

eIDAS Regulation

**Congreso Nacional de Innovación y Servicios Públicos
(CNIS)**

03/03/2016

Rafael Pérez Galindo
rperezga@minetur.es

S.G. de Servicios de la Sociedad de la Información
Secretaría de Estado de Telecomunicaciones y para la Sociedad de la Información

Competences



- 1. eID and TS regulation**
- 2. TSP supervision and monitoring**
- 3. TSL building and publishing**

eIDAS Regulation UE N° 910/2014



- **Overall objective (Digital Agenda, Digital Single Market):** to enhance **trust** in **secure** electronic interactions.
- **Previous policy context:** market **fragmentation** and legal **uncertainty**.
- **Legislative process:** 2 years, 4 Presidencies, 28 MS.
- Outstanding work by the **Commission and Council**.

- Entry into force: 17 September 2014. But bulk application: **1 July 2016**
- **No need for transposition** into national law.
- **Repeals Directive** 1999/93/EC, but Law 59/2003 **not repealed!**
- **Implementing acts** on eID and TS.
- **ETSI/CEN** standardization work underway (M/460 mandate).

- **Transitional measures:** **SSCD** considered as **QSCD**, **Qc** (“*reconocido*”) considered as **Qc** (“*cualificado*”), **CSP** issuing Qc considered as **QTSP**, but conformity assessment report to be sent to SB not later than **1 July 2017**.

eIDAS Regulation: eID



- **Cross-border mandatory mutual recognition for authentication** in accessing a **public service** for eID means as of **29.09.2018**:
 - **notified (sovereignty of MS)** and listed, and
 - having assurance level **equal to or higher** than required, and
 - for **substantial or high** assurance levels.
- **No** mandatory recognition of **low** assurance level eID schemes
- **Service provider defines** applicable level of assurance
- **Free of charge** authentication facility (only for eGov)
- Optional for private sector
- **Natural and legal** persons

- **eID Working Group (Secondary legislation):** Implementing Acts
 - **Cooperation** (2015/296): peer review, network, PoSC
 - **Interoperability framework** (2015/1501): nodes, person id data
 - **Assurance levels** (2015/1502), based on STORK and ISO 29115
 - **Notification** (2015/1984)

eIDAS Regulation: Trust Services



- **Mutual recognition** of qualified electronic trust services
 - **Secondary legislation:** Implementing Acts
 - EU Trust Mark (2015/806)
 - Trusted Lists (2015/1505)
 - Formats of AdESig and AdESeal (2015/1506)
 - Non-mandatory standards (presumption of compliance)
1. **eSignatures**: only for **natural** persons
 - Includes **validation** and **preservation**
 - **Mandatory certification of QSCD**
 - Allows remote signature: **server** and **mobile** signing
 - Qc additional attributes: **unique identifiers** for national purposes
 2. **eSeals**: only for **legal** persons
 3. **eTimeStamp**: presumption of **accuracy** of time and **integrity** of data
 4. **eDelivery**: presumption of **integrity, sending, receipt, accuracy** of time
 5. **Website authentication (QWAC)**: **third country** providers recognised as Q through international **agreement** between the UE and the country.

Supervision and control

According to **current Law 59/2003**:

- **Supervision** of TSP issuing e-certificates (**Qc and non-Qc**).
- **Methodology**: based on standards (ETSI 101 456, CWA 14167).
- **Penalties** up to 600.000 euros and measures as suspension.

Supervisory Body tasks in the **eIDAS Regulation**:

- Harmonized supervision remains at **national** level
- **Prior authorisation** to start a qualified service
- **Supervision of QTSP** but “light touch” **monitoring of non-Q TSP**
- **Analyse** the conformity assessment **reports** submitted by QTSP, audited at least every **24 months** by an **accredited CAB**.
- **Inform other SB** and **the public**
- **Carry out audits** or **request** a CAB to perform them
- **Grant** and **withdraw** the Q status to TSP
- Require that TSP **remedy** any failure
- **Report** to the Commission and ENISA
- **Notify** the Commission the body who grants **certification of QSCD**
- **Notify** the Commission the **eID schemes** subject to **mutual recognition**

Trusted Services List (TSL)



- **Prior legal framework:** CD 767/2009, amended by CD 2010/425/EU and CD 2013/662/EU.
- **First Spanish TSL:** June 2010.
HR: PDF/A PAdES → <https://sede.minetur.gob.es/Prestadores/TSL/TSL.pdf>
MP: XML XAdES → <https://sede.minetur.gob.es/Prestadores/TSL/TSL.xml>
- **Technical specification:** ETSI TS 119 612
- **Tasks:** Establish, maintain, sign, publish, notify links and certs.
- **EC:** List of Trusted Lists (**LoTL**):
<https://ec.europa.eu/digital-agenda/en/eu-trusted-lists-certification-service-providers>

Rules in the **new eIDAS Regulation:**

- 1.- **Constitutive** effect (no more informative)
- 2.- Verify **supervision** status of a TS: legal certainty
- 3.- **Validate** eSig and eSeal
- 4.- **Migration** on 1 July 2016

National Law adaptation to eIDAS

- As of 1 July 2016, any disposition laid down in Law 59/2003 opposing eIDAS renders **inapplicable**
- Preliminary assessment of impact and consultation underway
- Most likely, a new “**Law on Electronic Trust Services**” will be developed, repealing Law 59/2003
- Aspects that eIDAS leaves to **national legislation**, a.o.:
 - New QTS defined at national level (recital 25)
 - Penalties (art. 16)
 - Identity verification (art. 24.1)
 - Financial resources or liability insurances (art. 24.2.c)
 - Certificate suspension (art. 28.5 and 38.5)
 - National rules on liability (art. 13.3)
- Dispositions to be ruled out, i.a. **eSig Qc for legal person**
- Other aspects to be further assessed
- Coordination with EU Forum of SB (FESA)