

Expert Meeting on

CYBERLAWS AND REGULATIONS FOR ENHANCING E-COMMERCE:
INCLUDING CASE STUDIES AND LESSONS LEARNED

25-27 March 2015

eIDAS Regulation

By

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The views reflected are those of the author and do not necessarily reflect the views of UNCTAD



eIDAS Regulation

"Regulation (EU) N° 910/2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC"

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eIDAS breaks new ground

*Provides **legal certainty** and **fosters the usage** of eID means for on line access ("world première") → never regulated at EU level before*

*Addresses **all the stages** of a generic e-transaction, from the authentication of a web site to preservation*

*Provides the legal framework for a comprehensive "**toolbox**" of mechanisms and services to boost trust and confidence in electronic transactions*

eIDAS – Key legal aspects

- Art 114 TFEU on internal market as the legal basis → **Free movement of products and services**
- **One single legislation** for eID and trust services → **directly applicable in the 28 MS**
- **Technological neutrality**
- **Functional equivalence** → non-discrimination “**electronic = paper**”
- **Transparency and accountability**

The eIDAS Regulation

Mutual recognition of e-identification means

Electronic trust services:

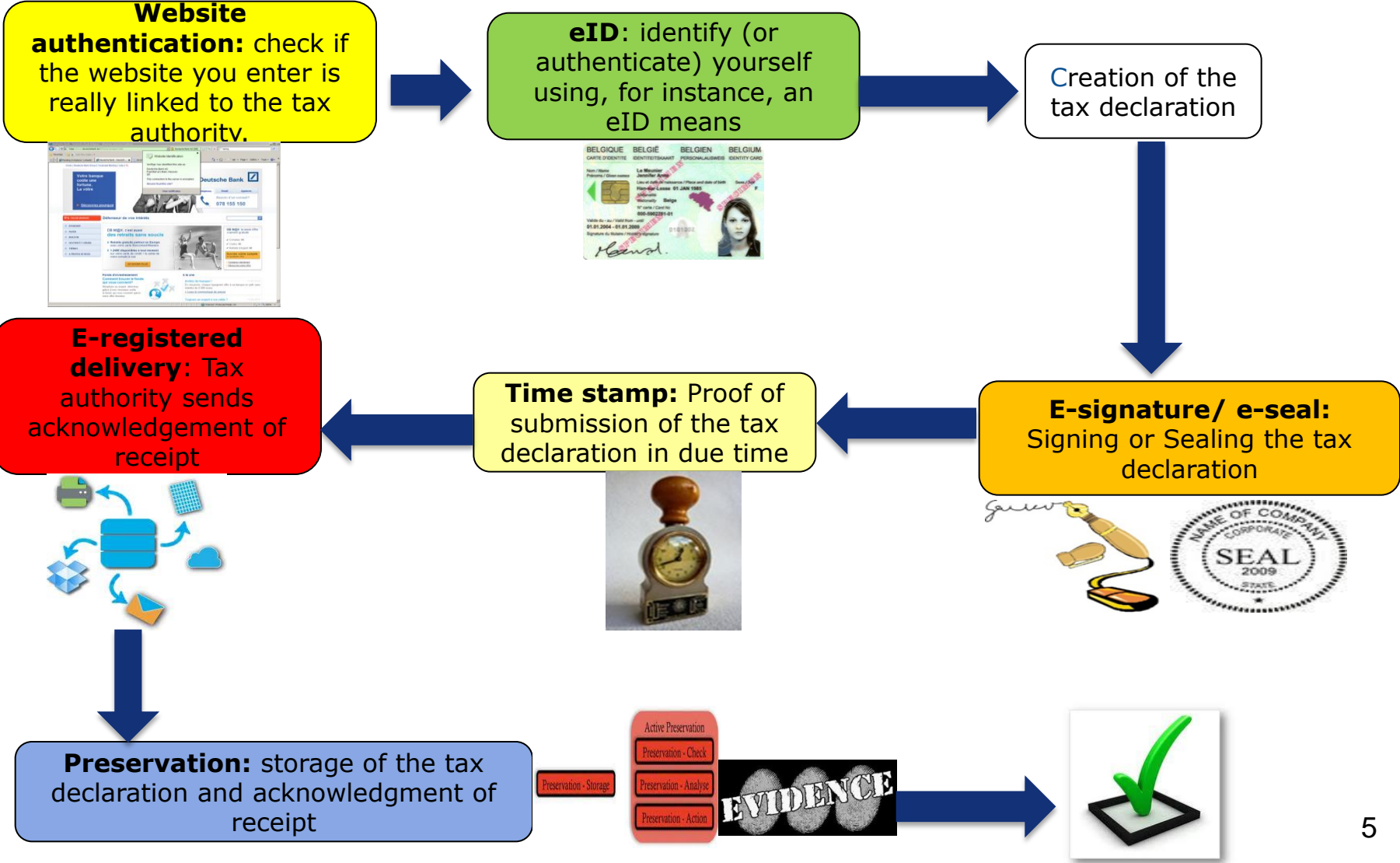
- **Electronic signatures**
- **Electronic seals**
- **Time stamping**
- **Electronic registered delivery service**
- **Website authentication.**



Electronic documents

E-Transactions workflow

Submitting a tax declaration



e-transaction's workflow – a concrete example: Submitting a tax declaration (1)



1. **Website authentication** => users (persons or companies) need to check if the website they enter is really linked to the tax authority.



2. **Electronic identification** => users need to identify (or authenticate) themselves using, for instance, an eID means.



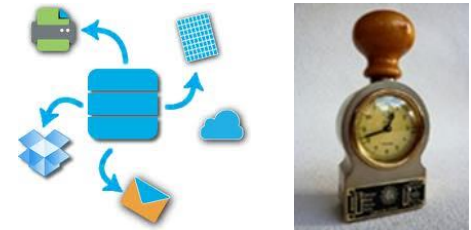
3. **E-signature/e-seal** => users may need to confirm the content and authenticity of the tax declaration, via an electronic signature (natural person)/ electronic seal (legal person).



e-transaction's workflow – a concrete example: Submitting a tax declaration (2)

4. e-delivery and time stamping =>

- The proof of timely submission of the tax declaration may be ensured via a time stamping.
- The tax authority may send a formal acknowledgment of receipt of the submission through a secure channel (electronic delivery system) which will also time stamp to confirm the time of receipt



5. Preservation => The tax declaration and the acknowledgment of receipt require to be stored and preserved to be presented to third parties in the future with the certainty that they will be legally valid.



eIDAS – Mutual recognition of eIDs

Mandatory recognition of electronic identification

Voluntary
notification
of eID
schemes

Cooperation
and
interoperability
mechanism

Liability

Assurance
Levels:
high
and
substantial
(and "low")

Interop.
FW

authentication
free of charge
for public
sector bodies

eIDAS – Trust services

Horizontal principles: Liability, Supervision, International aspects, Security requirements, data protection, Qualified services, prior authorisation, trusted lists, EU trust mark

**Electronic signatures
_including validation and preservati on services**

**Electronic seals,
including validation and preservati on services**

Time stamping

Electronic registered delivery service

Website authentication

eIDAS – Key principles

The Regulation does not impose the use of eID and trust services

Key principles on eID

- Mandatory cross-border recognition only to access public services – Full autonomy for private sector
- Principle of reciprocity relying on defined levels of assurance
- Interoperability framework
- Cooperation between Member States

Key principles on trust services

- Non-discrimination in Courts of electronic trust services vis-à-vis their paper equivalent
- Specific legal effects associated to qualified trust services
- Non-mandatory technical standards ensuring presumption of compliance →
Technological neutrality

eIDAS – Timeline of implementation

2014

2015

2016

2017

2018

2019

17.09.2014 - Entry into force of the Regulation

18.09.2015 - Voluntary recognition eIDs

1.07.2016 -
Date of application of rules for trust services:

18.09.2018 -
Mandatory
recognition of eIDs

eIDAS - What is the ambition?

*Strengthen EU Single Market by boosting **TRUST** and **CONVENIENCE** in **secure and seamless cross-border electronic transactions***



Why a EU e-transaction legislation?

Address the challenges at national level to develop an EU interoperable e-transaction legislation

→ Cross border dimension of eIDAS

Why eIDAS targets cross-border dimension?

- **Insufficient scope** (only covered e-signatures) and **imperfect harmonisation** of the **e-signatures Directive 1999/93/EC**
 - outdated standards and unclear supervision obligations
 - cross-border interoperability problems, and distortions in the internal market.
- **Fragmentation of the market:** different rules apply to service providers depending on which Member States they serve.

Why eIDAS targets cross-border dimension?

- **Challenges at national level**
 - **Electronic identification schemes and means were deployed and developed in Member States' public sector environment**
 - **New trust services emerged in national markets (e-seals, time stamps, e-registered delivery) or international environment (website authentication)**

Why eIDAS targets cross-border dimension?

- **Lack of cross-border technical interoperability**
 - **Lack of common legal understanding**
 - **National market silos**
- ➔ **no cross-border recognition of eIDs and difficulties in provisioning pan-European trust services**

International dimension

Development of a sustainable international cooperation → best practice to foster cross-border e-commerce

- **Legal interoperability → compatible frameworks (cybercrime, data protection etc.)**
- **International standardisation → removal of technical barriers**

For further information and feedback



Web page on eIDAS

<http://ec.europa.eu/digital-agenda/en/trust-services-and-eid>

Impact assessment

<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52012SC0135>

Text of eIDAS Regulation in all languages

<http://europa.eu/!ux73KG>



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