

Italy issues a standard on certifying DPOs

Requirements for the Data Protection Officer role helps to cement the professional status and recognition for DPOs. By **Matteo Colombo**.

Over the last few months there has been much – and quite unexpected – interest in training courses for professional privacy experts in Italy. Soon after the approval of the GDPR, the number of Data Protection Officers (DPOs) appointed and notified to the Italian Data Protection Authority was 35,500 (June 2018 – source Italian Data Protection Authority, the *Garante*), but these figures are expected to increase by the end of the year.

Earlier this year, Italy's Standards Authority (ISA – UNI in Italian) published regulation 11697 which defines the profile for privacy professionals operating in the field of data protection, in conjunction with the role descriptions provided by the European Qualifications Framework (EQF).

The 11697 standard took effect at a very sensitive time for the personal data protection sector, as the EU GDPR was about to enter into force. The role of DPO has finally been introduced in Italy due to the GDPR – this role was not recognized in the Italian Privacy Law. Furthermore, Articles 42 and 43 of the GDPR give certification and certification bodies much weight, and this UNI standard has the ambitious goal of becoming a reference point for the certification of those professionals working in the field of personal data protection.

PROFESSIONAL PROFILES DEFINED

Professionals working in the field of processing and protection of personal data carry out a wide range of activities which are often cross-departmental, both in terms of the life cycle of the processing and the issues dealt with (technological, legal and other). With this in mind, the UNI 11697 standard has identified four professional profiles:

1. **Data Protection Officer (DPO):**

This role corresponds to the professional profile established by

the GPPR, in particular by Article 39. This role can be assigned different tasks and/or additional tasks which belong to other compliance manager roles.

2. **Privacy Manager:** This role refers to professionals with a very high level of knowledge, skills and competences in a specific organisational context (being in a functional area of the organisation or the sector to which it belongs) in order to ensure the adoption of adequate organisational measures in the personal data processing process.

3. **Privacy Specialist:** This role refers to professionals that support the Data Processor and/or the Privacy Manager in developing appropriate technical and organisational measures for the personal data processing.

4. **Privacy Auditor:** This role refers to independent professionals with knowledge and skills in the IT and technological sector, whether their skills are of a legal or organisational nature, who carry out activities in the processing and protection of personal data, and who, in any event, can draw on the expertise of specialists in both these fields in order to carry out audit activities.

Each profile is linked with details of the specific knowledge, skills and competences required, as well as entry requirements. Even though DPOs do not have to be certified to the UNI standard, article 38 of the GDPR provides that the Data Controller and the Data Processor support the DPO, in order to maintain their expertise.

ROLE OF ASSO DPO

ASSO DPO, the Italian Association of Data Protection Officers, supports the professionals working in the Data Protection field by offering training courses held by training bodies accredited by CEPAS | Bureau Veritas

SpA (the Italian Certification Body for Training).

In cooperation and in agreement with Cepas /Bureau Veritas Italia Spa, ASSO DPO has developed a programme that enriches the GDPR knowledge and skills of DPOs. In order to register for the DPO exam, candidates need to attend a training course of at least 80 hours on privacy management and information security, and also have some years of experience in the field of privacy. The number of years (four to six, at least) varies depending on the educational qualifications of the candidate.

The advantages for the Data Controller or for the Data Processor of hiring a certified DPO are that they can rely on employing a well-prepared professional. For certified professionals, the added value is given by the recognition of their individual abilities by a third-party certification body.

In the future, however, companies expect that requirements and qualifications will become uniform across EU Member States and that there will be no different national systems; otherwise the spirit of the privacy reform would be jeopardised. For this reason, as the European Data Protection Board (EDPB) has to ensure the coherent application of the GDPR, in the same way we can hope that the European Committee for Standardization (ECS) together with the EDPB develops a European (EN) standard on Data Protection Officers. The adoption of an EN standard would be a truly effective way to standardise the criteria, qualifications and characteristics of a DPO at European level, as well as help recognise the skills of the privacy professionals involved.

AUTHOR

Matteo Colombo is the Founder and President of the Association of Data Protection Officers – ASSO DPO.
Email: matteo.colombo@laborproject.it



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California passes strictest data privacy law in the US

Businesses covered by the new Act must work towards meeting the requirements before 1 January 2020. **Michelle Hon Donovan** and **Sandra A. Jeskie** of Duane Morris LLP report from California.

On 28 June 2018, California passed the California Consumer Privacy Act of 2018 (CCPA), establishing the strictest data privacy law in the United States. It includes the consumers' right to know what personal information is collected and the purposes for which

this information will be used, to whom this information is sold or disclosed, the right to opt out of the sale of personal information, and the right to access their personal information and (with some exceptions)

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Japan's proposed EU adequacy assessment: Substantive issues

What are the underlying issues behind the EU and Japan's mutual adequacy decision? **Graham Greenleaf** assesses what has been achieved and what is still to be resolved.

On 17 July 2018, the European Commission announced¹ that: "The EU and Japan successfully concluded today their talks on reciprocal adequacy. They agreed to recognise each other's data

protection systems as 'equivalent', which will allow data to flow safely between the EU and Japan. Each side will now launch its relevant internal procedures for the adoption of its

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INTERNATIONAL
report

ISSUE NO 154

AUGUST 2018

PUBLISHER**Stewart H Dresner**
stewart.dresner@privacylaws.com**EDITOR****Laura Linkomies**
laura.linkomies@privacylaws.com**DEPUTY EDITOR****Tom Cooper**
tom.cooper@privacylaws.com**ASIA-PACIFIC EDITOR****Professor Graham Greenleaf**
graham@austlii.edu.au**REPORT SUBSCRIPTIONS****K'an Thomas**
kan@privacylaws.com**CONTRIBUTORS****Sandra A. Jeskie and Michelle Hon Donovan**
Duane Morris LLP, California, US**Robert Waixel**
Anglia Ruskin University, UK**Helen Moores**
Information Commissioner's Office, UK**Matteo Colombo**
Labor Project, Italy**Stefania Tonutti**
PL&B Correspondent, Italy**Nicola Fulford**
is to join Hogan Lovells, UK**Published by**Privacy Laws & Business, 2nd Floor,
Monument House, 215 Marsh Road, Pinner,
Middlesex HA5 5NE, United Kingdom**Tel: +44 (0)20 8868 9200****Fax: +44 (0)20 8868 5215****Email: info@privacylaws.com****Website: www.privacylaws.com****Subscriptions:** The *Privacy Laws & Business* International Report is produced six times a year and is available on an annual subscription basis only. Subscription details are at the back of this report.

Whilst every care is taken to provide accurate information, the publishers cannot accept liability for errors or omissions or for any advice given.

Design by ProCreative +44 (0)845 3003753

Printed by Rapidity Communications Ltd +44 (0)20 7689 8686

ISSN 2046-844X

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“ comment ”

Japan and EU strike trade deal and agree on adequacy

Japan and the EU have agreed to recognise each other's data protection systems as "equivalent", which will allow data to flow safely between the EU and Japan. But the agreement has not been finalised and there may be hurdles along the way, as Graham Greenleaf points out (p.1). Although starting further ahead, could a reciprocal adequacy agreement also be a way forward for the UK?

In California, a new data protection law includes many elements of the GDPR (p.1) and the same may be the case for Brazil's data protection regulation which is now in the pipeline (p.18).

Within the EU, Member States are making progress in adopting their GDPR adaptation laws. Romania's new law entered into force on 31 July (p.22). On 17 July, Hungary's Parliament adopted the national law supplementing the GDPR. The majority of the companies there are micro-enterprises, which may regard the GDPR's administrative requirements as a burden. *PL&B* understands that the DPA will not in the first place impose administrative fines on SMEs in Hungary, but will issue warnings.

At the Facebook/Cambridge Analytica hearing on 25 June at the European Parliament, Andrea Jelinek, Chair of the European Data Protection Board (EDPB), said that it is already investigating more than 20 cross-border complaints. Ireland's DP Commissioner would have been the lead authority if this case had started after the GDPR applied in May. But the UK's ICO is the investigating authority; its work started last year. Elizabeth Denham, the UK's Information Commissioner, announced on 28 July that "we're committed to completing the majority of our enforcement work and further findings by the end of October."

What will be the extent of regulators' fines under the GDPR, and what kind of infringement is likely to result in a maximum fine (p.13). Will there be any differences of fining practice in countries, such as Denmark, with no previous experience of the DPA directly imposing this sanction?

Now that stakeholders are looking into the details of the GDPR, it emerges that there may be some unintended consequences of the law (p.9). National fragmentation is inevitable to some degree, even if the EU monitors national legislation to ensure that Member States stay within the GDPR's framework.

Laura Linkomies, Editor

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