituteproject.org/constitution/Morocco_2011.pdf
- Regulations of the CNDP. The French-language version is available at <https://www.cndp.ma/images/lois/Reglement-Interieur-CNDP-Fr.pdf>
- Law 09-08. The French-language version is available at https://www.dgssi.gov.ma/sites/default/files/attached_files/loi_09-08protection_donnees_personnelles.pdf.
- Law 24-96. The French-language version is available at https://www.anrt.ma/sites/default/files/documentation/loi_24-96_vc-fr_0.pdf?csrt=6486157060283881762
- Law 31-08. The French-language version is available at https://www.cndp.ma/images/lois/Loi_31-08_Protection-du-Consommateur_Fr.pdf. The Arabic-language version is available at <https://www.wipo.int/wipolex/fr/text/567084>
- Law 53-05. The French-language version is available at <https://www.cndp.ma/images/lois/loi-53-05-echange-electronique-donnees-juridiques-fr.pdf>
- Code of Civil Procedure (CCP). The Arabic-language version is available at <https://www.wipo.int/wipolex/fr/text/567559>
- Penal Code (PC). The Arabic-language version is available at <https://www.wipo.int/wipolex/fr/text/568119>
- Code of Criminal Procedure (CP). The French-language version is available at <https://www.refworld.org/docid/3ae6b5104.html>. The Arabic-language version is available at <https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=542933f64>