

Deliberation 2022-128 of October 6, 2022 National Commission for Computing and Liberties Nature of the deliberation:

Referential/standard regulation/standard Legal status: In force Date of publication on Légifrance: Wednesday May 17,

2023 NOR: CNIL2305666X Deliberation n° 2022-128 of October 6 2022 amending deliberation no. 2018-317 of September 20,

2018 adopting the criteria of the accreditation reference system for certification bodies for the certification of the skills of the data protection officer (DPO) The National Commission for IT and freedoms,

Having regard to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);

Considering the law n° 78-17 of January 6, 1978 modified relating to data processing, files and freedoms, in particular its article 8 I 2° h;

Having regard to decree n° 2019-536 of May 29, 2019 as amended, taken for the application of law n° 78-17 of January 6, 1978 relating to data processing, files and freedoms, in particular its article 74;

Having regard to deliberation no. 2018-317 of September 20, 2018 adopting the criteria of the accreditation reference system for certification bodies for the certification of the skills of the data protection officer (DPO);

Having regard to deliberation no. 2018-318 of September 20, 2018 adopting the criteria of the certification reference system for the skills of the data protection officer (DPO); After hearing the report of Mrs Anne DEBET, auditor, and the observations of Mr.

Benjamin TOUZANNE, Government Commissioner, Makes the following observations: The National Commission for Computing and Liberties (hereinafter, the CNIL or the Commission) is competent to approve organizations with a view to issuing certification of the skills of the delegate to data protection (hereafter DPO) on the basis of requirements that it adopts;

The operation of the system for certifying people with the skills of the DPO was assessed with a view to adapting, if necessary, the requirements of the reference system adopted by the Commission;

This deliberation modifies deliberation n° 2018-317 of September 20, 2018, which sets the requirements for the approval of certification bodies for the certification of the skills of natural persons as data protection officer, as mentioned in section 4 of Chapter IV of Regulation (EU) 2016/679, Decides: the data protection (DPO) is thus modified:

a) After the sentence: Makes the following observations, the sentence: In accordance with Article 11-I-2° f bis of Law No. 78-17 as amended, is deleted;

b) After the paragraph:

This deliberation establishes the criteria for the approval of certification bodies for the certification of the skills of natural persons as data protection officer, as referred to in section 4 of chapter IV of Regulation (EU) 2016/679 . , a paragraph worded as follows is inserted:

The operation of the system for certifying people with the skills of the DPO was the subject of an assessment, which led the Commission to modify the reference system by deliberation no. 2022-128 dated October 6, 2022;

c) After the paragraph:

The criteria of the reference document appended to this deliberation with a view to the approval by the Commission of bodies in charge of certifying the skills of the data protection officer are approved. ,

the paragraph:

The functioning of this system will be the subject, at the latest within two years of its entry into force, of an evaluation with a view to adapting, if necessary, the requirements of this reference system.

is replaced by :

Accreditation is issued by the Commission for a period of five years. ;

2° The reference document annexed to deliberation no. 2018-317 of September 20, 2018 adopting the criteria of the reference document for the approval of certification bodies for the certification of the skills of the data protection officer (DPO) is thus amended:

a) The reference to the ISO/IEC 17024: 2012 standard is replaced by a reference to the EN ISO/IEC 17024 standard in force;

b) Requirement 1.1 is replaced by the following:

Requirement 1.1. The certification body is accredited, for the entire duration of its approval by the Commission, by the French Accreditation Committee or by another national accreditation body covered by Regulation (EC) No 765/2008 of the European Parliament and of the Council of July 9, 2008 “setting the requirements relating to accreditation and repealing Council Regulation (EEC) No. 339/93”, signatory to a multilateral recognition agreement taken within the framework of the European coordination of bodies of accreditation with regard to the EN ISO/IEC 17024 standard in force “Conformity assessment - General requirements for certification bodies carrying out the certification of persons” for a particular system of certification of persons.

Only an accreditation issued specifically for the DPO's skills certification system is taken into account by the Commission in the context of an initial application for accreditation or an application for renewal of an accreditation.

In the event that the certification body is not accredited for this certification scheme at the time of its application to the Commission, it is authorized, by approval issued by the Commission, to start the certification activities after notification of favorable operational admissibility of its application for accreditation by the accreditation body. During this transitional period, the certification body issues certificates outside of accreditation. The certification body must obtain accreditation within twelve months of the favorable operational admissibility decision from the accreditation body. Once the accreditation has been obtained, the certification body transmits to the Commission the certificate of this accreditation and reissues the certificates under accreditation according to the rules of the accreditation body.

If this accreditation is not obtained at the end of this deadline, the accreditation issued by the Commission is withdrawn.

Certificates already issued remain valid for a period of six months. Certified persons request a new certification body approved by the Commission.

The certification body informs the Commission of the evolution of the status of its accreditation taken into account for obtaining its approval. ;

c) In requirement 1.2, after the words: the DPO skills certification reference system, are added the words: adopted by the Commission;

d) Requirement 1.2 is supplemented by a paragraph worded as follows:

When the certification body is accredited for the DPO skills person certification scheme, the certification body demonstrates compliance with requirements 2.3, 2.6 and 2.7 of this standard as part of the Commission's approval procedure. The other requirements of this standard are assessed by the accreditation body as part of the accreditation procedure. ;

e) After requirement 2.4 is inserted a requirement 2.4 bis worded as follows: Requirement 2.4 bis. The written test can take place remotely. The fight against fraud within the framework of this modality does not exempt the certifying body from compliance with the rules relating to data protection (in particular when verifying the candidate's identity, and throughout the duration of the review). To do this, he can take into account the recommendations of the CNIL relating to the procedures for implementing remote monitoring devices for online examinations. ;

f) Requirement 3.5 is deleted.

- g) After requirement 5.1 is added a requirement 5.2 as follows: Requirement 5.2. The certification body approved by the Commission informs it of any substantial modification to its questionnaire. ;
- h) Requirement 6.1 is supplemented by the words: as well as a member of a representative association of professionals in the data protection sector;
- i) The title of category 7 is supplemented by the words: or the application for renewal of approval;
- j) In requirement 7.1, after the words: The certification bodies which request to be approved by the Commission, are added the words: or request the renewal of their approval;
- k) In requirement 7.1, after the words: in accordance with requirement 1.1 of this deliberation, are added the words: or the copy of the letter of favorable operational admissibility of the request for this accreditation sent by an accreditation body ;
- l) In requirement 7.1, the sentence: - a document which presents the certification process of the DPO's skills; and is deleted;
- m) In requirement 8.1, after the words: on the certification of skills of the DPO including , are added the words: the statistics of success of the written test, .

This deliberation will be published in the Official Journal of the French Republic.October 6, 2022.The President,

M. L. Denis