



KARATZAS
& PARTNERS
Corporate Law Alert

Signature

Law 4727/2020 – Digital Governance, Public and Private Electronic Documents and E-Signatures

The recently published **Law 4727/2020** (Government Gazette A '184/23.09.2020) on Digital Governance (implementing EU Directive 2016/2102 and 2019/1024), as well as on Electronic Communications (implementing EU Directive 2018/1972) (hereafter “**the Digital Law**”) introduces a new legal framework on the digital environment and Electronic Communications, applicable to administrative procedures, as well as to natural persons and legal entities.

1. Digital Governance (Articles 1-108)

- The Digital Law updates the general principles of digital governance, with a view to establishing good administration, transparency and accessibility, as well as ensuring protection of personal data and privacy.
- The protection of personal data by design and by default in the public sector is enhanced. Where the consent of the data subject is needed for the processing of his/her personal data, such consent may be lawfully given using information and communication technologies.
- A 12-digit Personal Number will ultimately be assigned to every natural person, which will serve for the verification of the persons’ identity with respect to his/her transactions in the administrative sector.
- The provision of digital public services and in particular the circulation of electronic documents, public or private, between administrative authorities and natural persons or legal entities will be carried out through the Single Digital Portal of Public Administration (gov.gr), which requires the authentication of the user. **Authentication** in the context of the Digital Law means the electronic process of verification of identity and any special characteristics of a natural or legal entity, based on issued credentials.
- E-payments to administrative authorities will be accepted, upon authentication of the user.

2. Public and Private Electronic Documents and E-Signatures (Articles 12-17)

The Digital Law is harmonized with the definitions of the European Regulation 910/2014 (eIDAS Regulation) for electronic signatures, while the previous legal framework for electronic signatures, namely Presidential Decree 150/2001 ("PD") is abolished.

A. Definitions

In particular, the Digital Law introduces the definition of the qualified electronic signature, the qualified time-stamp, the qualified and advanced electronic stamp and the electronic document, as well as the approved trust service provider, compared to the previous framework of PD 150/2001 that only included definitions of the standard and advanced electronic signature. In particular:

- **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.
- **Advanced electronic seal** is an electronic seal that meets certain requirements, namely 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 d) it is linked to the data signed therewith in such a way that any subsequent change in the data is detectable.
- **Qualified electronic time-stamp** is an electronic stamp that meets the following requirements: a) it binds the date and time to data in such a manner as to reasonably preclude the possibility of the data being changed undetectably, b) it is based on an accurate time source linked to Coordinated Universal Time; and c) it is signed using an advanced electronic signature or sealed with an advanced electronic seal of the qualified trust service provider, or by some equivalent method.

- **Qualified Trust Providers** are Trust Providers from whom entities and individuals may issue a qualified electronic signature/seal, and are included in the following list issued by the Hellenic Telecommunications and Post Committee("EETT"):
https://www.eett.gr/opencms/opencms/EETT/Electronic_Communications/DigitalSignatures/EsigProviders.html. It is worth mentioning that electronic signatures issued by the Greek State Certification Authority (APED), which constitutes the official provider of trust services of the Greek State and is entitled to issuing and managing certificates in all public sector entities, as well as by any approved trusted service provider enjoy the same degree of validity.

B. Public electronic documents (Articles 13)

I. Issuance

Public Electronic Documents may be issued:

- as original electronic documents bearing: (i) a qualified electronic time-stamp; and (ii) the competent body's qualified electronic seal or a qualified electronic signature of the competent civil servant;
- as electronically true copies bearing: i) a qualified electronic time-stamp or the competent person's qualified electronic signature or the competent body's qualified seal, ii) the indication "exact copy" and iii) the details of the final signatory;
- as digitized electronic copies bearing: a qualified electronic signature or qualified electronic seal or qualified electronic time-stamp, as well as a certificate of identification with the respective hardcopy document.

Finally, public certificates may be issued by the use of an advanced or qualified electronic signature or seal.

II. Validity of Public electronic documents (Article 14)

All original electronic public documents, electronic and digitalized electronic true copies, as well as certificates, have legal and evidentiary validity equivalent to public documents bearing a handwritten signature and are mandatorily accepted by any public authority, court, prosecutor's office, natural or legal person and legal entity.

Printouts of public electronic documents are also mandatorily accepted as true copies, as long as the accuracy and validity of the ICT printing can be verified, in particular when the documents or the electronic or digitized copies bear a unique verification ID number. In case the aforementioned accuracy and validity cannot be confirmed, the documents must be certified by any administrative authority, Citizens' Services Center or attorney-at-law.

C. Private Electronic Documents (Article 15) Issuance

Private electronic documents issued by natural persons or legal entities using a qualified electronic signature or seal, must be also obligatorily accepted by any public authority, court, prosecutor's office, natural or legal person and legal entity, during their electronic circulation.

The same applies to printout exact copies of such documents, if validated by any administrative authority, Citizens' Services Center or lawyer.

When the law requires a certification of the authenticity of the signature of the interested party, this may be attested by a qualified electronic signature or seal.

D. Enforceability (Article 16)

When statutory written form is required by the law (ie. Article 160 of the Civil Code and Article 443 of the Code of Civil Procedure), electronic documents are considered enforceable if they are signed with a qualified electronic signature/seal, which is considered the electronic equivalent of the handwritten signature.

An electronic document bearing a standard or advanced electronic signature or seal of its issuer constitutes a mechanical display, within the meaning of article 444 of the Code of Civil Procedure and has contractual validity and enforceability where the law does not explicitly provide for a handwritten signature (Articles 158 and 160 par. 1 of the Greek Civil Code). Non-qualified electronic signatures differ in reliability and consequently in legal "gravity" and their weight as evidence is freely assessed by the Court, subject to certain procedural rules.

E. General Remarks

- Only qualified electronic signatures and seals have legal validity equivalent to a handwritten signature.
- Documents that need to be executed before a public notary (e.g. transfer of real property) may not be signed electronically.

Authors:

Angela Boletsi, Associate

Georgios Minoudis, Partner