

Internal EDPB Documents



EDPB Document on the procedure for the adoption of the EDPB opinions regarding national criteria for certification and European Data Protection Seals

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The European Data Protection Board

Having regard to Article 42(5), Article 43(3), Article 46.2 (f) and 42.2 and Article 64 of the Regulation 2016/679/EU of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC, (hereinafter “GDPR”),

Having regard to the EEA Agreement and in particular to Annex XI and Protocol 37 thereof, as amended by the Decision of the EEA joint Committee No 154/2018 of 6 July 2018,

Having regard to Article 3 and Article 22 of its Rules of Procedure as last amended on 10 September 2019,

Having regard to the fact that this document contains best practices, which the EU and EEA/EFTA members are encouraged to follow so to facilitate the smooth cooperation and subsequent adoption of the relevant Article 64 GDPR opinions,

HAS ADOPTED THE FOLLOWING DOCUMENT

1. INFORMAL AND FORMAL PROCEDURE FOR THE ADOPTION OF THE EDPB OPINIONS ON NATIONAL CERTIFICATION CRITERIA, EUROPEAN DATA PROTECTION SEALS AND CERTIFICATION CRITERIA MEANT AS DATA TRANSFER TOOLS

1. The present document applies to national certification criteria, and European Data Protection Seals pursuant to Article 42(5) GDPR and certification criteria meant as personal data transfer tools pursuant to Article 46 (2)(f) and 42(2) GDPR.

1.1 Preparation for submission to EDPB

2. Scheme owners (which could be organisations or private companies that are not in charge of issuing certificates) or certification bodies should formally submit their certification criteria, for national criteria, to their local supervisory authority (“SA”) and for European Data Protection Seals, to the competent authority for the European headquarters of the certification body. Furthermore, SAs can also draft the criteria of a certification mechanism, act as a certification body and perform accreditation itself.¹
3. SAs have the power to approve criteria for national certification schemes referred to in article 42(5) and article 58(3)(f) of the GDPR. The SA shall carry out a review to ensure that the draft certification criteria meet the requirements of a GDPR certification scheme, taking into account the EDPB guidelines on certification. The SA’s review will be aided by fully completing the assessment template sections for national criteria. When it aims to approve these criteria, the SA has to submit their draft decision to the EDPB pursuant to article 64(1)(c) of the GDPR. In case of the EU Data Protection Seals,

¹ A CSA cannot submit certification criteria for an opinion if it has not already submitted the CSA’s accreditation requirements for approval.

the competent authority will notify the other supervisory authorities and submit the certification criteria to the EDPB.

4. Where multiple SAs have already considered or approved submitted criteria, depending on the stage of submission and approval, it may be possible to streamline the opinion route². For example:
 - 1) The Competent SA ("**CompSA**") might consider that the draft criteria have already been subject to a European Data Protection Board (the "**EDPB/Board**") opinion for a certification scheme with a different scope. For instance, the CompSA may consider to upgrade a national GDPR certification scheme to a European Data Protection Seals or to extend a data-processors-only certification scheme to allow the application of data controllers. This should be highlighted in the submission with appropriate references. In such cases, where a change of the scope of the criteria takes place, an EDPB opinion pursuant to Article 64 GDPR shall be adopted.
 - 2) In cases where the scheme owner updates the criteria (regardless whether the criteria are intended to be national or bear the European Data Protection Seal), while the scope of the criteria remains unchanged, the following shall apply:
 - i In case of national certification schemes, the CompSA might consider that the draft criteria are an amended version that have already been subject to an EDPB opinion for a certification scheme with the same scope. For instance, the CompSA may consider the approval of an update of the certification criteria based on the "minor" and/or "major" changes submitted by the scheme owner to the CompSA³. If the CompSA identifies the changes as major, it shall launch another informal review phase.
 - ii In case of European Data Protection Seals, the CompSA which submitted the approved criteria to the EDPB firsts assesses the changes/update, provides a preliminary opinion thereof and then shares it with the EDPB Compliance, E-government and Health Expert Subgroup ("CEH ESG") for discussion. If the CEH ESG considers that the updates require a new EDPB opinion pursuant to Article 64(2), the formal procedure under section 1.2 and 1.3 below shall be followed.
 - 3) In these cases (as mentioned in 1) and 2)), the CompSA should highlight in its submission:
 - the references to the relevant EDPB opinion;
 - how the recommendations and encouragements of the EDPB opinion have been handled if applicable;
 - what are the changes applied to the scope of the certification scheme; what are the changes applied to the criteria and how these changes affect the scheme as a whole.
5. The formal submission has to be done via the Internal Information and Communication System platform. SAs are provided with the respective guides on how to use this system.
6. Before formally submitting its draft decision, the CompSA has to proceed through an informal review phase (the "**informal phase**"). Pursuant to article 57(1)(g) of the GDPR, the CompSA should "*cooperate with, including sharing information and provide mutual assistance to, other supervisory authorities with a view to ensuring the consistency of application and enforcement of the GDPR*". The submission for informal review should take place by using the EDPB digital shared workspace tool.

² As specified in the EDPB guidelines, CompSA are called to avoid fragmentation of the data protection certification market.

³ As specified in the addendum to the EDPB Guidelines, the competent SA is in charge of reviewing updates made to the certification criteria submitted by the scheme owner.

7. The informal phase consists of three steps, as elaborated below. Steps 1 and 2 of the informal phase are **mandatory** for the CompSA in all cases (i.e. for both submissions of national criteria and criteria intended to become European Data Protection Seals). The aim is to allow the CompSA to receive feedback from other SAs at an early stage and communicate such feedback to the scheme owner before formally submitting national criteria or European common certification criteria, for an EDPB opinion pursuant to Article 64 GDPR. Step 3 of the informal phase is **mandatory** for the CompSA for certification criteria intended to bear the European Data Protection Seal, and **optional** for national criteria.

1.2 Steps of the informal phase

8. Once the CompSA receives the certification criteria from the scheme owner, the CompSA should make a first assessment of the criteria themselves and their scope and if necessary, involve the relevant experts within the CompSA (e.g. if the certification criteria are meant as tool for transfers, experts within the CompSA on this matter shall be involved). Only when the CompSA is satisfied with the certification criteria, it shall upload the relevant document to the EDPB digital shared workspace tool. The EDPB Secretariat, upon request of the CompSA, shall inform the members of the CEH ESG.⁴
9. The informal cooperation phase can only start when the documents of the scheme are available in English and can be shared with other SAs. The scheme owner should translate the documents for the informal review⁵. In exceptional cases and only if the CompSA and the co-reviewers agree machine translation could be adequate for step 1.⁶
10. Once the CompSA uploads the relevant documents regarding the certification criteria on the EDPB digital shared workspace tool, the EDPB Secretariat shall inform the members of the CEH ESG via e-mail and shall launch a call for co-reviewers to all SAs on behalf of the CompSA. SAs will have ten days to volunteer themselves as co-reviewer. At least two co-reviewers are needed to start the informal phase. After the SAs have confirmed their willingness to become co-reviewers, the informal phase shall start.
 - a) **Step 1:**
 - The CompSA and the co-reviewers⁷ review the documents and exchange views. The latter should consult the relevant experts from their SA as it is stated in para 22. The CompSA will determine the timeline for this procedure.
 - Co-reviewers' comments on the draft certification criteria, if any, shall be communicated to the scheme owner by the CompSA.
 - The scheme owner will thereafter provide the CompSA with updated drafts, taking comments into account and, if they disagree with any comments, the reasons for this. The CompSA will forward these comments to the co-reviewers.
 - The CompSA together with the co-reviewers shall identify whether there is a need to consult another EDPB expert subgroup and if this the case, which the appropriate subgroup shall be.⁸ If a need for consultation has been identified, the CompSA shall inform the CEH ESG members

⁴ If needed, the CompSA shall request the Secretariat to launch a call for co-reviewers to all SAs on behalf of the CompSA.

⁵ The question of who is responsible for the translation of the documents is basically governed by national requirements in the respective member states.

⁶ In this case, the translation will be sent to the scheme owner who will revise it and confirm whether to agree with the translation or to provide a revised translation with the amendments considered necessary.

³ During this step, the SAs volunteered to be co-reviewers shall liaise with the CompSA and provide comments on the draft certification criteria.

⁸ The purpose of this consultation is to ensure, at the EDPB level, that the criteria have been thoroughly scrutinised by all the relevant and competent, in each case, experts.

thereof. This is without prejudice to any CEH ESG opinions on consulting a subgroup on another matter. The timeframe for this procedure is determined by the CompSA.

- If the CompSA and co-reviewers are of the opinion that the national or European common certification criteria are now ready for step 2, the CompSA shall notify the members of the CEH ESG, during a CEH ESG meeting or by way of an email circulated by the EDPB Secretariat⁹, and give CEH ESG members the opportunity to provide their comments.¹⁰

b) Step 2:

- The CompSA shall:
 - identify the discussion points, include any possible disagreements related to other ESGs consultation, if that's the case, that have not been solved because the scheme owner or the CompSA do not agree with the proposed changes of the co-reviewers; and
 - update the members of the CEH ESG via e-mail about the major remaining disagreements and invite comments, including the relevant, ESG if necessary. If the latter is the case, the Secretariat, upon request of the CompSA, shall inform the relevant ESG to be consulted. A specific timeline within which the ESG at stake shall provide feedback on the matters requested, shall be established by the CompSA.
- In any case, the members of the CEH ESG or of any other competent ESGs shall have the opportunity to comment on any other parts of the criteria.
- The deadline for comments determined by CompSA should be at least four weeks (30 days).

c) Step 3:

- Based on the comments provided by the CEH ESG and other consulted ESGs members regarding **national** certification criteria, the CompSA has the **discretion** to decide whether a certification session is needed (e.g. if the CompSA does not agree with the comments received and thus not consider it necessary to transmit the comments to the scheme owner, the CompSA has the discretion to decide so).
- Where certification criteria are intended to become a **European Data Protection Seal**, a certification session is **always** needed.
- The EDPB Secretariat shall be responsible for organising the certification session and inviting all members of the CEH ESG (and other competent ESGs if needed) to it.
- The CompSA shall lead the certification session and give participating SAs the opportunity to discuss critical issues identified in Steps 1 and 2.

11. The CompSA decides when the informal phase is over. In principle, the informal phase should be considered completed when all issues raised in the above steps have been resolved.
12. In cases of European Data Protection Seals, the CompSA is strongly encouraged to ensure that its national accreditation body ("NAB") assesses and provides an opinion on the guidance and evaluation methods of the certification scheme. This would streamline the accreditation process in relation to the certification scheme in all Member States and assist with avoiding fragmentation.¹¹

⁹ This update could be provided in the form of an update during a CEH ESG meeting or via written exchanges.

¹⁰ If identified as necessary by the CompSA and the two co-reviewers the CompSA will also inform other ESGs and give their members the opportunity to provide comments.

¹¹ Alternatively, evidence from the applicant that the "ready for accreditation" process has been completed would be sufficient.

1.3 Initiation of the formal procedure

13. Before formally submitting the criteria to the EDPB for an opinion under Article 64 GDPR, the CompSA shall liaise with the EDPB Secretariat and the CEH ESG coordinator(s) regarding the envisaged submission in order to ensure that the request can be accommodated in due time. The CompSA is called to take into consideration the working schedule of the CEH ESG before making its submission.
14. The CompSA must find at least two SAs willing to become co-rapporteurs in order to formally submit national or European common certification criteria to the EDPB for an opinion under Article 64 GDPR. According to Article 10(6) of the EDPB Rules of Procedure ("EDPB RoP"), the EDPB Secretariat will act as a lead rapporteur for these files. Once the formal submission is made by the CompSA and the completeness of the file has been decided by the Chair and the CompSA pursuant to Article 10(1) of the EDPB RoP, the opinion will be prepared on the basis of the submitted documents. Please see the work flow chart below for more information about the stages in this process.

2. PROCEDURE FOR CERTIFICATION SESSIONS

2.1 Aim and nature of the certification sessions

15. As stated in Article 42 GDPR, the drawing up of certification mechanisms and of data protection seals and marks shall be encouraged by the SAs and the Board. The time needed to develop certification criteria that are satisfactory for the SAs involved and for the Board, may be a deterrent for some scheme owners. At the same time, consistency must be observed when drawing up and approving certification criteria. To this end, if discussions are necessary among the SAs on remaining issues raised during Steps 1 and 2 of the informal phase, those issues will be discussed in extra instated certification sessions.
16. The objectives of certification sessions should be clear from the outset.¹² Determining the aim of the sessions is important not only to tailor the discussions but also with regard to communication with the scheme owners.
17. The general aim for EDPB is to speak with one voice to the applicant. To this end, the certification sessions should address remaining issues that were not resolved during the previous phase of the informal cooperation, in order to **find consensus on the standards and expectations for the certification criteria and what to demand from the applicant in this regard.**
18. All SAs are invited to take part in the certification sessions, particularly as the discussions and agreements reached may impact future certification criteria.
19. Certification sessions are not mandatory for national certification criteria. In these cases, it is up to the CompSA to decide whether a certification session is necessary. In its assessment of necessity, the CompSA shall take due consideration of the nature of the discussions and issues raised in Steps 1 and 2, and any implementation or lack thereof by the scheme owner, into account. The CompSA may decide to initiate the formal procedure to obtain an EDPB opinion without putting the certification

¹² The CompSA shall clearly identify the more and the less essential points for discussion so to facilitate the discussions at the CEH ESG level.

criteria up for discussion at a certification session. However, it would be a matter of best practice to put the certification criteria up for discussion at a certification session, since it will facilitate the smooth adoption of the opinion by the EDPB.

2.2 Format of the certification session

2.2.1 Formal aspects

20. Certification sessions will take place outside the formal procedure of Article 64(1) and (2) GDPR. Therefore, they are not formal ESG meetings.
21. This entails the following:
 - 1) Certification sessions do not have a formal coordinator, unlike the ESGs.
 - a. The CompSA is responsible for liaising with the CEH ESG coordinator(s) in due time and providing them with all necessary information, including an estimate of how long the certification session will likely take.
 - b. The coordinator(s) of the CEH ESG assist(s) the members with the creation of the agenda for the certification session, based on information provided by the Comp SA. The agenda of the session will contain a list of which certification criteria will be discussed.
 - c. The CEH ESG coordinator(s) does not chair the meeting. The CompSA for each certification chairs the meeting for the discussion on the specific certification criteria.
 - i. The CompSA should share, at least one week before the certification session:
 1. an updated version of the certification criteria (if applicable) that addresses some of the comments received; and
 2. the list of comments that have not been sent to the scheme owner yet, because the CompSA considers that a discussion is needed.
 - ii. The CompSA may indicate the questions and issues that are more relevant and that will be addressed first during the session. The participants may raise any additional points for discussion, once the topics identified by the CompSA are addressed.
 - 2) There is no obligation to have minutes of the sessions, unlike for the ESGs. However, a summary of the main agreements during the session will be drafted by the CompSA and the EDPB Secretariat.
 - a. The CompSA should be responsible to keep track of the comments and discussions regarding the certification criteria presented by the CompSA.
 - 3) The participants shall be staff members of the SAs. The EDPB Secretariat will also take part in the meetings. The CompSA may also invite the European Commission to participate in the meetings where the certification criteria presented by that CompSA will be discussed, taking into account its role under Article 42(1) GDPR.
 - 4) If agreements cannot be reached during a certification session, the CompSA can decide to schedule another certification session or can bring this topic as a discussion point in the CEH ESG.

2.2.2 Agreements and consensus during the certification sessions

22. The CompSA and the EDPB Secretariat will work together to prepare a summary of the main agreements reached during the certification session. The summary will be shared with the CEH ESG and any other consulted ESG.
23. The members of the CEH ESG and any other consulted ESG may discuss the agreements reached. When an agreement involves elements that may have a substantial impact on the assessment of future certification criteria, the CEH ESG may decide, after discussion at the ESG level, to bring the matter for guidance or approval by the Plenary. Additionally, from the discussions during the certification sessions, it might be necessary to find agreement regarding substantial elements of the certification criteria. In those cases, the specific questions may be brought for discussion at the CEH ESG and, ultimately and if necessary, to the Plenary for a decision.

2.2.3 Frequency of the certification sessions

24. The frequency of the certification sessions will depend on which certification criteria are ready for discussion at any given moment. Certification sessions may take place even for a single topic in a certification scheme. The subject matter of the certification session shall be determined by the CompSA.

3. ADMISSIBILITY OF A DRAFT DECISION FOR CRITERIA FOR CERTIFICATION

25. The formal submission shall fulfil the following admissibility criteria for acceptance by the EDPB:
 - In principle all documents have to be submitted in English language (see Art. 23.2 EDPB RoP);¹³ and
 - The EDPB assessment template (annexed to this document) is fully completed by the CompSA and submitted; and
 - A copy of the criteria for certification and any annexes (in English language) are submitted.
26. The Secretariat will check that all the documents are present and complete. The Secretariat may request the CompSA to provide the Secretariat, within a specific timeframe, with additional information needed for the file to be complete. As a general rule, and without prejudice to other translations where necessary or required by national law, all relevant documents should be provided by the applicant in English. When necessary, for instance documents not originating or drafted by the supervisory authority, the documents submitted by the CompSA will be translated into English by the Secretariat without undue delay.¹⁴ When the CompSA agrees on the translation, and if the Chair and

¹³ When national legislation of the Member State of the CompSA allows it, the documents shall be provided by the scheme owner in English. When national legislation of the Member State of the CompSA does not allow the SA to demand of the scheme owner to provide the documents in the English language, the CompSA will submit all relevant documents in English. The CompSA can make use of available translation tools, make use of translation agencies or translate the documents themselves and the CompSA can ascertain the correctness of the translation with the scheme-owner, as long as the documents are understandable, accessible and readable. In exceptional cases, for instance when documents have been modified in a very late stage and the SA had no opportunity to provide a proper translation, the documents submitted by the CompSA can be translated into English by the Secretariat, see Art. 10.1 of the EDPB RoP.

¹⁴ See Art. 10.1 of the EDPB RoP.

the CompSA decide that the file is completed, the Secretariat, on behalf of the Chair, will circulate the file to the members of the Board.

27. The opinion of the Board shall be adopted within eight weeks after the Chair and the CompSA (where relevant) have decided that the file is complete. The deadline may, pursuant to Article 64(3) GDPR, be extended by a further six weeks, taking into account the complexity of the subject matter, upon decision of the Chair on its own initiative or at the request of at least one third of the members of the Board.
28. Before draft opinions are submitted to the vote of the Board, they shall be prepared and drafted by the Secretariat and, upon decision of the Chair, together with a rapporteur and expert subgroups members.
29. Upon decision of the Chair of the Board, a drafting team can be set up, depending on the timing of submission, via email or at a CEH ESG meeting. The call for the drafting team volunteers will be made by the Secretariat together with CEH ESG co-ordinators. In order to avoid conflicts of interest, the CompSA should not be part of the core drafting team. However, any questions can always be addressed by the drafting team to the CompSA.
30. The Secretariat and the drafting team (where relevant) review the submitted criteria for certification and supporting documents (including the assessment template) and draft the opinion. The review will always involve consideration of what was stated in previous opinions on the same subject, in order to ensure consistency. The assessment template for submitting criteria of certification to the EDPB submitted by the CompSA can be used as an internal working document when preparing the draft opinion. This review must take place within the deadlines for opinions pursuant to Article 64 GDPR.
31. Under Article 64 of the GDPR, EDPB shall issue an opinion pertaining to matters outlined in Article 42(5) of the GDPR.
32. The provisions of Article 10 of the EDPB RoP apply for the adoption of an opinion.

4 FURTHER STEPS

33. Regarding national schemes the following steps have to be fulfilled after the adoption of an opinion:
 - 1) the Secretariat publishes the opinion;
 - 2) Within two weeks of receipt of the opinion the SA shall communicate to the Chair its intention to maintain or amend the decision and the amended draft decision, if any. The answer will be analysed by the SEC, the rapporteurs and the ESG members who prepared the opinion, in line with Art. 10.7 of the RoP. The Secretariat will circulate this information to the members of the Board.
 - 3) The CompSA adopts its draft decision, making it public.
 - 4) The CompSA should inform the scheme owner about the adoption of the draft decision in relation with the EDPB's opinion.
 - 5) The CompSA is responsible for ensuring the transmission to the Secretariat of the required documents for the publication in the EDPB public register.
34. Regarding European Data Protection Seals the following steps have to be fulfilled after the approval of the European Data Protection Seal criteria:

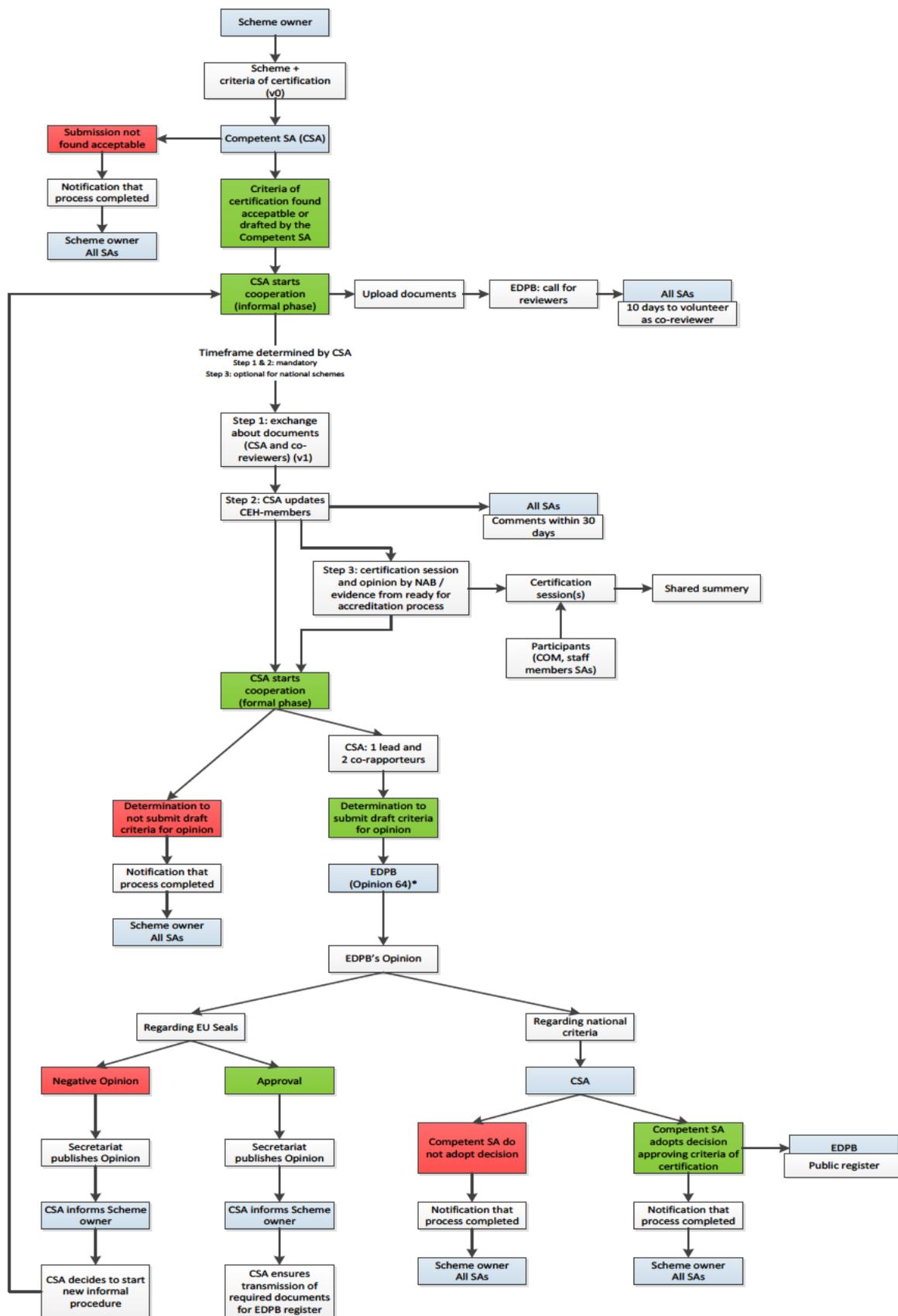
- 1) The Secretariat publishes the opinion containing the EDPB's Data Protection Seal approval or rejection.
- 2) The CompSA will inform the scheme owner about the outcome of EDPB's approval of the European Data Protection Seal request.
- 3) The CompSA is responsible for ensuring the transmission to the Secretariat of the required documents for the publication in the EDPB public register.

35. If EDPB rejects the European Data Protection seal request:

- 4) The CompSA informs the scheme owner that, according to the EDPB's opinion, the
- 5) certification mechanism does not meet the requirements for EDPB approval.
- 6) the CompSA can decide to resubmit certification criteria for requesting a European Data Protection Seal. The CompSA can decide either to start a new informal cooperation phase or submit the criteria directly to the Article 64(2) opinion phase.

ANNEX: A

Workflow EDPB's opinion SA's draft decision for adopting Criteria of certification



* Pursuant to Article 10(8) of the EDPB Rules of Procedure, in the context of Article 64(1) Opinions, including the EDPB Opinions on national certification criteria, once the EDPB Opinion thereof has been adopted, the competent supervisory authority referred to in Article 64(1) GDPR declares that it would, in whole or in part, follow the opinion of the Board, and consequently either maintains or amends its draft decision, the rapporteur, the expert subgroup members and the secretariat who prepared the Opinion of the Board should where relevant, inform the Board as soon as possible on how their amended decision, submitted under Article 64(7) by the supervisory authority takes into account the Opinion of the EDPB. The Secretariat will circulate this information to the members of the Board.

ANNEX: B

Assessment Template for submitting criteria of certification to the EDPB

(GDPR Art. 64)

Version of the certification mechanism

Submitted version number	Previously approved version (update)

Note: When submitting amendments or extensions to the criteria of the certification that have already been approved¹⁵, please only refer to deleted, amended or new criteria and provide relevant information on the impact of the update on the general objectives of the certification mechanism.

Relevant opinions of the Board

Reference to related approved certification mechanisms		
Do the criteria include a subset of criteria that have already received an opinion from EDPB?	Yes / No	<i>[if yes, add reference to references to the EDPB opinion]</i>

Note: When submitting criteria that are based on an approved certification mechanism, please only refer to deleted, amended or new criteria.

Type of certification mechanism

Member State / national certification criteria		European Data Protection Seal Certification criteria	
Yes / No		Yes / No	
Has the certification criteria been sent to more than one Member State?	Yes / No	Is there a phased roll out to Member States?	Yes / No
<i>[If yes, please provide information about the criteria that has been submitted and list the SAs that are interested in approving the certification criteria.]</i>		<i>[If yes, please provide details of the Member States and timings, including where certification bodies will be accredited.]</i>	

Publication of the criteria of certification

Can the criteria be published as submitted to EDPB?	Yes / No
Can the criteria of certification be made public free of charge?	Yes / No
Is the usage of criteria for certification purpose related to a patent or a trademark ¹⁶ ?	Yes / No

Note: When the criteria of certification have been drafted by a scheme owner, the SA needs to make sure that the version that will be made public has been submitted to EDPB.

1. General objectives

In this section, for each item, please give a brief summary of how the item is addressed (column 1), followed by a concise explanation why you consider this complies with the legal requirements provided by the GDPR and with the guidance given in Annex 2 of EDPB Guidelines 1/2018 (column 2).

Column 1

Column 2

¹⁵ Amendments requiring approval, for example, could include extending the scope of the certification mechanism, modifying the rules to define the ToE, modifying or adding a criteria, but not if only providing further guidance, or other changes that do not impact on the result of the assessment or on transparency.

¹⁶ When the criteria of certification are subject to trademarks, patents or copyrights, the SA needs to make sure that the conditions set up by the scheme owner do not interfere with GDPR requirements or EDPB guidelines.

Scope of the certification mechanism (Annex2 - 2.a, 2.b)	<i>Clearly described? Meaningful scope? Scope not misleading to the targeted audience?</i>
Certification objectives and addressed audience (Annex2 14.c, 14.d)	<i>Likely to improve data protection compliance? Benefits to data subjects?</i>
Specific aspects of processing operations to be addressed by the certification mechanism (Annex2 - 2.c, 2.d, 3.c, 4.b, 14.a, 14.b)	<i>Data protection responsibilities, procedures and processing covered by the scope? Individual processing operations specifically covered by the scope? Completeness of relevant aspects of processing operations addressed by the scope (including the relevant phases of processing and the whole-life-cycle of data)? Meaningful data protection taking into account the nature, content and risk? Specific focus to provide sufficient guarantees (criteria enough detailed and commensurate to provide sufficient guarantees)?</i>
Definition of the target of evaluation (Annex2 – 2.f, 2.g, 3d, 3e)	<i>Identification of ToE's area of application, including guidance to define the ToE? Making clear where the processing under evaluation starts and ends? Allow identifying and reflecting special types of processing operations, e.g. automated decision-making, profiling Allow identifying special categories of data Justification of ToE's exclusions and interfaces with interdependent processing? ToE understandable?</i>
Terms and normative references (Annex 2 – 3.a, 3.b)	<i>Terms identified, explained and described? Normative references identified?</i>
If already submitted to EDPB for an opinion, to which set of requirements for accreditation of a certification bodies pursuant to Art. 43(3), would these criteria of certification be linked?	<i>Identifying and determining the methods for evaluation and the methodology of assessment.</i>

2. Specific topics to be considered

In this section, for each topic, please indicate if it is covered by the criteria of certification (Yes/No) and, when covered, provide a reference to the certification criteria addressing the topic.

Additionally, for each topic, please provide:

any relevant explanation about how the referenced criteria specifically contribute to the objectives of the certification mechanism provided in Section 1 ;

examples of accepted findings that illustrate what could the expected output of the assessment, showing that all criteria are verifiable, significant, suitable and allow practical and uniform application;

If some topics are not covered or not applicable (partially or totally), please also provide a concise explanation why you consider they do not need to be covered?

Note: this list of topics is not exhaustive. When introducing a new topic, please extend existing topics related to the relevant GDPR articles or, if not applicable, create a new topic (referring to a national law, relevant standard, etc.).

Lawfulness of processing pursuant to Article 6

5.a – Lawfulness, purpose and necessity	Yes / No	<i>[Here, insert reference to the criteria]</i>
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5.b – Legal basis	Yes / No	<i>[Here, insert reference to the criteria]</i>
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Principles of data processing pursuant to Article 5

6.a – data protection principles	Yes / No	<i>[Here, insert reference to the criteria]</i>
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6.b – Data minimisation	Yes / No	<i>[Here, insert reference to the criteria]</i>
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General obligations of controllers and processors pursuant to Chapter IV (Article 24-31)

7.a – Contractual agreements	Yes / No	<i>[Here, insert reference to the criteria]</i>
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7.b – Evaluation of the processor agreements	Yes / No	<i>[Here, insert reference to the criteria]</i>
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7.c – Obligations of the controller	Yes / No	<i>[Here, insert reference to the criteria]</i>
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7.d – Review and update of technical and organisational measures implemented by the controller	Yes / No	<i>[Here, insert reference to the criteria]</i>
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7.f – Records of processing activities	Yes / No	<i>[Here, insert reference to the criteria]</i>
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Data protection officer pursuant to Article 37-39

7.e – DPO appointment and DPO requirements	Yes / No	<i>[Here, insert reference to the criteria]</i>
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The data subjects’ rights pursuant to Articles 12-23

8.a – Right to information (10.f and 10.h - includes technical and organizational measures)	Yes / No	<i>[Here, insert reference to the criteria]</i>
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8.b – Adequate access and control of their data, including data portability (10.h - includes technical and organizational measures)	Yes / No	<i>[Here, insert reference to the criteria]</i>
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8.c – Measure to guarantee rights and allow correction, erasure and restrictions (10.i - includes technical and organizational measures)	Yes / No	<i>[Here, insert reference to the criteria]</i>
11.b – Enhanced data subjects controls (self-determination and choice)	Yes / No	<i>[Here, insert reference to the criteria]</i>
The obligation to notify data breaches pursuant to Article 33		
10.q – Notification	Yes / No	<i>[Here, insert reference to the criteria]</i>
10.r – Incident management	Yes / No	<i>[Here, insert reference to the criteria]</i>
The obligation of data protection by design and by default, pursuant to Article 25		
10.l – Technical and organizational measures for data protection by default	Yes / No	<i>[Here, insert reference to the criteria]</i>
10.m – Technical and organizational measures for data protection by design	Yes / No	<i>[Here, insert reference to the criteria]</i>
The data protection impact assessment pursuant to Article 35-36		
9.a – Assessment of risks to the rights and freedoms of natural persons	Yes / No	<i>[Here, insert reference to the criteria]</i>
9.b – Risk assessment methodology	Yes / No	<i>[Here, insert reference to the criteria]</i>
9.c – Impacts assessment	Yes / No	<i>[Here, insert reference to the criteria]</i>
9.d – Prior consultation	Yes / No	<i>[Here, insert reference to the criteria]</i>
The security measures put in place pursuant to Article 32		
10.a – Confidentiality	Yes / No	<i>[Here, insert reference to the criteria]</i>
10.b – Integrity	Yes / No	<i>[Here, insert reference to the criteria]</i>
10.c – Availability	Yes / No	<i>[Here, insert reference to the criteria]</i>
10.k – Minimisation (anonymisation or pseudonymisation)	Yes / No	<i>[Here, insert reference to the criteria]</i>
Training and education		
10.n Training and education	Yes / No	<i>[Here, insert reference to the criteria]</i>

Data Protection Management System		
10.d - Accountability	Yes / No	<i>[Here, insert reference to the criteria]</i>
10.j – Patch or check system or process	Yes / No	<i>[Here, insert reference to the criteria]</i>
10.m - demonstrate, inform, control and enforce data protection requirements	Yes / No	<i>[Here, insert reference to the criteria]</i>
10.o – Reviewing measures	Yes / No	<i>[Here, insert reference to the criteria]</i>
10.p – Self-assessment / internal audit	Yes / No	<i>[Here, insert reference to the criteria]</i>
10.s – Continual improvement	Yes / No	<i>[Here, insert reference to the criteria]</i>
Other requirements (reference to GDPR article, national law or other topics)		

3. European data protection seal

In this section, please indicate the list of the member states for which the requirements of their national data protection law or sector specific regulation has led to specific criteria, followed by a concise explanation why you consider this complies with the legal requirements provided by the concerned SA.

When some criteria remain generic but national variance has been identified, please provide explanation about how this will be taken into account when assessing the criteria.

Note: Where the draft criteria are submitted for approval to the Board, they must intend to address controllers and processors in all Member States.

Member state data protection law

13.b Requirement of national data protection law	[Concerned SA]	<i>[Here, insert reference to the criteria]</i>
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13c Requirement of sector-specific national data protection law	[Concerned SA]	<i>[Here, insert reference to the criteria]</i>
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Information to data subjects and interested parties in the language of Member state

13.e Processing/ToE	Yes / No	<i>[Here, insert reference to the criteria]</i>
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13.f Documentation of the processing	Yes / No	<i>[Here, insert reference to the criteria]</i>
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13.g Results of the evaluation	Yes / No	<i>[Here, insert reference to the criteria]</i>
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