

Comments on the Guidelines 07/2022 on certification as a tool for transfers

Paragraph 8 (p.8): Will it be a certification equivalency between EEA member countries, so there is a minimum standard? Or each Supervisor Authority (SA) has discretion to, through its national accreditation body, to approve a certification body even if it would not meet the approval criteria for another SA?

Paragraph 20 (p.10): The onus here is on the data exporter to verify the certification in question is adequate safeguard. That usually means checking with the certification body. But, what if the data exporter wants a second opinion? Given that paragraph 28 (p.11) talks about certification body should keep a record of all certifications, whether successful or not, I think the data exporter should be able to escalate to the national accreditation body as needed.

Paragraph 25 (p.11): Will the SA or the national accreditation body also independently assess the third country legal framework, so to avoid potential conflict of interest by the certification body? If so, is there a mechanism to escalate to the edpb level as needed (say, in response to a complain)?

Paragraph 29 (p.11): I believe it should be split into two paragraphs, with the new one starting at “A European Data Protection Seal [...]” as that is a different topic than in the earlier part of the current paragraph.

Paragraph 33 (p.12): Is it a defined mechanism to verify/validate/audit claims, either by the SA or by the national accreditation body?

Paragraph 43 (p.14): Is there a reason for the assessments, rules, and obligations listed below to be presented as questions instead of “May” and “Shall” styles of paragraphs?