

national for

data protection

approval of the accreditation criteria for certification bodies

certification.

Having regard to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 relating

the protection of natural persons with regard to the processing of personal data

personal data and on the free movement of such data, and repealing Directive 95/46/EC (hereafter

after: "the GDPR");

Having regard to the law of August 1, 2018 on the organization of the National Commission for the protection

data and the general data protection regime (hereinafter: "the Law");

Having regard to the internal rules of the National Commission for Data Protection

adopted by decision no. 3AD/2020 dated January 22, 2020, in particular its article 30;

Having regard to Article 42 paragraph 5 of the GDPR relating to the certification issued by the authority of

competent control or certification bodies approved by the control authority

competent;

Having regard to Opinion 5/2020 of the European Data Protection Board (hereinafter: "the EDPS")

relating to the draft decision of the Luxembourg supervisory authority on the approval

the accreditation criteria for certification bodies in accordance with Article 43,

paragraph 3 of the GDPR, adopted on January 29, 2020;

Considering that Article 58, paragraph 3 of the GDPR grants each supervisory authority

a series of authorizing powers and advisory powers;

Considering that letter e) of Article 58, paragraph 3 of the GDPR provides more precisely

that each supervisory authority has the power to approve certification bodies

pursuant to Article 43 of the GDPR;

Whereas Article 43(3) of the GDPR provides that each supervisory authority

must approve the accreditation criteria for the certification bodies referred to in paragraphs

1 and 2 of Article 43 GDPR;

Whereas Article 64, paragraph 1, letter c) of the GDPR provides that each data protection authority

competent control must communicate for opinion a draft decision to the EDPS which aims to

approve the accreditation criteria of a certification body pursuant to Article

43(3) GDPR;

Considering that Article 12 of the Law provides that the National Commission for the Protection

(hereinafter: “the CNPD”) has, within the framework of its missions, all the

powers provided for in Article 58 of the GDPR;

Considering that Article 15 of the Law provides that the CNPD must approve the organizations of

certification;

Considering that on 29 January 2020, the EDPS adopted an opinion on the draft

decision on the accreditation criteria for certification bodies submitted to it by the CNPD;

1/35

Considering that in accordance with Article 10.7 of the EDPS internal rules, the CNPD has

submitted to the EDPS on 13 February 2020 an update of the draft decision taking into account

all the recommendations and all the encouragements of the aforementioned opinion of the EDPS;

Considering that the EDPS confirmed on March 25, 2020 that the CNPD did indeed

account of the opinion of the EDPS in the aforementioned update of his draft decision;

In view of the above developments, the National Commission for the Protection

data, bringing together four Commissioners and deliberating unanimously,

Decided :

Art. 1st. – Approval of certification body accreditation criteria

The CNPD approves the accreditation criteria for certification bodies, entitled

“Luxembourg accreditation requirements of certification bodies (art 43(1)(a)) – Set Alpha”,

defined in the attached document and forming an integral part of this decision.

Art. 2. – Applicability of certification body accreditation criteria

The accreditation criteria for certification bodies, approved by this decision, apply to certification bodies whose activities relate to mechanisms and certification criteria identified by the CNPD under the “Alpha set” label as defined in the attached document.

Thus decided in Esch-sur-Alzette on April 3, 2020.

The National Data Protection Commission

Tine A. Larsen

President

Thierry Lallemand

Commissioner

Christopher Buschman

Commissioner

Marc Lemmer

Commissioner