

APPLICATION FORM FOR ACCREDITATION AS A DATA PROTECTION AUTHORITY
ITALY – Garante per la protezione dei dati personali

Details of applicant

1. Garante per la protezione dei dati personali – Piazza di Monte Citorio, 121 – 00186 Roma – Italy
2. (a) Stefano Rodotà – President
(b) ~~sezione per la protezione dei dati personali~~
(c) +39 06 69673709
(d) +39 06 69673713

Type of application

3. The application is for accreditation as
(a) national Authority YES

Description of applicant

4. Commission
5. Is the Authority a public body? YES
6. Geographic jurisdiction: Italy
7. Sectoral coverage: Private and public sectors; partly limited jurisdiction on police files, judicial files, criminal records, intelligence services.
8. Is the role of the Authority mainly concerned with data protection and privacy? YES

Legal basis

9. Title of law: Legge 31 dicembre 1996, n. 675, “Tutela delle persone e di altri soggetti rispetto al trattamento dei dati personali” [Act no. 675 of 31 December 1996, “Protection of Individuals and Other Entities with regard to the Processing of Personal Data”]
10. Is this principally a data protection law? YES
11. Status of the law: Statute
12. Parliament
13. Parliament

Autonomy and independence

14. Who appoints member(s) of the Authority? The four members are appointed by Parliament, i.e. two of them by the Chamber of Deputies (Lower House) and the remaining two by the Senate. The four elected members appoint their President.

15. What process is followed? A specific procedure is followed by Parliament as set out in the relevant Regulations; the appointed members must be experts in the law and/or computer science sectors.

16. Members' tenure of office is four years; their appointment is renewable once only.

17. Does the law under which the Authority operates explicitly state that it acts independently?
YES

18. May the member(s) be removed before expiry of their term? YES

19. If yes, who may remove members of the Authority before expiry of their term? The authority itself, i.e. the panel may decide that a member is to be removed because of a conflict of interests (under section 30(4) of the DPA). In that case, the chairmen of both Houses of Parliament are immediately informed in order for a substitute member to be appointed.

20. YES

21. What are the grounds for removal? Under section 30(4) of the DPA, existence of a conflict of interests provides the grounds for removal; additionally, under section 4 of a decree including regulations on the Office of the DP authority (no. 501/1998), a member may resign from his office and/or be removed if he is permanently prevented from discharging his tasks.

22. Does the Authority possess the following powers:

(a) to initiate an investigation with seeking provision YES
(Section 30(2) and (3) Data Protection Act)

(b) to report to the head of State, head of Government or legislature YES
(Section 31(1), subheadings m) and n) Data Protection Act)

(c) make public statements YES
(Section 31(1), subheading I; Sections 16 and 21, decree no. 501/1998)

23. Does the Authority (and its staff) have immunity from legal suit for actions performed in the course of their duties? NO – However, the authority's full independence and autonomy in respect of evaluations and judgments is expressly laid down in the DPA

24. Other measures set out in the statute or in other laws which guarantee the Authority's independence:

Financial and organisational independence.

Consistency with international instruments

25. Does the Authority explicitly implement any international instrument? YES

If "yes", which of the following does it principally implement?

- (f) Council of Europe Convention No. 108 (1981) YES
 (h) EU Directive (1995) YES

26. Does the law instead, or additionally, implement any general or specific international instrument? Schengen Agreement & Implementing Convention; Europol Convention; Eurodac Convention

27. Have significant questions been raised about the extent to which the law is consistent with the international instruments which are claimed to be implemented in answer to questions 25 and 26?

YES – Consistency of the so-called linguistic census carried out in the Bolzano/Bozen province [where German and Italian are both official languages] with EC directive 95/46; consistency of the impossibility of overriding CLI suppression in case of emergency calls [the latter was subsequently amended by a decree passed in December 2001, no. 467] with EC directive 97/66.

Appropriate functions

28. Does the Authority possess functions in any of the following areas

- (d) Compliance YES
 Can perform audits and inspections

(e) Approvals YES
 Prior-checking has been recently provided for in respect of certain types of processing; transfers to third countries are subject to notification including a term for the authority's to block the proposed transfer (15 to 20 days); general authorisations have been issued in connection with the processing of sensitive data and certain categories of judicial data.

(f) Redress for individuals YES
 Complaints may be lodged and are dealt with according to a specific, strict procedure; reports are received and investigated; criminal information may be preferred to judicial authorities

(g) Sanctions available to Authority YES
 Fines may be imposed; prosecution may be initiated; processing operations may be blocked

- (h) Guidance YES

(i) Public education YES
 Newsletter, monthly bulletins, CD-ROMs and Web site with FAQs. Information campaign to be launched

(g) Policy advice for government YES
 Consultation of the Authority is expressly provided for in the DP Act (Section 31(2)). The Authority can provide guidance to Government in connection with sectoral evolution (Section 31(1), subheading m)

- (h) Studies or research YES

Additional comments

29. Additional comments

Other materials

30. List of attachments accompanying the application (NONE)

31. If law under which the Authority operates is accessible on the Internet, please give the reference

URL: <http://www.garanteprivacy.it/garante/frontdoor/1,1003,,00.html?LANG=1> (Italian)

URL: <http://www.garanteprivacy.it/garante/frontdoor/1,1003,,00.html?LANG=2> (English)

32. If a recent annual report of the Authority is available, please give the reference

URL: <http://www.garanteprivacy.it/spazioftp/Relazione2001/pdf/Relazione2001.pdf> (Italian)

URL: <http://www.garanteprivacy.it/garante/frontdoor/1,1003,,00.html?LANG=2>
(English homepage, including link to Annual Report 2000 in English)

Research use

33. I agree to this application being released to a researcher YES

**ACCREDITATION OF DATA PROTECTION AUTHORITY
CHECKLIST FOR THE CREDENTIALS SUB-GROUP**

1 Name of Authority

Garante per la protezione dei dati personali, Italy

2 Does the authority have clear and wide ranging data protection functions covering a broad area of economic activity (eg not just an advising body or a body operating in a narrow field such as medical privacy)?

Yes

Notes

3 Legal Basis.
Is the authority a public body established on an appropriate legal basis (eg by statute or regulation)?

Yes

Notes

4 Autonomy and Independence?
Is the authority guaranteed an appropriate degree of autonomy and independence to perform its functions (eg the power to make public statements and protection from removal from office)?

Yes

Notes

5 Consistency with International Instruments.
Is the law under which the authority operates compatible with at least one of the international instruments dealing with data protection and privacy (eg EU Directive, OECD Guidelines, Council of Europe Convention)?

Yes

Notes
CoE Convention, EU Directive. Also noted are Schengen, Europol, Eurodac.

6 Appropriate Functions.
Does the authority have an appropriate range of functions with the legal powers necessary to perform those functions (eg the power to receive and investigate complaints from individuals without seeking permission)?

Yes

Notes

7 Does the Sub-group recommend accreditation?

Yes

Notes

8 If accreditation is recommended what is the accreditation as?

National authority (within the UN criteria)

Notes

9 If accreditation is as an authority within an international/supranational body does the recommendation include voting rights?

Not applicable

Notes

10 If accreditation is not recommended does the Sub Group recommend that accreditation is refused or is more information needed before a decision can be made?

Not applicable

Notes

11 If accreditation is not recommended and the application is from an authority with narrow functions does the Sub Group recommend that, at the discretion of the conference host, observer status is granted?

Not applicable

Notes

If more information is required what is this:

Signed on behalf of the Sub-group:

Blair Stewart

Date: **17 June 2002**

Jonathan Bamford

Date: 17/7/02

Date:

Note: 2 signatures required for recommendations for accreditation.
3 signatures required for recommendations for refusal