2 eIDAS: New framework for electronic identification and e-signatures in Europe

The eIDAS Regulation aims to provide a predictable regulatory environment to enable secure and seamless electronic interactions between businesses, citizens and public authorities. It consists of two basic sections, the first relating to cross-border electronic identification and the second to trust services (which include electronic signatures).

Context and background
The creation of a climate of trust is essential for the development of the digital economy. Distrust, due in particular to perceived legal uncertainty, makes consumers, businesses and public authorities hesitate to carry out transactions electronically or adopt new services.

In 2010 a report by the European Commission entitled “A Digital Agenda for Europe” indicated that the fragmentation of the digital market, the lack of interoperability and the increase in cybercrime constituted significant obstacles to the take-off of the digital economy. In another report on citizenship in 2010, entitled “Dismantling the obstacles to EU citizens’ rights”, the Commission highlighted the need to resolve the main problems preventing EU citizens from enjoying the benefits of a digital single market and cross-border digital services. In 2011 the European Council asked the Commission to create a digital single market in order to progress rapidly in key areas of the digital economy and to promote a fully integrated digital single market, facilitating the cross-border use of online services, with particular attention to secure electronic identification and authentication.

In this context, the eIDAS Regulation, published in 2014, aims to harmonise Member States’ electronic identification systems and achieve mutual recognition for services provided online by public bodies in terms of cross-border authentication. One of the regulation’s aims is to strengthen trust in electronic transactions within the European internal market. In this way it provides a common foundation to enable secure electronic interactions among citizens, businesses and public authorities, and increases the effectiveness of public and private online services, digital business and e-commerce in the EU.

The regulation consists of two main sections. The first is dedicated to cross-border recognition of Member States’ national electronic identification schemes for accessing the electronic services of other Member States’ public authorities. The second outlines a single legal framework applicable throughout the EU for providers of trust services such as electronic signatures, electronic seals, electronic time stamps, certified electronic delivery services and website authentication certificates.

What does all this mean for citizens and businesses?
In the near future citizens and businesses should be able to use their electronic identifiers (eID) issued by one Member State to access any online service of another Member State. For example, a British citizen could consult the research projects put out to tender by the Spanish public authorities and apply for the relevant scholarships or grants using his UK-validated eID as the means of identification.

This mutual recognition of Member States electronic identification schemes must be up and running by September 2018.

Nearly all Member States already have eID solutions to a greater or lesser extent. Among the government initiatives for establishing electronic identification systems, we can mention GOV.UK Verify in the UK, with a federated system that uses a number of different providers, Cl@ve in Spain, as an example of a centralised
system, and cross-border interoperability pilot schemes such as STORK, using a system shared among countries. The latter has served as the basis for the technical implementation of eIDAS.

If these cross-border electronic identity verification mechanisms of the Member States are opened up to the private sector, the opportunities for developing a pan-European digital market multiply.

In the case of banking, having an electronic identification system in which the real identity is verified represents a great advance and facilitates, in particular, the process of starting a business relationship with new customers through digital channels. In the financial sector there are certain restrictions on initiating business relations remotely, normally associated with the regulations on the prevention of money laundering and the financing of terrorism, and in particular with banks’ obligation to identify the customer in a reliable manner before contracting any product or carrying out certain transactions. In general, all these due diligence mechanisms make the user experience of signing up as a customer of a financial institution through digital channels relatively slow and difficult compared with the standards set by the Internet giants, which most customers consider as a benchmark. The use of eID systems incorporating persons’ validated real identity would be hugely helpful in the identification phase of the new customer sign-up process. It would simultaneously allow compliance with the assurances demanded by the law and offer customers a simpler and more convenient user experience.

As well as Member States’ national eID schemes, there are also electronic identification initiatives in the private sector, such as GSMA Mobile Connect, led by telecommunications operators, and environments headed up by the financial sector such as Tupas (Finland), NemID (Denmark) and BankID (Norway), in some cases in collaboration with the corresponding governments.

As for the trust service providers, eIDAS also introduces some new features. It establishes mechanisms whereby services delivered by providers that have been certified and appear in the Trusted Lists (EUTL) in any Member State will be valid and recognised throughout the EU. Furthermore, electronic signatures for legal persons (companies and organisations) are eliminated and will now be associated only with natural persons (private individuals). The concept of electronic seal is introduced as the mechanism for certifying the source and integrity of documents originating from legal persons, bearing in mind that an electronic seal is not the electronic signature of the legal person.

The new features of eIDAS relating to trust services and electronic signatures will be applicable with effect from 1 July 2016.

The new eIDAS Regulation is another step towards the Digital Single Market. It establishes the legal framework for digital identities and e-signatures to have cross-border validity. In any case, eID and electronic signature systems must offer not only security, but also a good user experience, in order to popularise their use so both the public and the private sector can take advantage of their potential. In short, electronic identity and signatures should help to facilitate electronic interactions and transactions, and to boost the European economy.
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