

# Data Protection in Egypt: Overview

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## A Q&A guide to data protection in Egypt.

This Q&A guide gives a high-level overview of data protection rules and principles, including obligations on the data controller and the consent of data subjects; rights to access personal data or object to its collection; and security requirements. It also covers cookies and spam; data processing by third parties; and the international transfer of data. This article also details the national regulator; its enforcement powers; and sanctions and remedies.

To compare answers across multiple jurisdictions, visit the [Data protection Country Q&A tool](#).

## REGULATION

### LEGISLATION

#### 1. What national laws regulate the collection and use of personal data?

### GENERAL LAWS

To date, there is no specific general law in Egypt pertaining to data protection. However, the parliament is currently discussing a draft data protection law (Data Protection Law), which is expected to pass in 2019. In addition, Egypt recently passed a new cybersecurity law, the Anti-Cyber and Information Technology Crimes, No. 175/2018 (Cybersecurity Law) that includes some general provisions governing the confidentiality of personal data. Until the new Data Protection

Law is enacted, the use and disclosure of personal data is governed by general rules that include:

- The Egyptian Constitution, which includes constitutional principles related to individual's right to privacy, such as the following:
  - the law must protect the inviolability of citizens' private lives (*Article 57*); and
  - correspondence, wireless, telephone calls, and other means of communication may not be confiscated or monitored, except by a judicial warrant, for a definite period, and according to the provisions of the law.
- The new Cybersecurity Law, which provides that service providers are under a duty to maintain the privacy of the data stored and not disclose it without a reasoned order from a relevant judicial authority (*Article 2*). This duty includes personal data belonging to one of the consumers or any data or information on the websites and personal accounts used by the consumers or the persons or bodies with whom they communicate.
- The Labour Law, which protects employee personal data (such as name, job, professional skills, workplace, domicile, marital status, salary, employment starting date, holiday leave, workplace sanctions, and employee reports) and states that:
  - employers must keep employee personal data for at least one year from the end-date of the employment relationship; and
  - only authorised individuals should have access to personal employee data.

(*Article 77*.)

- Tort liability under the Egyptian Civil Code, which grants general protection against the infringement of private data, if the data subject suffers damages.
- The Penal Code, which provides sanctions for disclosing, facilitating the disclosure of, or using a recording or document obtained by any of the following methods:
  - recording or transmitting via private conversations or telephone by any method; or
  - shooting, taking, or transmitting a picture of anyone in a private place by any means, without the consent of the photographed party.

(*Article 309bis*.)

## SECTORAL LAWS

Though data protection is specifically not regulated under Egyptian law, some sectoral laws impose confidentiality of data obligations, including the following laws:

- The Banking Law, which stipulates that all bank customer accounts, deposits, trusts, safes, and their related dealings must remain confidential, except with the written permission of:
  - the owner of the account, deposit, trust, or safe;
  - the account owner's successors, anyone to whom all or some of such funds have been bequeathed; or
  - a legal representative or authorised attorney or pursuant to a judicial ruling or an arbitral award.

(Article 97.)

- The Egyptian Civil Status Law (Law No. 143/1994), which provides for the confidentiality of citizens' civil status data (Article 13).
- The Competition Protection Law, which imposes confidentiality obligations on its officials and employees, relating to all information related to individuals and corporations (Article 16).
- The executive regulations of the Mortgage Finance Law, which provide for the confidentiality of client data of mortgage finance companies related to the relationship (Article 35bis(6)).
- The Egyptian Telecommunication Regulation Law, which provides for the privacy of telecommunications and imposes penalties for infringement of its regulations.

## SCOPE OF LEGISLATION

### 2. To whom do the laws apply?

General laws pertaining to data protection are applicable to all natural and legal persons. The applicability of sectoral laws depends on the law's subject. For example, Egypt's banking law applies to:

- The central bank of Egypt.
- The commercial banks and their customers whether individuals or corporations.
- Egypt expects to pass a data protection law in 2019. Under the current draft, the law is expected to govern the protection of natural data subjects and will apply to the data held by any data holder, controller, or processor. For more information on general and sectoral laws in Egypt, see Question 1.

### 3. What data is regulated?

There is no type of data specified in general laws pertaining to data protection. The sectoral laws regulate various types of data. For example, the Banking Law regulates customers' account information. For more information on general and sectoral laws in Egypt, see Question 1.

The Anti-Cyber and Information Technology Crimes, No. 175/2018 (Cybersecurity Law) defines personal data as any data relating to an identified natural person or one who can be identified, directly or indirectly, by way of linking between the data and other data. However, there is no specific definition of sensitive personal information.

Under the draft data protection law, which is expected to pass in 2019, two types of data are regulated:

- Personal data, which includes any data relating to an identified natural person or one who can be identified directly or indirectly by way of linking between the personal data and other data, including any identifier such as:
  - a name;
  - a voice;
  - a picture;
  - an identification number;
  - an online identifier; or
  - any data which determines the psychological, physical, economical or cultural identity of that person.
- Sensitive data, which includes data relating to:
  - mental, psychological, or physical health;
  - genetic data;
  - biometric data;
  - financial data;
  - religious beliefs;
  - political opinions;
  - criminal records; and
  - children's data.

### 4. What acts are regulated?

Currently, there is no specific law in Egypt regulating data protection. For information regarding general and sectoral laws relating to data protection, see Question 1.

Under the draft data protection law, which is expected to pass in 2019, the following acts are regulated:

- Controlling the data, which applies to a natural or juristic person who:
  - has the right to obtain personal data; and
  - determines the means, methods, and standards of controlling and processing the data according to the stated purpose.
- Processing the data which applies to a natural or juristic person, known as a processor, who has the right to process the data on the controller's behalf. Processing encompasses any electronic or technological operation to write, collect, register, keep, store, merge, send, receive, supply, publish, erase, amend or retrieve personal data partly or fully and using any electronic or technological means.

### 5. What is the jurisdictional scope of the rules?

General and sectoral laws pertaining to data protection apply only in Egypt. The draft data protection law, which is expected to pass in 2019, applies only in Egypt and does not have an extraterritorial scope.

### 6. What are the main exemptions (if any)?

Currently, there is no specific law in Egypt regulating data protection. For information regarding general and sectoral laws relating to data protection, see Question 1.

Under the draft of the data protection law, which is expected to pass in 2019, the following are excluded from the law's scope:

- Personal data that natural persons hold and process for personal purposes.
- Personal data processed for the national census or legal compliance.
- Personal data relating to law enforcement reports and public prosecution investigations, including terrorism and other criminal cases.
- Personal data that national security authorities hold.

## NOTIFICATION

### 7. Is notification or registration required before processing data?

There is no specific law in Egypt regulating data protection that would require notification or registration before processing personal data. For information regarding general and sectoral laws relating to data protection, see Question 1.

Under the draft data protection law, which is expected to pass in 2019, notification or registration is not required before processing data.

## MAIN DATA PROTECTION RULES AND PRINCIPLES MAIN OBLIGATIONS AND PROCESSING REQUIREMENTS

### 8. What are the main obligations imposed on data controllers to ensure data is processed properly?

There is no specific law in Egypt regulating data protection and data controllers do not exist under Egyptian law. For information regarding general and sectoral laws relating to data protection, see Question 1.

Under the draft data protection law, which is expected to pass in 2019, the main obligations imposed on data holders, controllers, and processors include that they should:

- Only collect data for specific purposes made known to the data subject.
- Keep personal data accurate.
- Process personal data legitimately and in a way that is compatible with the purpose for which it was collected.
- Not keep data for a period longer than what is necessary for the purpose for which it was collected.

### 9. Is the consent of data subjects required before processing personal data?

Currently, there is no specific law in Egypt regulating data protection that would require the consent of the data subject before processing personal data. However, in general, a data subject's written consent will release the liability of the disclosing party. For information regarding general and sectoral laws relating to data protection, see Question 1. With respect to the minors, a written consent from the guardian will release the liability of the disclosing party.

Under the draft data protection law, which is expected to pass in 2019, data collection or processing is only legal if the data subject's consent is obtained or as otherwise authorised by law.

For the collection or processing of sensitive data, the draft law specifies that this consent must be express. For sensitive data of children, the consent of the child's guardian must be obtained. In all cases, an authorisation must be obtained from the regulator for the processing of sensitive data. For the regulator's contact details, see Box, Regulator details.

### 10. If consent is not given, on what other grounds (if any) can processing be justified?

Generally, the following are justifiable grounds for disclosing data without consent:

- A judicial ruling.
- Judicial permission.
- A request by the competent authority.
- An arbitral award.
- Under the draft data protection law, where the data subject's consent has not been obtained, data processing is legal if otherwise authorised by law or in cases that the law exempts (see Question 6).

## SPECIAL RULES

### 11. Do special rules apply for certain types of personal data, such as sensitive data?

Currently, is no specific law in Egypt regulating data protection or sensitive data. For information regarding general and sectoral laws relating to data protection, see Question 1.

However, the legislature is expected to pass a data protection law in 2019, which includes some rules that apply to the processing of sensitive data (see Question 9). However, when the law passes, the executive regulations are expected to set down more rules relating to sensitive data.

## RIGHTS OF INDIVIDUALS

### 12. What information should be provided to data subjects at the point of collection of the personal data?

Currently, this does not apply in Egypt because there is no specific law in the country regulating data protection.

Egypt is expected to pass a data protection law in 2019. However, the current draft does not address the information that should be provided to data subjects at the point of collection of personal data.

For information regarding general and sectoral laws relating to data protection, see Question 1.

### 13. What other specific rights are granted to data subjects?

Currently, this does not apply in Egypt because there is no specific law in the country regulating data protection. Egypt is expected to

pass a data protection law in 2019. Under the current draft, the data subject has right to:

- Request to view or obtain the subject's personal data that the controller stores and know the purpose of its collection or obtain a reasoned decision in case of refusal within 15 days of the request.
- Request, by writing, to correct, amend, erase, complete, or update the personal data obtained from the controller or processor, and to obtain a reasoned decision in case of refusal within 15 days of the request.
- Inform the controller or processor of any breach of the subject's personal data and have the controller address such breach and protect the data subject's personal data.

In all cases, the controller or processor is under an obligation to correct any mistake upon realizing that such mistake has occurred.

For information regarding general and sectoral laws relating to data protection, see Question 1.

#### 14. Do data subjects have a right to request the deletion of their data?

Currently, there is no specific law in Egypt regulating data protection. Egypt is expected to pass a data protection law in 2019. Under the current draft, data subjects have the right to request the erasure of their data, however, no further details are provided. For information regarding general and sectoral laws relating to data protection, see Question 1.

### SECURITY REQUIREMENTS

#### 15. What security requirements are imposed in relation to personal data?

Currently, this does not apply in Egypt because there is no specific law in the country regulating data protection. However, Egypt is expected to pass a data protection law in 2019. Under the current draft, the controller and processor are under an obligation to:

- Take all measures and standards required to protect and secure personal data in order to maintain confidentiality.
- Ensure that the security of the personal data cannot be breached.

These measures extend to the security of:

- The processing procedure.
- The technology used in processing.

The controller and processor are held to the standard of the reasonable person. For information regarding general and sectoral laws relating to data protection, see Question 1.

#### 16. Is there a requirement to notify personal data security breaches to data subjects or the national regulator?

Currently, this does not apply in Egypt because there is no specific law in the country regulating data protection. However, Egypt is expected to pass a data protection law in 2019. Under the current draft, the controller or processor must, upon becoming aware any personal data security breach, notify the national regulator within

48 hours (*for more on the national regulator, see Box, Regulator details*). Such notification must also:

- Describe the personal data breach and an approximate number of data subjects and personal records concerned.
- Include the responsible data protection officer's name and contact details.
- Describe the likely consequences of the personal data breach.
- Describe the measures the controller proposes to take to address the personal data breach and mitigate its possible adverse effects.
- Document any personal data breaches and the remedial action taken.

For information regarding general and sectoral laws relating to data protection, see Question 1.

### PROCESSING BY THIRD PARTIES

#### 17. What additional requirements (if any) apply where a third party processes the data on behalf of the data controller?

Currently, this does not apply in Egypt because there is no specific law in the country regulating data protection. While Egypt is expected to pass a data protection law in 2019, the draft does not detail further additional requirements in this regard. For information regarding general and sectoral laws relating to data protection, see Question 1.

### ELECTRONIC COMMUNICATIONS

#### 18. Under what conditions can data controllers store cookies or equivalent devices on the data subject's terminal equipment?

Currently, the storage of cookies is not specifically regulated under Egyptian laws, but is subject to general tort liability rules.

In 2019, Egypt is expected to pass a data protection law. The current draft applies to cookies in so far as they fall under the definition of "online identifiers," which falls under the definition of personal data (*see* Question 3). Cookies fall under the scope of the law if they can be used to identify a data subject, directly or indirectly.

#### 19. What requirements are imposed on the sending of unsolicited electronic commercial communications (spam)?

Currently, unsolicited electronic commercial communications are not regulated in Egypt.

However, Egypt is expected to pass a new data protection law in 2019 and the current draft governs direct commercial marketing. Persons sending direct commercial marketing must obtain the data subject's consent beforehand. The marketer must keep a record of the data subject's consent for three years starting from the last date of communication.

Any such communication must contain the identity of the marketer and a valid address so the data subject may withdraw consent to communication at any time. Such marketer is also under a duty not to share the emails to whom it sends direct commercial marketing with any third parties.

## INTERNATIONAL TRANSFER OF DATA TRANSFER OF DATA OUTSIDE THE JURISDICTION

### 20. What rules regulate the transfer of data outside your jurisdiction?

Currently, there are no specific restrictions on offshore data transfers. However, Egypt is expected to pass a new data protection law in 2019.

Under the draft, a controller can make available personal data to another controller outside of Egypt subject to the following:

- Both controllers agree on the nature of work and the purpose of the personal data.
- Both controllers have a legitimate interest in the personal data.
- The controller outside of Egypt must have the same legal and technological protections as those available in Egypt.

Moreover, transfers to other countries are illegal unless they are to countries that afford the same protections as those under the draft law. The relevant authority will need to authorise these transfers.

Transfers will be exempt from the above requirement in cases where the data subject's express consent is obtained and where the following cases apply:

- To protect the data subject's life, for a necessary medical diagnosis, or for the provision of medical care, treatment, or the administration of medical services.
- To prove, exercise, or defend a judicial right.
- To execute or perform a contract between the processor and a third party to the benefit of the data subject.
- To perform a procedure required under an international judicial agreement.
- To complete a transfer necessary or legally required to protect the public interest.
- To complete a banking transfer.
- If the transfer is subject to a bilateral or multilateral agreement to which Egypt is a party.

### 21. Is there a requirement to store any type of personal data inside the jurisdiction?

No, Egyptian law does not impose any requirements to store personal data within its borders. The current draft of the data protection law that is expected to pass in 2019 does not address this matter.

## DATA TRANSFER AGREEMENTS

### 22. Are data transfer agreements contemplated or in use? Have any standard forms or precedents been approved by national authorities?

This does not apply in Egypt because there is no specific law in the country regulating data protection. Although Egypt is expected to enact a new data protection law in 2019, data transfer agreements have not been contemplated under the current draft. Standard forms or precedents have not been approved. For information regarding general and sectoral laws relating to data protection, see Question 1.

### 23. Is a data transfer agreement sufficient to legitimise transfer, or must additional requirements (such as the need to obtain consent) be satisfied?

Please refer to Question 22.

### 24. Does the relevant national regulator need to approve the data transfer agreement?

Please refer to Question 22.

## ENFORCEMENT AND SANCTIONS

### 25. What are the enforcement powers of the national regulator?

Currently, there is no regulator for data protection in Egypt. Egypt is expected to pass a new data protection law in 2019. Under the current draft, the regulator has the powers to search and supervise persons subject to the law, namely controllers, processors, and data holders. The regulator will be entitled to initiate criminal proceedings against the violators before the competent judicial authorities.

For information regarding general and sectoral laws relating to data protection, see Question 1.

### 26. What are the sanctions and remedies for non-compliance with data protection laws?

Currently, there is no data protection law in Egypt. However, the country is expected to pass a new law in 2019. does not apply in Egypt because there is no specific law in the country regulating data protection.

Under the current draft, sanctions include imprisonments, financial sanctions, or both. Financial sanctions vary from EGP 50,000 to EGP 5,000,000. Imprisonments terms vary from one to three years.

Some disputes can be settled outside of court without the regulator's interference. Others can be settled outside of court, subject to the regulator's determination. In all cases, settlement out of court will still require the accused to pay double or triple the minimum sanction stipulated under the law for the relevant violation. For information regarding general and sectoral laws relating to data protection, see Question 1.

## REGULATOR DETAILS

**W** <http://www.itida.gov.eg/En/Pages/home.aspx>

**Description.** Egypt does not have a national data protection regulator. However, it is expected to pass a new data protection law in 2019. The current draft stipulates that the regulator will be the Centre for Personal Data Protection, under the jurisdiction of the Information Technology Industry Development Agency.

**ONLINE RESOURCES**

**W** [www.cc.gov.eg](http://www.cc.gov.eg)

**Description.** The official website for the Egyptian Court of Cassation, which sometimes provides updates on the laws and regulations in Egypt. Any English versions of the laws and regulations are nonbinding.

**W** <http://www.itida.gov.eg/En/AboutUs/Pages/default.aspx>

**Description.** The official website of the Information Technology Industry Development Agency, the executive IT arm of the Ministry of Communications and Information Technology.

**W** <http://www.mcit.gov.eg/>

**Description.** The official website of the Ministry of Communications and Information Technology, the relevant Ministry proposing the draft Data Protection Law.

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**Recent transactions**

- Representation of Eli Lilly Egypt S.A.E in the sale of its pharmaceutical manufacturing facility as well as advising Eli Lilly and Co. on the transfer of pharmaceutical products registration in Egypt and Egyptian law aspects of concluding a long-term supply agreement of active ingredients to the purchaser of the manufacturing facility.
- Representation of Pfizer Group on all Egypt legal aspects of its comprehensive restructuring of its animal health business as well as the recent divestment of its nutrition business. Global nutrition business transaction value: USD 11.9 billion.
- Representation of Cargill on various labour and employment matters, drafting and reviewing company's internal work regulations and policies, drafting the legal documents on employee layoffs, and providing general legal assistance on several employment disputes and problems, such as employees' strikes and investigations.
- Representation of Zara in relation to reviewing distribution and franchise agreements.

- Representation of Louis Vuitton in connection with locating and launching legal actions against the stores and the factories selling or manufacturing counterfeit LV products.

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**Professional associations/memberships.** Academic staff at the Faculty of Law, Cairo University; Egyptian Criminal Law Scholars Association.

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- Advised Nestle on its acquisition of an instant coffee manufacturing company.
- Advised IFC on the financing of four solar power projects under Phase Two of the feed-in tariff (FiT) program.
- Advised EBRD on Egyptian law aspects in relation to loan agreements to local banks.
- Advised several clients such as IFC, EBRD, KarmSolar, on Egyptian Law matters in relation to loan agreements, securities documents, and other financial documents.
- Advised solar energy developers on aspects of the Egyptian Electricity law and power purchase agreements.

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**Professional associations/memberships.** Egyptian Bar Association.

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