



COVID-19

Doing business under lockdown conditions

The tool of e-signatures

13 April 2020

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On July 2016 the EU Regulation No. 910/2014 on electronic identification and trust services for electronic transactions came into force (the “**eIDAS Regulation**”). The eIDAS Regulation replaced the previous Directive for Electronic Signatures 1999/93/EC and is directly applicable in all EU Member states.

The national legislation as to e-documents, e-signatures, e-identification, e-seals, e-timestamp, e-delivery services was amended by Law 55(I) of 2018 in order to be in conformity with the eIDAS Regulation, by essentially adopting all applicable provisions under the eIDAS Regulation.

Legal Effect

Article 25 of the eIDAS Regulation provides that an electronic signature shall not be denied legal effect and admissibility as evidence in legal proceedings solely on the grounds that it is in an electronic form or that it does not meet the requirement for qualified electronic signatures.

There are three levels of e-signatures with different levels of security, capacity to guarantee the integrity of the signed documents and the ability to identify the signatory.

- E-signature is the simplest form and it means data in electronic form, which are attached to, or logically associated with other electronic data, which are used by the signatory to sign.
- Advanced e-signature is uniquely linked to the signatory and created using electronic signature creation data that the signatory can with a high level of confidence, use under his/her sole control.
- Qualified e-signature: an advanced e-signature created by a qualified e-signature creation device. This type of e-signature has the equivalent legal effect of a handwritten signature and is based on a qualified certificate for e-signatures, issued by a qualified trust service provider. Qualified e-signatures must be recognised in all EU Member States.

Qualified e-signature

A trust service provider is defined in eIDAS Regulation as a “natural or legal person who provides one or more trust services, either as a qualified or as a non-qualified trust service provider”. The responsible authority in Cyprus for granting the status of qualified trust service provider, and by extension is recognised under the eIDAS Regulation, is the Department of Electronic Communications of the Ministry of Transport, Communications and Works (the “**Registration Authority**”). At the moment, the Cyprus Stock Exchange (the “**CSE**”) may process applications for the acquisition of a qualified electronic signature.

The CSE delivers a Qualified Signature Creation Device (the “QSCD”) to the applicant or his representative after reviewing the necessary documents and complete their inspection. Furthermore, the CSE will coordinate with the Registration Authority for the issuing of the qualified certificate of electronic signature.

Conclusion

The introduction of eIDAS Regulation is undoubtedly a step in the right direction of implementing the EU Digital Single Market in Cyprus. More importantly, the status of the qualified e-signature can boost the confidence in cross-border online transactions, but also transform the ordinary contract formation between businesses since it can have the equivalent legal effect of a handwritten signature. Other advantages of the e-signatures include the tractability of documents and the possibility to minimize the office space.

The recent COVID-19 outbreak has also revealed another advantage of e-signatures. Qualified e-signature can play a significant role in the smooth operation of business activity. Currently, many businesses use electronic means and work remotely to reduce any risks emanating from COVID-19. The ability to use the qualified e-signature reduces the impact of the absence of employees and managers since all necessary documents can be signed online with the same binding legal effect as a handwritten signature.

