

Public and Private Electronic Documents and E- Signatures under the framework of the new Code of Digital Governance (Law. 4727/2020)

The anticipated Law 4727/2020 (“the Law”) (GG Issue A’ 184/23.09.2020) on Digital Governance (implementing EU Directive 2016/2102 and 2019/1024), as well as on Electronic Communications (implementing EU Directive 2018/1972) introduces a new legal framework on the digital environment and Electronic Communications which is applicable to both individuals and businesses in order to facilitate their needs as well as several administrative procedures.

The Code on Digital Governance follows the definitions of EU regulation 910/2014 (eIDAS Regulation on the e-signatures).

What you need to know:

- The terms of the Qualified Electronic Signature (“QES”), qualified time stamp and qualified electronic seal and electronic document are introduced.
- The use of a QES by a natural person, or a qualified e-seal by any legal person or entity are equally valid with the use of an original handwritten signature or seal, respectively.
- The previous legal framework on e-signatures, namely the Presidential Decree 150/2001 is abolished.
- The Qualified Trust Providers in Greece, from whom entities and individuals may issue a Qualified Electronic Signature/Seal are included in the following list issued by the Hellenic Telecommunications and Post Committee (“EETT”): https://www.eett.gr/opencms/opencms/EETT/Electronic_Communications/DigitalSignatures/Esig_nProviders.html.
- The execution of the private electronic documents with the use of the above-mentioned means are mandatorily accepted by any public authority, court, prosecutor's office, natural or legal person and legal entity, during their e-circulation with the exception of documents for which the handwritten signature or the qualified electronic signature is not sufficient (for example documents that require notarisation).
- Printout copies of private electronic documents bearing a qualified electronic signature or qualified electronic seal which are certified by any administrative authority, Citizens’ Services Center or attorney-at-law, must also be accepted by any public authority, court, prosecutor's office, natural or legal person and legal entity.
- In order for a private electronic document to be totally valid, a qualified electronic signature or seal should be used. Otherwise, it should be freely assessed as legal evidence.

- Where the law requires a certification of the authenticity of the signature, this can be attested by a QES or a Qualified e-seal if the document is circulated electronically.
- In cases where handwritten signature is required by the law or the parties on each sheet or page of the document, the placement of the QES or Qualified e-seal at the beginning or at the end of the e-document is sufficient.

In particular:

The Code incorporates into the Greek legislation the definition of the Qualified Electronic Signature, Qualified Seal and Qualified Time stamp, as well as the term of the Qualified Trust Service Provider, while under the previous regime (PD 150/2001) the Simple Electronic Signature ("SES") and the Advanced Electronic Signature ("AES") were only provisioned thus introducing three types of electronic signatures:

1. **Electronic Signature:** Data in electronic form which is attached to data in electronic form and which is used by the signatory to sign.
2. **Advanced Electronic Signature:** E- signature with the following requirements: (a) unique link to the signatory; (b) capability for identification of the signatory; (c) creation by electronic signature creation data that the signatory can, with a high level of confidence, use under his sole control; and (d) link to the data signed in such a way that any subsequent change in the data can be detectable.
3. **Qualified Electronic Signature:** When the advanced e-signature qualifies the aforementioned (a-d) criteria of the AES and two additional requirements namely (a) a qualified certificate and (b) a secure signature-creation device. The same requirements are also provisioned for the Qualified Electronic Seal and Time stamp.

Public electronic documents and private documents (Articles 13, 14 and 15 of the Law)

Public Electronic Documents may be issued in the form of: a) originals by the use of the public authority's Qualified e-seal and qualified e-time stamp or QES of the competent civil servant; b) electronic true copies with the competent person's QES or with the competent body's Qualified Seal or qualified e-time stamp and along with the "true copy" indication as well as with the details of the final signatory; c) digital electronic copies which also bear a QES or Qualified e-seal or qualified e-time stamp as well as a certificate of identification with the respective hardcopy document. Finally, certificates may be issued by the use of an advanced or qualified electronic signature or seal.

Validity of Public Electronic Documents

Both the original electronic public documents and the electronic true copies or digital electronic true copies are mandatorily accepted by any public authority, court, prosecutor's office, natural or legal person and legal entity as public documents that bear a manual signature or seal and as the true copies respectively.

Printouts of public e-documents are also mandatorily accepted as true copies, since it is feasible for the accuracy and validity of the ICT printing to be verified, in particular while a unique verification ID number is indicated on the documents. In the event that it is not possible for the aforementioned accuracy and validity to be confirmed, the document must be certified by any administrative authority, Citizens' Services Center or attorney-at-law.

Private Electronic Documents

Private electronic documents issued by individuals or legal entities with the use of a QES or a qualified e-seal, as well as the printout copies of such documents, certified by any administrative authority, Citizens' Services Center or attorney-at-law, must also be accepted by any public authority, court, prosecutor's office, natural or legal person and legal entity, during their e-circulation.

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