

EU Study on Electronic Signatures Remarkable “hints” & Conclusions



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INVESTOR IN PEOPLE

Some Insights

- A 5-member expert team
- Monitor Directive's implementation progress in 30 European countries
- Within 6 months (Apr. – Sept. 2003)
- “Distill” from national input to provide overall recommendations and conclusions on the way forward

Structure of Report (front stage)

- Ch. 1: Analysis of the Directive
- Ch. 2: Transposition of the Directive
- Ch. 3: Standardization Aspects
- Ch. 4: Electronic Signatures in Practice
- Ch. 5: Conclusions and Recommendations

Structure of Report (back scene)

- National experts questionnaires
- National legislation & (case law)
- Literature (in national languages)

“Law-monitoring” Part: Some Overall Conclusions at Regulatory Level

- Most European countries proved to be good students
- Cyprus, Liechtenstein, Switzerland?
- Most of European countries have exhausted the margin of discretion
- Many EU countries followed a literal transposition (GR, BE, PO, NL)
- Other countries were more inventive (GE, FR, BU)
- A few countries were less explicit (UK, Ireland)

Art. 5.1: Divergencies

Literal

- Belgium, Greece, Finland, Portugal
- Malta, Lithuania
- Romania
- Iceland

Objective respected

- Translation in basic generic laws
(France, Germany, Poland, Hungary)
- Explicit or indirect addition of further functional requirements
(Austria...)
- Recognition of legal equivalence to other “levels” of signatures
Estonia (Digital + time of signing)

No automatic recognition

- Denmark, Sweden, Norway

No transposition

- Ireland, UK, Czech Republic, Switzerland

Art. 5.2: Faithful transposition?

- Transposition & interpretation mostly restricted to evidential effect
- Non-discrimination aspect often forgotten (or) claimed to be self-evident (UK, Ireland, etc.)

“Law-monitoring Part”: Some Overall Conclusions at Market Level (1)

- Number of vendors and products assessed is low, expect Austria, Germany
- Only Germany and Italy have many CSPs (> 6)
- No large issuance of QC, except Italy, Estonia
- No real market demand for QC
- Driven (pushed...) by e-government
 - e-tax and e-IDs

“Law-monitoring” Part: Some Overall Conclusions at Market Level (2)

- e-banking dominates e-signature application
- e-government dominates “Directive-dependent” application
- Slow market uptake of e-signatures
 - Benefits invisible and uncertain
 - Little user benefits
 - Lack of interoperable technical solutions
 - Still under experimental phase

General Conclusions of Dig. Sig. Study

- The Directive aimed at creating a **Community framework** for the use of e-signatures
- After transposition, the framework of M-S remain **divergent**, thus complicating **cross-border authentication**
- The reasons are **not in the text** of the Directive but in the way it has been “translated” by M-S
- There is a need for a **Community-focused** re-interpretation of the Directive

Specific Conclusions of Dig.Sig. Study

- Internal Market Objectives
- Legal Acceptance of e-Signatures
- Creating a Favourable Climate

Internal Market Objectives

- Supervision of CSPs
- Voluntary accreditation
- Conformity assessment of SSCDs
- Public sector exception
- **Need to clarify!**
- **Re-emphasise the objective!**
- **Make it efficient!**
- **Carefully monitor its use!**

Legal Acceptance of e-Signatures (1)

- QES
 - Re-explain the value & objective!
 - Construe a “cross-European” QES (standardization possible)!

Legal Acceptance of e-Signatures (2)

- non-QES
 - Clarify that legal effect should not be denied because e-signature is not a Qualified!
 - Emphasise the “by-default” nature of non-QES

Creating a Favourable Climate

- Effect on the market
 - Not measure the benefits by the number of PKI implementations!
 - Standardization should focus on “Europe-wide signature aspects”!
 - Instead of focussing on one biz. model, See how the end-user can best benefit from which model!

Questions?

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