

Public consultation on: Guidelines 07/2022 on certification as a tool for transfers

Version 1.0

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*(*The comments below represent exclusively the personal point of view of the author)*

The topic in question represents a fundamental tool in order to face a key issue in data protection as the transfer is one of the most occurring scenario in the current *era*; indeed:

- i) as the nature of the topic is intrinsically international and the majority of big multinational groups have several subsidiaries in several EU Members States, it would be preferable and most useful to have an international approach, as much as possible, and building a certificate mechanism more at EU centralized level.
- ii) Same reasoning regarding the bodies and entities authorized eventually to issue certificates. It is preferable to have authorized bodies and entities covering the topic at EU level centralized as much as possible. In this way there will be more benefit for all stakeholders and more certainty for the whole system.
- iii) The certificate procedure in order to get a certificate should have a prior check approach with clear criteria and specific steps to follow in advance - as much as possible - in order to ensure certainty of the certificate procedure for the collective interest. The best approach would be *ex ante approach* in preventive way; it would be preferable also to have, as much as possible, certain written proof (a kind of “certified proof” during the procedure) in relation to the met requirements allowing the certificate issue. It would be also preferable to have final step evaluation from public institution authority

valid at EU centralized level before issuing the certificate in order to ensure certification certainty, as much as possible, for the collective interest.

- iv) The third country's legal system evaluation should have unique and certain approach. Indeed, whether or not a third country has an adequate level of data protection should be the same. Otherwise, for example, in some procedure for issuing certificate for transferring data to the same third country (Country X) there will be potential different results regarding the same object. In fact, the Country X is the same and its legal system is one and the same. Therefore, the judgment should be the same for all procedures involving the same Country X, as the main object of the assessment is the legal system of the third country and, thus, this should be equally valid for all.

In conclusion, the certificate mechanism for transfer will benefit the whole system as much as will be centralized and valid at international level and accepted, at the same time, in all EU Member States.

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