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Committee on Civil Liberties, Justice and Home Affairs

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09.7.2013

OPINION

of the Committee on Civil Liberties, Justice and Home Affairs

for the Committee on Industry, Research and Energy

on the proposal for a regulation of the European Parliament and of the Council
on electronic identification and trust services for electronic transactions in the
internal market

(COM(2012)0238 – C7-0133/2012 – 2012/0146(COD))

Rapporteur: Jens Rohde

PA_Legam

SHORT JUSTIFICATION

This proposal for a regulation aims at establishing a mutual recognition of notified electronic identifications schemes as well as electronic trust services in order to develop the internal digital market. The proposal thereby expands the legal framework of the existing directive 1999/93/EC on electronic signatures.

The rapporteur welcomes the Commission proposal that seeks to deal with the problems within the existing directive, not only through the reinforcement of the legal framework, but also through an introduction of an increasing legal certainty. The rapporteur thus agrees with the choice of a regulation rather than a directive.

In the view of the rapporteur the regulation is a much needed first step in the development of a well-functioning internal digital market that will make it much easier for companies and consumers to deal with electronic cross-border transactions and increase trust in electronic transactions.

The rapporteur supports the Commission's efforts to combine the largely differentiated use of electronic identification schemes in the various Member States with a strong mutual recognition mechanism.

However, the regulation fails to provide a model that can ensure an adequate level of security building on existing experience.

The rapporteur therefore suggests introducing and defining the security levels within the regulation in order to settle any ambiguities and ensure that the regulation works in practice. As a result a number of delegated and implementing acts have been deleted accordingly.

Another security issue is within the regulation of trust services, where the rapporteur holds the view that it should be clear whether trust services that appear on the trusted list have been approved or still await confirmation of conformity.

In regard to both the electronic identification scheme and the trust services, the amendments proposed aim at cutting unnecessary red tape within the supervision mechanisms to ease the burden on both Member States and companies, and ensure a clear and concise coordination mechanism.

Lastly the amendments address the issue of liability, which is defined too widely within the Commission proposal, and could create unintended obstacles in the further development of the digital field.

AMENDMENTS

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on Industry, Research and Energy, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a regulation Recital 20

Text proposed by the Commission

(20) Because of the pace of technological change, this Regulation should adopt an approach which is open to innovations.

Amendment

(20) Because of the pace of technological change, this Regulation should adopt an approach which is open to innovations ***but which focuses at all times primarily on consumers and their interests.***

Amendment 2

Proposal for a regulation Recital 23

Text proposed by the Commission

(23) In line with the obligations under the UN Convention on the Rights of Persons with Disabilities that has entered into force in the EU, persons with disabilities should be able to use trust services and end user products used in the provision of those services on equal bases with other consumers.

Amendment

(23) In line with the obligations under the UN Convention on the Rights of Persons with Disabilities that has entered into force in the EU ***and in line the Commission proposal on the accessibility of public sector bodies' websites¹***, persons with disabilities should be able to use trust services and end user products used in the provision of those services on equal bases with other consumers.

¹Proposal for a Directive of the European Parliament and of the Council on the

accessibility of public sector bodies' websites. (COM(2012)0721).

Amendment 3

Proposal for a regulation Recital 24 a (new)

Text proposed by the Commission

Amendment

(24a) Electronic identification schemes should comply with Directive 95/46 of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data¹, which governs the processing of personal data carried out in the Member States pursuant to this Regulation and under the supervision of the Member States' competent authorities, in particular the independent public authorities designated by the Member States.

¹ *Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281 , 23.11.1995, p. 31).*

Amendment 4

Proposal for a regulation Recital 25

Text proposed by the Commission

Amendment

(25) Supervisory bodies should cooperate and exchange information with data protection authorities to ensure proper implementation of data protection legislation by service providers. The

(25) Supervisory bodies *in the Member States* should cooperate and exchange information with data protection authorities to ensure proper implementation of data protection legislation by service providers.

exchange of information should in particular cover security incidents and personal data breaches.

The exchange of information should in particular cover security incidents and personal data breaches.

Justification

The rapporteur is of the view that Member States must cooperate if harmonisation within the digital field is to be achieved.

Amendment 5
Proposal for a regulation
Recital 30

Text proposed by the Commission

(30) To enable the Commission and the Member States to assess the effectiveness of the breach notification mechanism introduced by this Regulation, supervisory bodies should be requested to provide summary information to the **Commission and to** European Network and Information Security Agency (ENISA).

Amendment

(30) To enable the Commission and the Member States to assess the effectiveness of the breach notification mechanism introduced by this Regulation, supervisory bodies should be requested to provide summary information to the European Network and Information Security Agency (ENISA).

Justification

The rapporteur only finds it necessary to report to a single point of contact.

Amendment 6
Proposal for a regulation
Recital 49

Text proposed by the Commission

(49) In order to complement certain detailed technical aspects of this Regulation in a flexible and rapid manner, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of interoperability of electronic identification; security measures required of trust service providers; recognised independent bodies responsible for auditing the service

Amendment

deleted

providers; trusted lists; requirements related to the security levels of electronic signatures; requirements of qualified certificates for electronic signatures their validation and their preservation; the bodies responsible for the certification of qualified electronic signature creation devices; and the requirements related to the security levels of electronic seals and to qualified certificates for electronic seals; the interoperability between delivery services. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.

Justification

The rapporteur finds that this needs to be done before the Regulation enters into force and should not be left to delegated acts c.f. the following amendment. This recital is thus unnecessary.

Amendment 7

Proposal for a regulation Article 1 – paragraph 2

Text proposed by the Commission

2. This Regulation lays down the conditions under which Member States shall recognise and accept electronic identification means of natural **and** legal persons falling under a notified electronic identification scheme of another Member State.

Amendment

2. This Regulation lays down the conditions under which Member States shall recognise and accept electronic identification means of **any entity**, natural **or** legal persons falling under a notified electronic identification scheme of another Member State.

Amendment 8

Proposal for a regulation Article 1 – paragraph 3

Text proposed by the Commission

3. This Regulation establishes a legal framework for electronic signatures, electronic seals, electronic time stamps, electronic documents, electronic delivery services and website authentication.

Amendment

3. This Regulation establishes a legal framework for electronic signatures, electronic seals, electronic ***validation and verification, electronic*** time stamps, electronic documents, electronic delivery services and website authentication.

Amendment 9
Proposal for a regulation
Article 2 – paragraph 1

Text proposed by the Commission

1. This Regulation applies to electronic identification provided by, on behalf ***or*** under the responsibility of Member States ***and to trust service providers established in the Union.***

Amendment

1. This Regulation applies to electronic identification provided by, on behalf ***of,*** under the responsibility ***or supervision*** of Member States.

Justification

The rapporteur is of the opinion that it should be possible for Member States to outsource eID to third parties that are only supervised by the Member States.

Amendment 10
Proposal for a regulation
Article 2 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. This Regulation applies to trust service providers established in the Union.

Justification

The rapporteur would like to specify that the Regulation addresses two different issues.

Amendment 11

Proposal for a regulation
Article 3 – paragraph 1 – point 1

Text proposed by the Commission

(1) ‘electronic identification’ means the process of using person identification data in electronic form unambiguously representing a natural or legal person;

Amendment

(1) ‘electronic identification’ means the process of using person identification data in electronic form unambiguously representing *an entity*, a natural or legal person *or a pseudonym thereof*;

Amendment 12

Proposal for a regulation

Article 3 – paragraph 1 – point 2

Text proposed by the Commission

(2) ‘electronic identification means’ means a material or immaterial unit containing data as referred to in point 1 of this Article, and which is used to access services *online* as referred to in Article 5;

Amendment

(2) ‘electronic identification means’ means a material or immaterial unit containing data as referred to in point 1 of this Article, and which is used to access *electronic* services as referred to in Article 5;

Amendment 13

Proposal for a regulation

Article 3 – paragraph 1 – point 10

Text proposed by the Commission

(10) ‘certificate’ means an electronic attestation which links electronic signature or seal validation data of a natural or a legal person respectively to the certificate and confirms those data of that person;

Amendment

(10) ‘certificate’ means an electronic attestation which links electronic signature or seal validation data of *an entity*, a natural or a legal person respectively to the certificate and confirms those data of that person;

Amendment 14

Proposal for a regulation

Article 3 – paragraph 1 – point 12

Text proposed by the Commission

(12) ‘trust service’ means any electronic service consisting *in* the creation, verification, validation, handling and preservation of electronic signatures, electronic seals, electronic time stamps, electronic documents, electronic delivery services, website authentication, and electronic certificates, including certificates for electronic signature and for electronic seals;

Amendment

(12) ‘trust service’ means any electronic service consisting, *among others, of* the creation, verification, validation, handling and preservation of electronic signatures, electronic seals, electronic time stamps, electronic documents, electronic delivery services, website authentication, and electronic certificates, including certificates for electronic signature and for electronic seals;

Amendment 15

**Proposal for a regulation
Article 3 – paragraph 1 – point 14**

Text proposed by the Commission

(14) ‘trust service provider’ means a natural or a legal person who provides one or more trust services;

Amendment

(14) ‘trust service provider’ means *an entity*, a natural or a legal person who provides one or more trust services;

Amendment 16

**Proposal for a regulation
Article 3 – paragraph 1 – point 19**

Text proposed by the Commission

(19) ‘creator of a seal’ means a legal person who creates an electronic seal;

Amendment

(19) ‘creator of a seal’ means *an entity or a legal or natural* person who creates an electronic seal;

Amendment 17

**Proposal for a regulation
Article 3 – paragraph 1 – point 31 a (new)**

Text proposed by the Commission

Amendment

(31a) ‘personal data breach’ means the accidental or unlawful destruction, loss,

alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed;

Amendment 18
Proposal for a regulation
Article 6 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) the electronic identification means are issued by, on behalf of *or* under the responsibility of the notifying Member State;

(a) the electronic identification means are issued by, on behalf of, under the responsibility of, *or supervised by* the notifying Member State;

Justification

In the view of the rapporteur it should be possible for Member States to outsource eID to third parties that are only supervised by the Member States.

Amendment 19
Proposal for a regulation
Article 6 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) the notifying Member State ensures that the person identification data are attributed unambiguously to the natural or legal person referred to in Article 3 point 1;

(c) the notifying Member State ensures that the person identification data are attributed unambiguously to the *entity*, natural or legal person referred to in Article 3, point 1;

Amendment 20
Proposal for a regulation
Article 6 – paragraph 1 – point e – introductory part

Text proposed by the Commission

Amendment

(e) *the notifying Member State* takes liability for:

(e) *unless the identity provider can establish that he has not acted negligently, the identity provider* takes liability for:

Justification

The rapporteur is of the view that it should be possible for Member States to outsource eID to third parties to ensure competition.

Amendment 21

Proposal for a regulation

Article 6 – paragraph 1 – point e a (new)

Text proposed by the Commission

Amendment

(ea) the notifying Member State takes responsibility for the establishment of a supervisory scheme for the identity provider and for supervision and reporting in accordance with this Regulation.

Justification

The rapporteur recognises that Member States need to have strong control with their identity providers to ensure the mutual trust between Member States.

Amendment 22

Proposal for a regulation

Article 7 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) *a* description of the notified electronic identification scheme;

(a) description of the notified electronic identification scheme, ***including the level of security;***

Justification

The rapporteur finds it necessary to incorporate the security level into the interoperability model to ensure mutual trust.

Amendment 23

Proposal for a regulation Article 7 a (new)

Text proposed by the Commission

Amendment

Article 7a

Protection and processing of personal data

- 1. Processing of personal data by electronic identification schemes shall be carried out in accordance with Directive 95/46/EC.***
- 2. Such processing shall be fair and lawful and strictly limited to the minimum data needed to issue and maintain a certificate or to provide an electronic identification service.***
- 3. Personal data shall be kept in a form which permits the identification of data subjects for no longer than necessary for the purpose for which the personal data are processed.***
- 4. Electronic identification schemes shall ensure the confidentiality and integrity of data relating to a person to whom the trust service is provided.***
- 5. Without prejudice to the legal effect given to pseudonyms under national law, Member States shall not prevent the indication in electronic identification certificates of a pseudonym instead of the signatory's name.***

Amendment 24

Proposal for a regulation Article 8 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall cooperate in order

1. Member States shall cooperate in order

to ensure the interoperability of electronic identification means falling under a notified scheme and to enhance their security.

to ensure the interoperability *and technological neutrality* of electronic identification means falling under a notified scheme and to enhance their security.

Justification

The electronic identification requirement applies regardless of the means employed and should be neutral in terms of present and future identification technologies.

Amendment 25

Proposal for a regulation Article 8 – paragraph 2

Text proposed by the Commission

2. The Commission shall, by means of implementing acts, establish the ***necessary modalities*** to facilitate the cooperation between the Member States referred to in paragraph 1 with a view to fostering a high level of trust and security appropriate to the degree of risk. Those implementing acts shall concern, in particular, the exchange of information, experiences and good practice on electronic identification schemes, the peer review of notified electronic identification schemes and the examination of relevant developments arising in the electronic identification sector by the competent authorities of the Member States. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2).

Amendment

2. The Commission shall, by means of implementing acts, establish the ***interoperability framework*** to facilitate the cooperation between the Member States referred to in paragraph 1 with a view to fostering a high level of trust and security appropriate to the degree of risk. Those implementing acts shall concern, in particular, the exchange of information, experiences and good practice on electronic identification schemes, the peer review of notified electronic identification schemes and the examination of relevant developments arising in the electronic identification sector by the competent authorities of the Member States. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2).

Amendment 26

Proposal for a regulation Article 8 – paragraph 3

Text proposed by the Commission

Amendment

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 38 concerning the facilitation of cross border interoperability of electronic identification means by setting of minimum technical requirements.

deleted

Amendment 27

Proposal for a regulation Article 8 a (new)

Text proposed by the Commission

Amendment

Article 8a

Security requirements applicable to electronic identification schemes

1. Electronic identification schemes shall take appropriate technical and organisational measures to manage the risks posed to the security of the electronic identification means they provide. Having regard to the state of the art, those measures shall ensure that the level of security is appropriate to the degree of risk. In particular, measures shall be taken to prevent and minimise the impact of security incidents and inform stakeholders of the adverse effects of any incidents.

Electronic identification schemes shall submit the report of a security audit carried out by a recognised independent body to the supervisory body after an incident to confirm that appropriate security measures have been taken.

2. Electronic identification schemes shall, without undue delay and where feasible not later than 24 hours after having become aware of it, notify the competent supervisory body, the competent national

body for information security and other relevant third parties, such as data protection authorities, of any personal data breach that has a significant impact on the electronic identification provided and on the personal data retained therein.

Where appropriate, in particular if a personal data breach concerns two or more Member States, the competent supervisory body shall inform the supervisory bodies in the other Member States.

The competent supervisory body may also inform the public or require the electronic identification scheme to do so, where it determines that disclosure of the breach is in the public interest.

3. Once a year the supervisory body of each Member State shall provide to ENISA a summary of breach notifications received from electronic identification schemes.

4. In order to implement paragraphs 1 and 2, the competent supervisory body shall have the power to issue binding instructions to electronic identification providers.

5. The Commission shall be empowered to adopt delegated acts, in accordance with Article 38, concerning the further specification of the measures referred to in paragraph 1.

6. The Commission may, by means of implementing acts, define the circumstances, formats and procedures, including deadlines, applicable for the purpose of paragraphs 1 to 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2).

Amendment 28

Proposal for a regulation Article 8 b (new)

Text proposed by the Commission

Amendment

Article 8b

***Right of information and access of users
electronic identification schemes***

Electronic identification schemes shall provide data subjects with information regarding the collection, communication and retention of their data, as well as the means to access their data pursuant to Article 10 of Directive 95/46/CE.

Amendment 29

Proposal for a regulation Article 9 – paragraph 1

Text proposed by the Commission

Amendment

1. A trust service provider shall be liable for any ***direct*** damage caused to ***any*** natural or legal person due to ***failure to comply*** with the obligations laid down in Article 15(1), unless the trust service provider can prove that he has not acted negligently.

1. A trust service provider shall be liable ***under national law*** for any damage caused to ***an entity***, natural or legal person due to ***non-compliance*** with the obligations laid down in Article 15(1), unless the trust service provider can prove that he has not acted negligently.

Justification

The rapporteur finds that the liability is too far reaching.

Amendment 30

Proposal for a regulation Article 11 – paragraph 1

Text proposed by the Commission

Amendment

1. Trust service providers and supervisory bodies shall ensure fair and lawful processing in accordance with Directive 95/46/EC ***when processing personal data.***

1. Trust service providers and supervisory bodies shall ensure fair and lawful ***collecting and processing of personal data*** in accordance with Directive 95/46/EC.

Amendment 31
Proposal for a regulation
Article 11 – paragraph 2

Text proposed by the Commission

2. Trust service providers shall process personal data according to Directive 95/46/EC. Such processing shall be strictly limited to the minimum data needed to issue and maintain a certificate or to provide a trust service.

Amendment

2. Trust service providers **and supervisory bodies** shall **collect and** process personal data according to Directive 95/46/EC. Such **collecting and** processing shall be strictly limited to the minimum **personal** data needed to issue and maintain a certificate or to provide a trust service.

Amendment 32
Proposal for a regulation
Article 11 – paragraph 3

Text proposed by the Commission

3. Trust service providers shall **guarantee** the confidentiality and integrity of data related to a person to whom the trust service is provided.

Amendment

3. Trust service providers shall **ensure** the confidentiality and integrity of data related to a person to whom the trust service is provided.

Justification

In the view of the rapporteur the trust service provider can not guarantee that the integrity of information provided by the user - they can only safeguard the information given.

Amendment 33
Proposal for a regulation
Article 11 a (new)

Text proposed by the Commission

Amendment

Article 11a

Right of information and access of users of trust services

Trust services shall provide data subjects with information regarding the collection, communication and retention of their data, as well as the means to access their data pursuant to Article 10 of Directive 95/46/CE.

Amendment 34

Proposal for a regulation Article 12

Text proposed by the Commission

Trust services provided and end user products used in the provision of those services shall be made accessible for persons with disabilities *whenever possible*.

Amendment

Trust services provided and end user products used in the provision of those services shall be made accessible for persons with disabilities.

Amendment 35

Proposal for a regulation Article 13 a (new)

Text proposed by the Commission

Amendment

Article 13a

Cooperation with data protection authorities

Member States shall provide that the supervisory bodies referred to in Article 13 shall cooperate with Member States' data protection authorities designated pursuant to Article 28 of Directive 95/46/EC in order to enable them to ensure compliance with national data protection rules adopted pursuant to Directive 95/46/EC.

Amendment 36

Proposal for a regulation Article 13 – paragraph 5

Text proposed by the Commission

5. The Commission shall be empowered to adopt *delegated* acts, in accordance with

Amendment

5. The Commission shall be empowered to adopt *implementing* acts, in accordance

Article 38, concerning the definition of procedures applicable to the tasks referred to in paragraph 2.

with Article 39, concerning the definition of procedures applicable to the tasks referred to in paragraph 2.

Justification

The rapporteur finds it necessary to change Article 13(5) to implementing acts, to ensure clarity.

Amendment 37
Proposal for a regulation
Article 15 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Without prejudice to Article 16(1), any trust service provider **may** submit the report of a security audit carried out by a recognised independent body to the supervisory body to confirm that appropriate security measures have been taken.

Amendment

Without prejudice to Article 16(1), any trust service provider **shall** submit the report of a security audit carried out by a recognised independent body to the supervisory body **after an incident** to confirm that appropriate security measures have been taken.

Justification

The rapporteur is of the view that a trust service provider should be obliged to carry out an audit after an incident in order to avoid the same mistake in the future.

Amendment 38
Proposal for a regulation
Article 15 – paragraph 2 – subparagraph 3

Text proposed by the Commission

The supervisory body **concerned** may also inform the public or require the trust service provider to do so, where it determines that disclosure of the breach is in the public interest.

Amendment

The **competent** supervisory body may also inform the public or require the trust service provider to do so, where it determines that disclosure of the breach is in the public interest.

Justification

The amendment is made in consistency with the change to article 15, paragraph 1.

Amendment 39
Proposal for a regulation
Article 15 – paragraph 3

Text proposed by the Commission

3. The supervisory body shall provide *to* ENISA *and to the Commission* once a year with a summary of breach notifications received from trust service providers.

Amendment

3. The supervisory body *of each Member State* shall provide ENISA once a year with a summary of breach notifications received from trust service providers.

Justification

The rapporteur finds it unnecessary for supervisory boards to report to more than a single point.

Amendment 40
Proposal for a regulation
Article 16 – paragraph 1

Text proposed by the Commission

1. Qualified trust service providers shall be audited by a recognised independent body *once a* year to confirm that they and the qualified trust services provided by them fulfil the requirements set out in this Regulation, and shall submit the resulting security audit report to the supervisory body.

Amendment

1. Qualified trust service providers shall, *at their own expense*, be audited by a recognised independent body *every second* year to confirm that they and the qualified trust services provided by them fulfil the requirements set out in this Regulation, and shall submit the resulting security audit report to the *competent* supervisory body.

Justification

The rapporteur finds no need to have audits every year as long as the qualified trust service provider has previously proven to live up to the regulation as it is an extensive and costly measure.

Amendment 41
Proposal for a regulation
Article 17 – paragraph 2

Text proposed by the Commission

2. Once the relevant documents are submitted to the supervisory body according to paragraph 1, the qualified

Amendment

2. Once the relevant documents are submitted to the supervisory body according to paragraph 1, the qualified

service providers shall be included in the trusted lists referred to in Article 18 indicating that the notification has been submitted.

service providers shall be included in the trusted lists referred to in Article 18 indicating that the notification has been submitted ***and are awaiting confirmation of conformity by the supervisory body.***

Justification

It is in the view of the rapporteur that it needs to be clear whether the trust services has been approved or still awaits conformation of conformity for security reasons.

Amendment 42
Proposal for a regulation
Article 17 – paragraph 3 – subparagraph 2

Text proposed by the Commission

The supervisory body shall indicate the qualified status of the qualified service providers and the qualified trust services they provide in the trusted lists after the positive conclusion of the verification, not later than ***one month*** after the notification has been done in accordance with paragraph 1.

Amendment

The supervisory body shall indicate the qualified status of the qualified service providers and the qualified trust services they provide in the trusted lists after the positive conclusion of the verification, not later than ***30 days*** after the notification has been done in accordance with paragraph 1.

Justification

A month is not a precise timeframe since there can be a difference of more than 3 days.

Amendment 43
Proposal for a regulation
Article 18 – paragraph 3

Text proposed by the Commission

3. Member States shall notify to the Commission, without undue delay, information on the body responsible for establishing, maintaining and publishing national trusted lists, and details of where such lists are published, the certificate used to ***sign*** or seal the trusted lists and any changes thereto.

Amendment

3. Member States shall notify to the Commission, without undue delay, information on the body responsible for establishing, maintaining and publishing national trusted lists, and details of where such lists are published, the certificate ***that is*** used to ***validate the signature*** or seal ***applied to*** the trusted lists and any changes thereto.

Justification

You can not sign with a certificate or a seal you can only validate.

Amendment 44
Proposal for a regulation
Article 18 – paragraph 5

Text proposed by the Commission

Amendment

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 38 concerning the definition of the information referred to in paragraph 1. **deleted**

Justification

In the view of the rapporteur this should be in the competence of the supervisory body not the Commission.

Amendment 45

Proposal for a regulation
Article 19 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

1. When issuing a qualified certificate, a qualified trust service provider shall verify, by appropriate means and in accordance with national law, the identity and, if applicable, any specific attributes of the natural or legal person to whom a qualified certificate is issued.

1. When issuing a qualified certificate, a qualified trust service provider shall verify, by appropriate means and in accordance with national law, the identity and, if applicable, any specific attributes of the **entity**, natural or legal person to whom a qualified certificate is issued.

Amendment 46
Proposal for a regulation
Article 19 – paragraph 2 – point d

Text proposed by the Commission

Amendment

(d) use trustworthy systems and products which are protected against modification and guarantee the technical security and

(d) use trustworthy systems and products which are protected against **unauthorised** modification and guarantee the technical

reliability of the process supported by them;

security and reliability of the process supported by them;

Justification

Systems need to be altered over time in order to keep them up to date, and in the view of the rapporteur this thus needs to be possible.

Amendment 47

Proposal for a regulation

Article 19 – paragraph 2 – point d a (new)

Text proposed by the Commission

Amendment

(da) the compliance referred to in point (b) may without prejudice to national identification schemes allow for the remote issuing of electronic identification through a previously conducted verification of physical appearance;

Justification

In the view of the rapporteur Member States should be allowed to issue electronic identification schemes based of previous verification.

Amendment 48

Proposal for a regulation

Article 19 – paragraph 2 – point i a (new)

Text proposed by the Commission

Amendment

(ia) make publicly available its data protection policy, indicating the data protection authority competent for its supervision.

Amendment 49

Proposal for a regulation

Article 20 – paragraph 4

Text proposed by the Commission

4. If an electronic signature with a security *assurance* level below qualified electronic signature is required, in particular by a Member State for accessing a service online offered by a public sector body on the basis of an appropriate assessment of the risks involved in such a service, all electronic signatures matching at least the same security assurance level shall be recognised and accepted.

Amendment

4. If an electronic signature with a security level below *the defined level for a* qualified electronic signature is required, in particular by a Member State for accessing a service online offered by a public sector body on the basis of an appropriate assessment of the risks involved in such a service, all electronic signatures matching at least the same security assurance level shall be recognised and accepted.

Justification

In the view of the rapporteur the security level should be defined through implementing acts as specified in Articles 7 and 8.

Amendment 50
Proposal for a regulation
Article 20 – paragraph 5

Text proposed by the Commission

5. Member States shall not request for cross-border access to a service online offered by a public sector body an electronic signature at a higher security *assurance* level than qualified electronic signature.

Amendment

5. Member States shall not request for cross-border access to a service online offered by a public sector body an electronic signature at a higher security level than qualified electronic signature.

Justification

The word 'assurance' is unnecessary.

Amendment 51
Proposal for a regulation
Article 20 – paragraph 6

Text proposed by the Commission

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 38 concerning the definition of the different security levels of electronic

Amendment

deleted

signature referred to in paragraph 4.

Justification

In the view of the rapporteur such an important definition should not be left for delegated acts but dealt with within annex I.

Amendment 52
Proposal for a regulation
Article 28 – paragraph 4

Text proposed by the Commission

4. If an electronic seal security **assurance** level below the qualified electronic seal is required, in particular by a Member State for accessing a service online offered by a public sector body on the basis of an appropriate assessment of the risks involved in such a service, all electronic seals matching at a minimum the same security assurance level shall be accepted.

Amendment

4. If an electronic seal security level below the qualified electronic seal is required, in particular by a Member State for accessing a service online offered by a public sector body on the basis of an appropriate assessment of the risks involved in such a service, all electronic seals matching at a minimum the same security assurance level shall be accepted.

Justification

The word assurance is unnecessary and changed to ensure consistency with previous amendments.

Amendment 53
Proposal for a regulation
Article 28 – paragraph 5

Text proposed by the Commission

5. Member States shall not request for accessing a service online offered by a public sector body an electronic seal with higher security **assurance** level than qualified electronic seals.

Amendment

5. Member States shall not request for accessing a service online offered by a public sector body an electronic seal with higher security level than qualified electronic seals.

Justification

The word assurance is unnecessary and changed to ensure consistency with previous amendments.

Amendment 54
Proposal for a regulation
Article 28 – paragraph 6

Text proposed by the Commission

Amendment

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 38 concerning the definition of different security assurance levels of electronic seals referred to in paragraph 4. **deleted**

Justification

The rapporteur is of the view that this need to be settled within the regulation and not left for delegated acts but should be dealt with within annex III instead.

Amendment 55
Proposal for a regulation
Article 28 – paragraph 7

Text proposed by the Commission

Amendment

7. The Commission **may**, by means of implementing acts, establish reference numbers of standards for the security **assurance** levels of electronic seals. Compliance with the security **assurance** level **defined in a delegated act adopted pursuant to paragraph 6** shall be presumed when an electronic seal meets those standards. **Those** implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2). The Commission shall publish those acts in the Official Journal of the European Union.

7. The Commission **shall**, by means of implementing acts, establish reference numbers of standards for the **defined** security levels of electronic seals. Compliance with the **defined** security level **in Annex III** shall be presumed when an electronic seal meets those standards. **The** implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2). The Commission shall publish those acts in the Official Journal of the European Union.

Justification

The paragraph is changed according to deletion of paragraph 6.

Amendment 56
Proposal for a regulation
Article 38

Text proposed by the Commission

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Articles **8(3)**, **13(5)**, 15(5), 16(5), **18(5)**, **20(6)**, 21(4), 23(3), 25(2), 27(2), **28(6)**, 29(4), 30(2), 31, 35(3) and 37(3) shall be conferred on the Commission for an indeterminate period of time from the entry into force of this Regulation.

3. The delegation of power referred to in Articles **8(3)**, **13(5)**, 15(5), 16(5), **18(5)**, **20(6)**, 21(4), 23(3), 25(2), 27(2), **28(6)**, 28(6), 29(4), 30(2), 31, 35(3) and 37(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Articles **8(3)**, **13(5)**, 15(5), , 16(5), **18(5)**, **20(6)**, 21(4), 23(3), 25(2), 27(2), **28(6)**, 29(4), 30(2), 31, 35(3) and 37(3) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have

Amendment

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Articles **8a(5)**, 15(5), 16(5), 21(4), 23(3), 25(2), 27(2), 29(4), 30(2), 31, 35(3) and 37(3) shall be conferred on the Commission for an indeterminate period of time from the entry into force of this Regulation.

3. The delegation of power referred to in Articles **8a(5)**, 15(5), 16(5), 21(4), 23(3), 25(2), 27(2), 29(4), 30(2), 31, 35(3) and 37(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Articles **8a(5)**, 15(5), 16(5), 21(4), 23(3), 25(2), 27(2), 29(4), 30(2), 31, 35(3) and 37(3) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the

both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Amendment 57

Proposal for a regulation

Annex I – paragraph 1 – point b – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

Sensitive data within the meaning of Article 8 of Directive 95/46/CE shall not be processed.

Amendment 58

Proposal for a regulation

Annex III – paragraph 1 – point b – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

Sensitive data within the meaning of Article 8 of Directive 95/46/CE shall not be processed.

Amendment 59

Proposal for a regulation

Annex IV – paragraph 1 – point b – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

Sensitive data within the meaning of Article 8 of Directive 95/46/CE shall not be processed.

PROCEDURE

Title	Electronic identification and trust services for electronic transactions in the internal market
References	COM(2012)0238 – C7-0133/2012 – 2012/0146(COD)
Committee responsible Date announced in plenary	ITRE 14.6.2012
Opinion by Date announced in plenary	LIBE 14.6.2012
Rapporteur Date appointed	Jens Rohde 20.9.2012
Discussed in committee	25.4.2013 29.5.2013
Date adopted	8.7.2013
Result of final vote	+: 34 -: 4 0: 0
Members present for the final vote	Jan Philipp Albrecht, Edit Bauer, Emine Bozkurt, Salvatore Caronna, Philip Claeys, Carlos Coelho, Agustín Díaz de Mera García Consuegra, Ioan Enciu, Frank Engel, Cornelia Ernst, Tanja Fajon, Hélène Flautre, Nathalie Griesbeck, Sylvie Guillaume, Anna Hedh, Sophia in 't Veld, Teresa Jiménez-Becerril Barrio, Anthea McIntyre, Roberta Metsola, Claude Moraes, Georgios Papanikolaou, Carmen Romero López, Judith Sargentini, Birgit Sippel, Renate Sommer, Rui Tavares, Nils Torvalds, Kyriacos Triantaphyllides, Axel Voss, Renate Weber, Josef Weidenholzer, Cecilia Wikström, Tatjana Ždanoka, Auke Zijlstra
Substitute(s) present for the final vote	Anna Maria Corazza Bildt, Mariya Gabriel, Jens Rohde, Salvador Sedó i Alabart