

ROADMAP	
TITLE OF THE INITIATIVE	Revision of the electronic signature directive 1999/93/EC
TYPE OF INITIATIVE	<input type="checkbox"/> CWP <input checked="" type="checkbox"/> Non-CWP <input type="checkbox"/> Implementing act/Delegated act
LEAD DG – RESPONSIBLE UNIT	INFSO A3
EXPECTED DATE OF ADOPTION	Month/Year: Q4 2011
VERSION OF ROADMAP	No: 3.0 Last modification: Month/Year: 15/12/2010

This indicative roadmap is provided for information purposes only and is subject to change.
It does not prejudice the final decision of the Commission on whether this initiative will be pursued
or on its final content and structure.

A. Context, problem definition	
(i) What is the political context of the initiative? (ii) How does it relate to past and possible future initiatives, and to other EU policies? (iii) What ex-post analysis of the existing policy has been carried out and what results are relevant for this initiative?	
<p>(i) In December 1999 the European Parliament and the Council adopted Directive 1999/93/EC on a Community framework for electronic signatures. The purpose of the Directive was to establish a legal framework for eSignature and for providers of signature certificates.</p> <p>The revision of the e-Signature Directive is a key action of the "<i>Digital Agenda for Europe</i>" communication. It is a necessary contribution to the creation of a well-functioning digital single market.</p> <p>The revision of the e-Signatures Directive concentrates on the legal framework for electronic signatures. It aims at revising the legal framework on electronic signature defined in the directive 1999/93/EC in order to adapt to the new technological and legal challenges of the digital world and to ensure a sound legal environment for electronic signatures used for web-services and online transactions, in particular in the cross-border context.</p> <p>(ii) Furthermore a Council and Parliament Decision on mutual recognition of e-Identification and e-Authentication (DAE, KA16) is also envisaged in the Digital Agenda. These two actions are complementary.</p> <p>(iii) A number of studies have been already carried out on the existing policy such as: "Study on the Evaluation of the standardization procedures in the context of the European electronic signature standardization initiative" of 2002, "The legal and market aspects of e-signature" in 2003, "Study on the standardisation aspects of e-signatures" of 2007, IDABC studies on e-signature and e-ID interoperability in 2009-2010 and the CROBIES study on cross-border interoperability of eSignatures were published in August 2010.</p>	
What are the main problems which this initiative will address?	
<p>For the last ten years, the existing Directive has had a positive impact on the use of signature technologies in Europe. However, the different legal and technical solutions established in the Member States have not ensured sufficient legal certainty and created new electronic barriers to the EU-wide interoperability of e-Signatures in particular in the cross-border context. Moreover, certain provisions of the Directive are too complex for today's digital world. Therefore a revision and simplification is needed to ensure legal certainty and cross-border interoperability without disregarding the investment in infrastructure already made by the private and public sector. Interoperability of e-Signatures is key for the proper functioning of the digital single market.</p> <p>In this context, Commission report COM(2006)120 of 2006 on the operation of the Directive acknowledges problems with the mutual recognition and cross-border interoperability of eSignatures. The Commission committed to address the legal, technical and standardisation causes of these problems. As a follow-up, the Commission launched a study on the standardisation of eSignatures which concluded in 2007 that the complexity to use the current standards is detrimental to interoperability. In 2008 the Commission adopted an Action Plan on e-signature and e-identification COM(2008)798 to remove interoperability obstacles.</p>	
Who will be affected by it?	
Citizens, industry, public administrations	
(i) Is EU action justified on grounds of subsidiarity? (ii) Why can Member States not achieve the objectives of the proposed action sufficiently by themselves? (Necessity Test) (iii) Can the EU achieve the objectives better? (Test of EU Value Added)	
A vibrant digital single market needs interoperability and mutual recognition of cross-border electronic signature to ensure a level-playing field.	

Achieving interoperable e-signatures will reduce fragmentation of the single market.
The initiative would potentially contribute to increased take-up, in particular a wider use of cross-border e-commerce and e-government services.

B. Objectives of the initiative

What are the main policy objectives?

The revision of the eSignature Directive aims at providing a sound legal framework for cross-border recognition and interoperability of secure eAuthentication systems (electronic signatures used for web-services and online transactions, in particular in the cross-border context).

Do the objectives imply developing EU policy in new areas?

No.

C. Options

(i) What are the policy options being considered?
(ii) What legislative or 'soft law' instruments could be considered?
(iii) How do the options respect the proportionality principle?

The first milestone towards the delivery of the two complementary DAE Actions (KA3 and KA16) is a public consultation on the future challenges in the area of electronic identification, authentication and signature to stimulate a debate on how electronic identification, authentication and signatures can contribute to deliver the European digital single market and what needs to be done to create optimal conditions to stimulate its progress. The range of topics subject to consultation include e-identification, e-authentication, e-signature and other essential services to ensure that only real stakeholders' needs are targeted. The aim of this public consultation is to obtain comprehensive input from stakeholders on (a) what works and what doesn't work; (b) what needs to be done, (c) which concrete aspects the Commission is expected to intervene in and (d) which "tools" are considered appropriate to respond to the challenges ahead. The analysis of the responses will allow finding out what are the gaps, and what are the appropriate solutions (legal, technical, ...).

D. Initial assessment of impacts

What are the benefits and costs of each of the policy options?

The policy will enhance trust in electronic transactions. It will reduce fragmentation of the single market. The initiative would potentially lead to an increased take-up, in particular a wider use of cross-border e-commerce and e-government services.

Could any or all of the options have significant impacts on (i) simplification, (ii) administrative burden and (iii) on relations with other countries, (iv) implementation arrangements? And (v) could any be difficult to transpose for certain Member States?

(i) Simplification here means simplification of usage of electronic signature because today the legal, operational and technical situation is excessively cumbersome for users and developers.

(ii) Efficient and easy to use electronic signature is needed to allow migrating administrative processes from a paper to an electronic support. In particular, the process related to the provision of Services in other Member States must be achievable by law in electronic form and the take-up of electronic public procurement depends on electronic signature;

(iii) Agreements could be established with third countries for the mutual recognition of e-signatures once cross-border interoperability becomes a reality in EU;

(v) No. The transposition by the Member States of the existing eSignature Directive has shown that no major difficulty should be expected.

(i) Will an IA be carried out for this initiative and/or possible follow-up initiatives? (ii) When will the IA work start? (iii) When will you set up the IA Steering Group and how often will it meet? (iv) What DGs will be invited?

(i) Yes, an impact assessment is foreseen.

(ii) The work on the IA process has already started. The work on the IA report will start in 2011 (an external contractor will contribute to the report with a study to be contracted in February-March 2011).

(iii) An IA Steering Group has been launched. It is foreseen that the group will meet (at least) three times in the period December 2010- September 2011. The first meeting took place on 9/12/2010.

(iv) MARKT, ENTR, DIGIT, RTD, TAXUD, LEGAL SERVICE, SECRETARIAT-GENERAL, HOME, JUSTICE, SANCO, EMPL,HR.
(i) Is any of options likely to have impacts on the EU budget above €5m? (ii) If so, will this IA serve also as an ex-ante evaluation, as required by the Financial regulation? If not, provide information about the timing of the ex-ante evaluation.
No

E. Evidence base, planning of further work and consultation
<p>(i) What information and data are already available? Will existing impact assessment and evaluation work be used?</p> <p>(ii) What further information needs to be gathered, how will this be done (<i>e.g. internally or by an external contractor</i>), and by when?</p> <p>(iii) What is the timing for the procurement process & the contract for any external contracts that you are planning (<i>e.g. for analytical studies, information gathering, etc.</i>)?</p> <p>(iv) Is any particular communication or information activity foreseen? If so, what, and by when?</p>
<p>(i) A number of studies have been already carried out on the existing policy such as: "Study on the Evaluation of the standardization procedures in the context of the European electronic signature standardization initiative" of 2002, "The legal and market aspects of e-signature" in 2003, "Study on the standardisation aspects of e-signatures" of 2007, IDABC studies on e-signature and e-ID interoperability in 2009-2010 and the CROBIES study on cross-border interoperability of eSignatures were published in August 2010.</p> <p>(ii) Further information will be gathered through a public consultation on Your Voice (planned to be launched in January 2011)</p> <p>(iii) N/A</p> <p>(iv) The public consultation will be announced by a press release (IP)</p>
Which stakeholders & experts have been or will be consulted, how, and at what stage?
<p>Stakeholders:</p> <p>The following constituencies are to be involved</p> <ul style="list-style-type: none"> - Representatives of Member States in CIP/ICT/PSP STORK project, eSignature national contact persons, MS committees and groups such as the Expert Group on the Implementation of the Services Directive, the eGovernment Subgroup (Dir H), Article 29 Data Protection Group, Privacy Commissioners, Public Procurement Group, e-ID users (ex. eHealth, eTax). - Private sector experts (demand and supply sides). <p>Events:</p> <ul style="list-style-type: none"> - Workshop with MS and industry (Q1 2011) - Public consultation (Q1 2011)