



Electronic archiving service in the eIDAS Regulation

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Current framework – eIDAS 1.0



“Electronic identification (eID) and electronic Trust Services (eTS) are key enablers for secure cross-border electronic transactions and central building blocks of the Digital Single Market.”

REGULATION (EU) No 910/2014 on electronic identification and trust services for electronic transactions in the internal market – eIDAS Regulation

eIDAS Regulation 1.0

- *Provisions on:*
 - Electronic identification
 - Electronic signature
 - Electronic seal
 - Electronic timestamp
 - Electronic registered delivery service
 - Website authentication certificates

eIDAS Regulation 1.0

- *Article 34 – Qualified preservation service for qualified electronic signatures:*
 - Offered by a QTSP
 - QTSP uses procedures and technologies capable of **extending the trustworthiness** of the qualified electronic signature **beyond the technological validity period**.
 - Preservation of signature and content within signature container
- *Mutatis mutandis for electronic seals*

Look towards the future – eIDAS 2.0

eIDAS 2.0

- *General remarks:*
 - eIDAS = toolbox
 - No obligation
 - Functional requirements
 - Clear legal effects
 - Closed system exceptions
 - National archives not as such targeted

Commission proposal

- *First proposal June 2021*

QUALIFIED ELECTRONIC ARCHIVING SERVICES

Article 45g

Qualified electronic archiving services

A qualified electronic archiving service for electronic documents may only be provided by a qualified trust service provider that uses procedures and technologies capable of extending the trustworthiness of the electronic document beyond the technological validity period.

Within 12 months after the entry into force of this Regulation, the Commission shall, by means of implementing acts, establish reference numbers of standards for electronic archiving services. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 48(2).

Council General Approach

- *2 recitals:*
 - Scope and purpose explained.
- *Definition*
- *2 articles*
 - More detailed
 - Structured as other trust services
 - Legal effect
 - Qualified / Non-qualified
- *Implementing acts*

Council General approach

- *Scope:*
 - Electronic data
 - Electronically born documents and digitized documents
 - Electronic document = broad definition.
- *Purpose*
 - Guarantee integrity, legibility, proof of origin
 - Provide legal certainty
- *Possible national/internal archives exclusion*

Council General approach

- *Definition*
 - Electronic data
 - Reception, preservation, retrieval and deletion
 - Key functions:
 - Guarantee durability and legibility
 - Preserve integrity, confidentiality and proof of origin

Council General approach

- *Legal effect*
 - Non-qualified: shall not be denied legal effect
 - Qualified: presumption of integrity and origin of the archived electronic data for duration of preservation period
 - Mutual recognition for qualified eArchiving services

Council General approach

- *Requirements for qualified eArchiving services*
 - Offered by QTSP
 - Use of procedures and technologies to extend the durability and legibility of the electronic data beyond the technological validity period and at least throughout the legal or contractual preservation period, while maintaining their integrity and their origin
 - Safeguards against loss and alteration

What happens next?

State of play of the eIDAS revision

- *Status eIDAS revision: preliminary agreement reached in June 2023, but left many open issues. ES Presidency is working very hard to reach an agreement on the full text before the end of their term.*
- *Hallway sounds: there is an agreement. We are waiting for the final text to be approved in trilogue at the beginning of November.*
- *Commission is assigned to draft Implementing Acts*

Takeaways

- eArchiving will finally be an eIDAS trust service
- *Why choose a qualified electronic archive?*
 - *Legal obligation to archive*
 - *Legal or administrative purpose*
 - *General societal, historical or scientific interest*
 - *To preserve the metadata*

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