

E - signature validity and usage in Greece

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**KARATZAS
& PARTNERS**



Reporting Counsel:	Karatzas & Partners
Contact:	Angela Boletsi, Associate, a.boletsi@karatza-partners.gr Vassiliki Nikolaou, Trainee Lawyer, v.nikolaou@karatza-partners.gr
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E-Signatures Questionnaire

QUESTION	JURISDICTION ANSWER
1. General position	
1.1 Are e-signatures legal valid and binding in your jurisdiction?	Yes. By virtue of the eIDAS Regulation, which has direct effect in Greece, the qualified electronic signature has legal validity equivalent to the handwritten signature (Article 25 (2)). At the same time, the legal validity and admissibility of electronic signature as evidence in legal proceedings is maintained and shall not be denied solely on the grounds that it is in an electronic form or that it does not meet the requirements for qualified electronic signatures. (Article 25 (1)).
1.2 Sources of Law	By virtue of Presidential Decree 150/2001, Directive 99/93/EC of the European Parliament and of the Council on a Community framework for electronic signatures was incorporated in the Greek law. The latter set the legal framework for the use and legal validity of the electronic signature. This Directive was repealed by Regulation 910/2014 EU (or “the eIDAS Regulation”) on electronic identification and trust services with effect from 1st July 2016. To be noted that the eIDAS Regulation has direct effect in Greece, while the Presidential Decree is still in force, to the extent that it does not contradict with the aforementioned Regulation. The authority responsible for the control and supervision of certification-service providers for electronic signatures that are established in Greece, as well as for ascertaining compliance with secure signature-creation devices is the Hellenic Telecommunications and Post Commission (“EETT”). EETT is establishing, publishing and maintaining a trusted list, including information on the qualified trust service providers.



QUESTION	JURISDICTION ANSWER
<p>1.3 What form(s) of e-signature would you advise your clients to use?</p>	<p>The eIDAS Regulation, which has direct effect in Greece, defines three types of electronic signatures (standard, advanced and qualified). In particular, a qualified electronic signature is an advanced electronic signature that is created by a qualified electronic signature creation device and which is based on a qualified certificate for electronic signatures (Article 3 (12)). Additionally, a standard electronic signature is 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 while an advanced electronic signature means an electronic signature which meets the requirements set out in Article 26 of the eIDAS Regulation (Article 3 (10) and (11) respectively), namely:</p> <ul style="list-style-type: none">• it is uniquely linked to the signatory;• it is capable of identifying the signatory;• it is created using electronic signature creation data that the signatory can, with a high level of confidence, use under his sole control; and• it is linked to the data signed therewith in such a way that any subsequent change in the data is detectable. <p>By virtue of the above, only the qualified electronic signature has legal validity equivalent to the handwritten signature (Article 25 (2)). At the same time, the legal validity and admissibility of electronic signature as evidence in legal proceedings is maintained and shall not be denied solely on the grounds that it is in an electronic form or that it does not meet the requirements for qualified electronic signatures. (Article 25 (1)).</p> <p>Following the abovementioned provision, the standard and advanced electronic signature could offer a guarantee of contractual validity and evidentiary value only in cases where the law does not explicitly provide for a handwritten signature (Articles 158 and 160 par. 1 of the Greek Civil Code).</p> <p>As a result, qualified electronic signature, issued by certification-service providers (CSP) for electronic signatures accredited by the Greek State, would be highly advisable to a client, given that it is the only type of e-signature to be considered as equal to the handwritten signature in both substantive and procedural law.</p>
<p>1.4 Are there any restrictions on the ability of signatories incorporated in your jurisdiction to e-sign a document governed under another law?</p>	<p>No.</p> <p>Art. 5 of the Presidential Decree 150/2001 provides for the recognition of foreign qualified certificates and products for electronic signatures. According to Art. 5.2 of the Presidential Decree, certification services by a CSP established in an EU member state are recognised as legally equivalent to the corresponding certification services provided by a CSP established in Greece.</p>



QUESTION	JURISDICTION ANSWER
2. Specific Types of agreements	
2.1 Please state whether the following agreements may be e-signed.	
a) Deeds	We do not have something equivalent in Greece. Contracts executed before a public notary, which are in some instances mandatory, ie transfer of real estate, could be considered as equivalent to deeds. However, in such cases e-signatures cannot be accepted, due to the fact that the signatory must physically appear before a public contrary.
b) Specific agreements which require legal formalities in addition to signature e.g. witnessing, notarisation etc	As mentioned above, agreements that include legal formalities, such as notarial process, are not usually compatible with electronic signatures.
c) Guarantees	Yes
d) Loan agreements	Yes
e) Ancillary finance documents e.g. supply chain finance agreements, receivables finance agreements, waiver letters, reservation of rights letters and notices	Yes
f) Real Estate leases, transfers, charges and mortgages)	Lease: Yes Real estate transfer: No, according to a.1033 of Greek Civil Code, contracts to purchase or transfer real property require a notarial process, which is not compatible with electronic signatures. In addition, art.8 par.2 the Presidential Decree 131/2003 "Implementation of Directive 2000/31/EC of the European Parliament and Council on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce)", provides that contracts that create or transfer rights in real estate, except for rental right, cannot be executed by electronic means. Real estate charge: No, real estate charges constitute agreements which require notarisation, and therefore are not usually compatible with electronic signatures. Real estate mortgage: No, according to a.1266 of Greek Civil Code, real estate mortgages require a unilateral notarized declaration, and therefore they are not usually compatible with electronic signatures.



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g) Powers of attorney	Yes, PoAs may be signed electronically through the single digital portal of the State implemented by the Ministry of Digital Government, gov.gr.
h) Company documents (i) Board and committee minutes (ii) Resolutions (Board and shareholder)	Yes. With respect to Limited Liability Companies, e-signing cannot be accepted in corporate documents that require notarisation.
i) Employment agreements	Yes
j) General agreements/contracts (ie agreements that do not fall into the categories listed above) where all the signatories are businesses/companies.	Yes, commercial agreements between corporate entities, including non-disclosure agreements, purchase orders, order acknowledgements, invoices, other procurement documents, sales agreements, distribution agreements, service agreements etc, may be signed electronically. If there is the requirement of statutory written form, electronic documents can be certainly used if they are signed with a qualified electronic signature, which is considered the electronic equivalent of the handwritten signature, while non-qualified electronic signatures differ in reliability and consequently in their legal "gravity".
k) General agreements/contracts (ie agreements that do not fall into the categories listed above) where one or more, but not all, of the signatories is an individual and not a business/company	Yes, same as the above.
2.2 Can an e-signature be witnessed?	Not applicable. The institution of witnessing does not exist in Greece.
2.3 Should the agreement to be e-signed contain a reference or clause acknowledging or showing consent to the e-signing?	No.



QUESTION	JURISDICTION ANSWER
3. Enforceability	
3.1 Would the courts in this jurisdiction recognise and enforce an agreement validly e-signed in accordance with its governing law?	<p>By virtue of the above eIDAS Regulation, the qualified electronic signature has legal validity and enforceability equivalent to the handwritten signature (Article 25 (2)).</p> <p>Following the abovementioned provision, the standard and advanced electronic signature could offer a guarantee of contractual validity and enforceability value where the law does not explicitly provide for a handwritten signature (Articles 158 and 160 par. 1 of the Greek Civil Code).</p>
3.2 Are there steps that are recommended in order to minimise the risk that an e-signed agreement will not be enforceable in this jurisdiction?	<p>If there is the requirement of statutory written form, electronic documents are considered enforceable if they are signed with a qualified electronic signature, which is considered the electronic equivalent of the handwritten signature, while non-qualified electronic signatures differ in reliability and consequently in their legal "gravity".</p> <p>Thus, in order to minimize the risk that an e-signed agreement will not be enforceable it would be advisable that the e-signature meets the requirements of the qualified type of signature, ie it is issued by accredited certification-service providers.</p>
4. Admissibility in court proceedings	
4.1 Is a document which has being electronically signed admissible in court proceedings in this jurisdiction?	<p>As already mentioned, a qualified electronic signature has legal validity equivalent to the handwritten signature (eIDAS a. 25 (2)). Therefore, a document which has being electronically signed by virtue of a qualified signature is admissible in court.</p> <p>The admissibility of other types of electronic signatures as evidence in legal proceedings is also maintained and shall not be denied solely on the grounds that it is in an electronic form or that it does not meet the requirements for qualified electronic signatures (eIDAS a. 25 (1)), but parties may need to provide additional evidence in court.</p> <p>Following the abovementioned provision, the standard and advanced electronic signature could offer a guarantee of contractual validity and evidential value where the law does not explicitly provide for a handwritten signature (Articles 158 and 160 par. 1 of the Greek Civil Code).</p>



QUESTION	JURISDICTION ANSWER
5. Registration of e-signed documents	
5.1 Where an e-signed document needs to be filed and/or registered with a regulatory organisation in this jurisdiction, please consider for the registrations below if the relevant regulatory organisation accepts electronically signed documents and if are there additional formalities or processes which need to be completed:	
a) Company filings	Filing to be made with: the Commercial Registry Electronically signed documents are accepted: Yes, Pursuant to a. 109 of L.4497/2017, AoAs and company documents submitted to the Commercial Registry via the One Stop Electronic Service may be signed electronically. This is not the case with the articles of incorporation of Limited Liability Companies, which require notarization.
b) Real Estate	Filing to be made with: Land Registry Electronically signed applications and documents that do not require notarization are accepted in certain Land Registries. In general, registration of e-signed documents is at the discretion of each Land Registry.
c) Intellectual property	Filing to be made with: IP Office Electronically signed documents are accepted: Yes
d) Other security related filings	Filing to be made with: Social Security Registry Electronically signed documents are accepted: Yes
e) Tax Filings	Filing to be made with: Tax Authority Electronically signed documents are accepted: Yes