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THE EUROPEAN eIDAS REGULATION

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Summary: 1. Introduction; 2. The Regulation on Electronic Identification; 3. A Regulation, Not a Directive; 4. The eIDAS and Electronic Identification; 5. The European Commission Recent Implementing Regulations; 6. The eIDAS and Electronic Signatures; 7. The eIDAS and Trust Services; 8. Other Innovations; 9. Final Considerations.

1. Introduction

Generally speaking it could be affirmed that legal obstacles to the complete digitalisation of processes have been removed, laws on electronic documents and on electronic signatures allow us to do anything in a digital form that we can do on paper¹. However, in this scenario, the issue of online identification is more serious than ever, especially for the development of services requiring identity checks, such as particular services provided by public administration and certain banking services.

The real issue in this new phase of digitalisation concerning all services requiring verification of identity is how to authenticate someone's identity. For instance, when opening a new bank account or sending an official request to one or another public administration office or taking part when tendering for public contracts.

Il presente contributo è stato preventivamente sottoposto a referaggio anonimo affidato ad un componente del Comitato di Referee secondo il Regolamento adottato da questa Rivista.

¹ On an international level, the role played by the United Nations Commission on International Trade Law (Uncitral) is of crucial importance. On the subject see G. FINOCCHIARO, *Il ruolo dell'Uncitral nello sviluppo della disciplina sul commercio elettronico*, in G. Finocchiaro - F. Delfini (edited by), *Diritto dell'Informatica*, Utet, Torino, 2014, p. 64 ss.

Obviously, not all services online require verification of identity. Many electronic commerce services only require payments online and do not require verification of identity. In brief, in these cases, all that is required is a credit card and nothing else. But sometimes verification of identity is necessary: namely, for examples, in the case of asking for a credit card.

In order to solve this problem, the European Parliament adopted “European Regulation n. 910/2014 of the European Parliament and of the Council of 23rd July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC”, published in the Official Journal of the European Union of 28th August 2014, L 257/73 (hereinafter the “eIDAS Regulation”, the “Regulation on Electronic Identification” or, simply, the “Regulation”)².

2. The Regulation on Electronic Identification

The eIDAS Regulation builds upon Directive 1999/93/EC of the European Parliament and of the Council of the 13th of December 1999 on a community framework for electronic signatures and seeks to enhance trust in electronic transactions in the internal market and ensure the mutual recognition of electronic identification, authentication, signatures and other trust services across borders, thereby increasing the effectiveness of public and private online services in the European Union (hereinafter the “European Directive on Electronic Signatures”)³.

² For an Italian comment on the eIDAS Regulation, see G. FINOCCHIARO, *Una prima lettura del reg. UE n. 910/2014 (c.d. eIDAS): identificazione on line, firme elettroniche e servizi fiduciari*, in *Le nuove leggi civili commentate*, 2015, n. 3, p. 426; in the European scenario, see also D. GOBERT, *Le règlement européen du 23 juillet 2014 sur l'identification électronique et les services de confiance (eIDAS): analyse approfondie*, February 2015, article published on the website www.droit-technologie.org, accessed on the 29th of April 2016 and, of the same author, *Le règlement européen du 23 juillet 2014 sur l'identification électronique et les services de confiance (eIDAS): évolution ou révolution?*, in *Revue du Droit des Technologies de l'Information*, 2014, n. 45, pp. 27-51.

³ The eIDAS Regulation has been applied from the 1st of July 2016 and Directive 1999/93/EC on electronic signatures has been repealed with effect from the same date. The European Directive 1999/93/EC was published in the European Union Official Journal on the 19th of January 2000, n. L 013, pp. 0012-0020. For a commentary on the Directive see

Concerning electronic identification, the eIDAS Regulation addresses the requirement of a citizen to use their electronic identification to authenticate themselves in other European Member States by establishing the principle of mutual recognition in relation to online services.

In particular, the Regulation lays down the conditions under which European Member States must recognise electronic identification means of both natural and legal persons in the internal market to facilitate cross-border businesses and interactions with public authorities.

The eIDAS Regulation does not decrease the freedom of European Member States to use or introduce means for electronic identification purposes for accessing online services, but it establishes clear rules for the recognition and acceptance of electronic identification means that will be directly applicable and identical in all of the European Member States.

3. A Regulation, Not a Directive

In relation to the eIDAS Regulation it is worth mentioning that, even if it builds upon the European Directive on Electronic Signatures, the legal instrument chosen to regulate the subject is not a Directive, but a Regulation.

The Regulation is a binding legislative act, just like the Directive. Nevertheless, the Regulation does not require any enacting act on the part of Member States.

Therefore, since the eIDAS Regulation became operational, all of the European Member States have been bound by the same rules on electronic identification and trust services for electronic transactions. With this instrument, European States will go beyond harmonization, since the Regulation on Electronic Identification will provide for real unification of

G. FINOCCHIARO, *La direttiva sulle firme elettroniche*, in *Formazione, archiviazione e trasmissione di documenti con strumenti informatici e telematici*, in *Commentario*, C.M. Bianca, R. Clarizia, V. Franceschelli, F. Gallo, L.V. Moscarini, A. Pace, S. Patti (edited by), in *Nuove leggi civ. comm.*, 2000, n. 3-4; F. DELFINI, *La recente direttiva sulle firme elettroniche: prime considerazioni*, in *Contratti*, 2000, p. 418; G. FINOCCHIARO, *Brevi note intorno alla proposta di direttiva sulla firma elettronica*, in *Contr. e impr. Europa*, 1998, n. 2.

the legislative infrastructure on electronic signatures among European Member States, ensuring full juridical and technological interoperability.

The Regulation is divided into four parts: the first one establishes a set of general provisions; the second one deals with electronic identification and authentication⁴; the third one regulates electronic signatures⁵; the fourth one establishes the discipline on trust services⁶.

4. The eIDAS and Electronic Identification

The recognition process begins with the notification of an electronic identification scheme by one of the Member States to the Commission. Such a scheme is defined in the Regulation as a system for electronic identification under which electronic identification means are issued.

The notifying State has to forward to the Commission the information related to the electronic notification scheme, including the authority responsible for the notified electronic identification scheme, the issuer of the electronic identification means under that scheme and its assurance levels.

The assurance level of electronic identification schemes (low, substantial or high) is determined in accordance with the parameters provided for in art. 8 of the eIDAS Regulation⁷. Assurance levels

⁴ See Chapter II of the Regulation.

⁵ See Chapter III of the Regulation.

⁶ See Chapter IV of the Regulation.

⁷ Article 8, paragraph 2 of the Regulation provides that: “The assurance levels low, substantial and high shall meet respectively the following criteria: (a) assurance level low shall refer to an electronic identification means in the context of an electronic identification scheme, which provides a limited degree of confidence in the claimed or asserted identity of a person, and is characterised with reference to technical specifications, standards and procedures related thereto, including technical controls, the purpose of which is to decrease the risk of misuse or alteration of the identity; (b) assurance level substantial shall refer to an electronic identification means in the context of an electronic identification scheme, which provides a substantial degree of confidence in the claimed or asserted identity of a person, and is characterised with reference to technical specifications, standards and procedures related thereto, including technical controls, the purpose of which is to decrease substantially the risk of misuse or alteration of the identity; (c) assurance level high shall refer to an electronic identification means in the context of an electronic identification

characterise the degree of confidence that an electronic identification means provides in claimed or asserted identity of a legal or natural person.

Following notification by the Member States, the Commission publishes in the Official Journal of the European Union the list of the electronic identification schemes that have been notified. The Commission also publishes amendments to the list within two months from the receipt of any new notification by one of the Member States. On the other hand a Member State may submit to the Commission a request to remove the identification scheme previously notified by the same State.

The eIDAS Regulation also establishes the conditions to be met by the electronic identification schemes to be eligible for notification.

Specifically, an electronic identification scheme is eligible for notification if all of the conditions listed in art. 7 of the eIDAS Regulation are met. In particular, it is worth underlining that the electronic identification means under that scheme has to be issued by the notifying Member State or recognised by that State and that the electronic identification means has to be used to access at least one service provided by a public sector body in the notifying Member State⁸.

scheme, which provides a higher degree of confidence in the claimed or asserted identity of a person than electronic identification means with the assurance level substantial, and is characterised with reference to technical specifications, standards and procedures related thereto, including technical controls, the purpose of which is to prevent misuse or alteration of the identity”.

⁸ According to article 7 of the Regulation, an electronic identification scheme shall be eligible for notification if the following conditions are simultaneously met: “(a) the electronic identification means under the electronic identification scheme are issued: (i) by the notifying Member State; (ii) under a mandate from the notifying Member State; or (iii) independently of the notifying Member State and are recognised by that Member State; (b) the electronic identification means under the electronic identification scheme can be used to access at least one service which is provided by a public sector body and which requires electronic identification in the notifying Member State; (c) the electronic identification scheme and the electronic identification means issued thereunder meet the requirements of at least one of the assurance levels set out in the implementing act referred to in Article 8(3); (d) the notifying Member State ensures that the person identification data uniquely representing the person in question is attributed, in accordance with the technical specifications, standards and procedures for the relevant assurance level set out in the implementing act referred to in Article 8(3), to the natural or legal person referred to in

According to the principle of mutual recognition, the eIDAS Regulation provides that when electronic identification is required to obtain access to a service provided by a public sector body at national level, Member States shall recognise and accept electronic identification means issued in another Member State if that electronic means is issued under an electronic identification scheme included on the list published by the Commission.

Furthermore, two additional conditions relating to the assurance level of the electronic identification means must be simultaneously met: the electronic identification means must have an assurance level equal to or higher than that required by the public sector body to access that service online and the assurance level used by the relevant public sector body in relation to accessing that service online must be “substantial” or “high”.

If the electronic identification means which is issued under an electronic identification scheme included in the list published by the Commission corresponds to the assurance level “low”, the public sector bodies have discretionary power whether to recognize it or not for the purposes of cross-border authentication.

The eIDAS Regulation provides for the liability of the notifying Member State, the party issuing the electronic identification means and the party operating the authentication procedure, for failing to comply with their obligations, but it does not derogate national rules on the definition of damages.

In addition to the need to assure mutual recognition of electronic identification schemes among Member States, the Regulation also aims at granting the technical interoperability of the schemes.

point 1 of Article 3 at the time the electronic identification means under that scheme is issued; (e) the party issuing the electronic identification means under that scheme ensures that the electronic identification means is attributed to the person referred to in point (d) of this Article in accordance with the technical specifications, standards and procedures for the relevant assurance level set out in the implementing act referred to in Article 8(3); (f) the notifying Member State ensures the availability of authentication online, so that any relying party established in the territory of another Member State is able to confirm the person identification data received in electronic form”.

Therefore it is stated that national electronic identification schemes notified in accordance with the Regulation shall be interoperable and a European interoperability framework shall be established.

The approach chosen in the Regulation seems to be technologically neutral: the interoperability framework will not discriminate between any specific national technical solutions for electronic identification within the European Member States and it will refer to minimum technical requirements for interoperability and minimum technical requirements related to the assurance levels already mentioned⁹.

Moreover, aiming at facilitating cooperation among the States, it is provided that at least six months prior to notification of the electronic identification scheme to the Commission, the notifying Member State shall provide other Member States with a description of the scheme. If electronic identification schemes require specific hardware or software to be used by relying parties at the national level, Member States should not impose such requirements on relying parties established outside the Country.

5. The European Commission Recent Implementing Regulations

According to article 12 of the eIDAS Regulation, the national electronic identification schemes notified shall be interoperable.

On the 8th of September 2015 the European Commission adopted two implementing acts to set uniform conditions for the implementation of interoperability. The first one is the “European Commission Implementing Regulation 2015/1501 on the interoperability framework pursuant to article 12(8) of European Regulation n. 910/2014 of the European Parliament and of the Council on electronic identification and trust services for electronic

⁹ On the principle of neutrality in relation to the United Nations Commission on International Trade Law instruments see G. FINOCCHIARO, *Il ruolo dell’Uncitral nello sviluppo della disciplina sul commercio elettronico*, cit., p. 64 ss.; M. RATTI, *La Convenzione sull’uso delle comunicazioni elettroniche: le principali disposizioni*, in G. Finocchiaro - F. Delfini (edited by), *Diritto dell’Informatica*, Utet, Torino, 2014, p. 71.

transactions in the internal market” (hereinafter the “Regulation on Interoperability Framework”)¹⁰.

The Regulation on Interoperability Framework lays down the technical and operational requirements of the interoperability framework in order to ensure the interoperability of the electronic identification schemes, which Member States notify to the Commission. Those requirements include the minimum technical requirements related to assurance levels, the minimum technical requirements for interoperability, the minimum set of person identification data uniquely representing a natural or legal person and common operational security standards. Furthermore, the Regulation provides that, where possible, any dispute concerning the interoperability framework shall be resolved by the Member States concerned through negotiation.

On the same day of the adoption of the Regulation on Interoperability Framework, the European Commission also adopted the “European Commission Implementing Regulation 2015/1502 on setting out minimum technical specifications and procedures for assurance levels for electronic identification means pursuant to article 8(3) of European Regulation n. 910/2014 of the European Parliament and of the Council on electronic identification and trust services for electronic transactions in the internal market” (hereinafter the “Regulation on Assurance Levels”)¹¹.

The Regulation on Assurance Levels sets out specifications and procedures according to which the assurance levels low, substantial and high for electronic identification means issued under a notified electronic identification scheme shall be determined. The same Regulation also establishes as a general rule that when the electronic identification means issued under a notified electronic identification scheme meet a requirement listed in a higher assurance level, then it shall be presumed to fulfil the equivalent requirement of a lower assurance level.

6. The eIDAS and Electronic Signatures

¹⁰ The Regulation on Interoperability Framework was published in the European Union Official Journal on the 8th of September 2015, L 235/7.

¹¹ The Regulation on Assurance Levels was published in the European Union Official Journal on the 8th of September 2015, L 235/7.

The part of the eIDAS Regulation dealing with electronic signatures does not bring substantial differences compared to the previous legislative European framework.

The principle of non-discrimination of the electronic document and of electronic signatures – according to which a signature should not be denied legal validity only because of its electronic form - is confirmed¹². According to art. 25 (1) “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 requirements for qualified electronic signatures”¹³.

Three kinds of signature are defined by the Regulation: the electronic signature, the advanced electronic signature and the qualified signature¹⁴.

¹² The non-discrimination principle and the principle of technological neutrality (which has already been mentioned in this work) have been firstly adopted by the Uncitral in the Model law on electronic commerce of 1996, in the Model law on electronic signatures of 2001 and in the Convention on the use of electronic communications in international contracts of 2005. These principles are deeply analysed in H. D. GABRIEL, *The United Nations Convention on the Use of Electronic Communications in International Contracts: an Overview and Analysis, Uniform Law Review/Revue de droit uniforme*, 2006, 11:2, p. 288. On the matter, see also E. A. CAPRIOLI - R. SORIEUL, *Le commerce international électronique: vers l'émergence de règles juridiques transnationales*, in *Journal du droit international*, 1991, p. 323-393.

¹³ Regarding the legal effects of electronic signatures, article 25 of the Regulation also establishes that “a qualified electronic signature shall have the equivalent legal effect of a handwritten signature. 3. A qualified electronic signature based on a qualified certificate issued in one Member State shall be recognised as a qualified electronic signature in all other Member States”.

¹⁴ For an analyses of the electronic signatures in the Italian scenario, see G. FINOCCHIARO, *La metafora e il diritto nella normativa sulla cosiddetta “firma grafometrica”*, in *Diritto dell'informazione e dell'informatica*, 2013, 1, pp. 1-16 and, of the same author, *Tecniche di imputazione della volontà negoziale: le firme elettroniche e la firma digitale*, in *I contratti informatici*, Clarizia, in *Trattato dei contratti*, Rescigno - Gabrielli, Utet, Torino, 2007. On the concept of legal signature and on the dematerialization processes regarding electronic signatures see E. A. CAPRIOLI, *Signature électronique et dématérialisation: droit et pratiques*, Lexis Nexis, Paris, 2014; J. E. A. R. DAHIYAT, *The Legal Recognition of Electronic Signatures in Jordan: some Remarks on the Electronic Transactions Law*, in

The definition of electronic signature is totally neutral from a technological point of view. According to art. 3 of the eIDAS Regulation, “electronic signature” means data in electronic form which is attached to or logically associated with other data in electronic form and which is used by the signatory to sign.

The definition of advanced electronic signature is also neutral from a technological point of view, as the Regulation establishes that the advanced electronic signature is an electronic signature that meets four different requirements. According to art. 26 of the Regulation, the advanced electronic signature shall be uniquely linked to the signatory, capable of identifying the signatory, created using electronic signature creation data that the signatory can use under their sole control and linked to the data signed therewith in such a way that any subsequent change in the data is detectable¹⁵.

The third kind of signature provided for is the qualified electronic signature, which is an advanced electronic signature created by a qualified electronic signature creation device and which is based on a qualified certificate for electronic signatures.

Taking into consideration the legal value of the signature, art. 25(1) of the eIDAS Regulation provides that qualified electronic signatures shall have the equivalent legal effect of a handwritten signature.

Also, in terms of mutual recognition of electronic signatures among Member States, it is established according to art. 25(3) of the eIDAS Regulation that a qualified electronic signature based on a qualified certificate issued in one Member State shall be recognised as a qualified electronic signature in all other Member States.

Arab Law Quarterly, 25:3, 2011, p. 297-309; J. FORDER, *The Inadequate Legislative Response to e-Signatures*, in *Computer Law & Security Review*, 26:4, 2010, p. 418-426;

¹⁵ Article 26 of the Regulation precisely establishes that an advanced electronic signature shall meet the following requirements: “(a) it is uniquely linked to the signatory; (b) it is capable of identifying the signatory; (c) it is created using electronic signature creation data that the signatory can, with a high level of confidence, use under his sole control; and (d) it is linked to the data signed therewith in such a way that any subsequent change in the data is detectable”.

The eIDAS Regulation also introduces the electronic seal, defined as data in electronic form attached to or logically associated with other data in electronic form to ensure the latter's origin and integrity¹⁶. It is an instrument that can be used to guarantee the integrity of the document to which it is associated. Like the electronic signature, the electronic seal can be simple, advanced or qualified. From a first analysis, the electronic seal seems to represent the signature of the juridical person, but its nature of signature will have to be confirmed by each European Member State's legislation. The principle of technological neutrality also applies to the electronic seal. Art. 35(1) of the eIDAS Regulation provides that an electronic seal 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 requirements for qualified electronic seals¹⁷.

If the electronic seal is qualified, it enjoys the presumption of data integrity and of correctness of the origin of that data to which the qualified electronic seal is linked. Furthermore, a qualified electronic seal based on a qualified certificate issued in one Member State shall be recognised as a qualified electronic seal in all other Member States.

¹⁶ On the electronic seal, see G. FINOCCHIARO, *Una prima lettura del reg. UE n. 910/2014 (c.d. eIDAS): identificazione on line, firme elettroniche e servizi fiduciari*, in *Le nuove leggi civili commentate*, 2015, n. 3, p. 426. For an analysis of the existing differences between electronic signatures and electronic seals, see D. GOBERT, *Le règlement européen du 23 juillet 2014 sur l'identification électronique et les services de confiance (eIDAS): analyse approfondie*, cit., p. 40.

¹⁷ Article 35 of the Regulation ensures legal effects to electronic seals: "1. An electronic seal 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 requirements for qualified electronic seals. 2. A qualified electronic seal shall enjoy the presumption of integrity of the data and of correctness of the origin of that data to which the qualified electronic seal is link3. A qualified electronic seal based on a qualified certificate issued in one Member State shall be recognised as a qualified electronic seal in all other Member States".

7. The eIDAS and Trust Services

The last part of the Regulation establishes the rules on so-called “trust services”.

The definition of a trust service is very broad and includes many of the electronic services offered by the market. According to the Regulation, a trust service is an electronic service, normally provided for remuneration, which consists of the creation, verification, and validation of electronic signatures, electronic seals or electronic time stamps, electronic registered delivery services and certificates related to those services. It can also consist of the creation, verification and validation of certificates for website authentication or the preservation of electronic signatures, seals or certificates related to those services¹⁸.

The European legislator has provided for a distinction between qualified and non-qualified trust services as well as for trust services. Qualified trust services are only those which meet the requirement indicated in the Regulation, ensuring a certain level of security. The supervisory body shall verify whether trust service providers comply with the requirements laid down in the Regulation and in particular with the requirements for qualified trust service providers and for the qualified trust services they provide. The trust service provider shall then be registered on a trust list, as already happens for certification service providers issuing qualified certificates.

After the qualified status has been indicated in the trust list, qualified trust service providers may use the European trust mark to indicate in a simple, recognisable and clear manner the qualified trust services they provide.

¹⁸ Trust services are defined in article 3, paragraph 1, n. 16 of the Regulation as electronic service normally provided for remuneration which consists of: “(a) the creation, verification, and validation of electronic signatures, electronic seals or electronic time stamps, electronic registered delivery services and certificates related to those services, or (b) the creation, verification and validation of certificates for website authentication; or (c) the preservation of electronic signatures, seals or certificates related to those services”.

Qualified and non-qualified trust service providers shall take appropriate technical and organisational measures to manage the risks posed to the security of the trust services they provide. In particular, measures shall be taken to prevent and minimise the impact of security incidents and inform stakeholders of the adverse effects of such incidents.

It is emphasised that qualified and non-qualified trust service providers shall notify the supervisory body, the competent national body for information security or the data protection authority of any breach of security or loss of integrity that has a significant impact on the trust service provided or on the personal data stored therein. If a breach of security or loss of integrity concerns two or more Member States, the notified supervisory body shall inform the supervisory bodies in other Member States concerned and ENISA (the European Union Agency for Network and Information Security).

8. Other Innovations

It is also worth mentioning that the eIDAS Regulation introduces the so-called “electronic time stamp”, the “registered delivery service” and the “certificate for website authentication”.

The electronic time stamp is a set of data in electronic form, which binds other data in electronic form to a particular time, providing evidence that the latter data existed at that time. The electronic time stamp does not attest that the electronic document was created at a precise moment, but it proves that the document already existed at that time. The time stamp can be “simple” or “qualified”¹⁹.

¹⁹ Article 41 of the Regulation, on the legal effect of electronic time stamps, establishes that an electronic time stamp shall not be denied legal effect (or admissibility as evidence in legal proceedings) just because it is in an electronic form or because it does not meet the requirements of the qualified electronic time stamp. If the electronic time stamp is qualified, it enjoys the presumption of the accuracy of the date and the time it indicates and the integrity of the data to which the date and time are bound. Furthermore, if a qualified electronic time stamp is issued in one of the Member States, it shall also be recognised as a qualified electronic time stamp in all Member States.

The registered delivery service is a service that makes it possible to transmit data between third parties by electronic means and provides evidence relating to the handling of the transmitted data, including proof of sending and receiving the data, and that protects transmitted data against the risk of loss, theft, damage or any unauthorised alterations²⁰. In Italy, the most widespread registered delivery service is the so-called PEC (posta elettronica certificata).

Finally, the certificate for website authentication is an attestation that makes it possible to authenticate a website and links the website to the natural or legal person to whom the certificate is issued²¹. Just like the electronic time stamp, the certificate for website authentication can be simple or qualified. The goal pursued by the certificate for website authentication is to link the website to a person granting different levels of reliability.

9. Final Considerations

The eIDAS Regulation should be framed among those pieces of law which seek to enhance trust in electronic transactions by providing a common foundation for secure electronic interaction between citizens, businesses and public authorities, thereby increasing the effectiveness of online services, electronic business and electronic commerce in the European Union²².

²⁰ According to article 43 of the Regulation, “1. data sent and received using an electronic registered delivery service 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 requirements of the qualified electronic registered delivery service. 2. Data sent and received using a qualified electronic registered delivery service shall enjoy the presumption of the integrity of the data, the sending of that data by the identified sender, its receipt by the identified addressee and the accuracy of the date and time of sending and receipt indicated by the qualified electronic registered delivery service”.

²¹ Article 45 of the Regulation, on the requirements for qualified certificates for website authentication, establishes that qualified certificates for website authentication shall meet the requirements laid down in Annex IV of the Regulation.

²² On the role to be played by the Regulation in enhancing trust in electronic services see also the *Commission staff working paper impact assessment, accompanying the proposal*

It is worth highlighting that, differently from the previous acts adopted by the European Union, the legal instrument chosen to regulate the subject is a Regulation. As already mentioned, a European Regulation is a binding legislative act, which must be applied in its entirety across the European Union and does not require any enacting acts by the Member States. Therefore all of the European Members are now bound by the same rules on electronic identification and trust services for electronic transactions, ensuring full juridical and technological interoperability.

The eIDAS aims to remove existing barriers to the cross-border use of electronic identification means among European Member States for authentication, but it does not aim to intervene with regard to electronic identity management systems and related infrastructures established inside the European Member States. The Regulation ensures that with secure electronic identification and authentication it will be possible to access cross-border online services offered by Member States. In fact, it establishes a general principle of mutual recognition of key enablers across borders, such as electronic identification, electronic documents, electronic signatures and electronic delivery services. Nevertheless, it should also be remembered that the eIDAS Regulation only applies to public services.

This Regulation creates appropriate conditions to enhance legal interoperability among Member States and improve trust in electronic transactions and markets. It does not, of course, address the issue of the mutual recognition of on line identity outside Europe, but it does create a uniform internal legislative infrastructure that offers hope for further future developments in relation to the subject of mutual recognition at an international level.

for a Regulation of the European Parliament and of the Council on electronic identification and trust services for electronic transactions in the internal market, Bruxelles, 4th of July 2012, swd (2012) 135 final, available at the address <http://eur-lex.europa.eu/legal-content/IT/TXT/?uri=COM:2012:0238:FIN>, accessed on the 10th of December 2016. On the relevance of trust in the electronic communication and electronic commerce field see also M. ANTOINE - D. GOBERT - A. SALACÜN, *Le développement du commerce électronique: les nouveaux métiers de la confiance*, in *Droit des technologies de l'information, regards prospectifs*, 16, Bruxelles, 1999, pp. 3-32.