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POSITION OF THE EUROPEAN SIGNATURE DIALOGUE ON THE FREE SIGNATURES CONCEPT UNDER ART. 5A (5) (G) of EIDAS 2.0

About the European Signature Dialogue

The European Signature Dialog (ESD) brings together leading companies servicing 250 million users in their everyday use of qualified trust services from across Europe, to foster secure and trustworthy digital interactions in line with the highest EU standards.

ESD acts as the main interlocutor for European and national institutions, providing expert advice and support, particularly for the European Commission, Parliament, and Council. As the recognized voice for trust services across Europe, ESD members work together to develop common regulatory positions and shape the digital trust ecosystem.

Beyond Europe, ESD and its members serve as ambassadors, promoting European excellence and standards in digital security around the world.

The Market Need

Several major changes to the electronic identification and trust services market were introduced by Regulation (EU) No 910/2014 as amended by Regulation (EU) 2024/1183 (eIDAS), particularly by Article 5a, para. 5 (g) *“European Digital Identity Wallets shall, in particular, offer all natural persons the ability to sign by means of qualified electronic signatures by default and free of charge.*

Notwithstanding point (g) of the first subparagraph, Member States may provide for proportionate measures to ensure that the use of qualified electronic signatures free-of-charge by natural persons is limited to non-professional purposes.”



ESD has identified that these rules are difficult for Member States to interpret and implement, which may hinder the freedom to provide services and undermine fair competition within the Internal Market – core principles enshrined in the Treaty on the Functioning of the European Union (Articles 56–62 and 101–109 TFEU).

It may also interfere with rights protected under the Charter of Fundamental Rights, in particular Article 16 (freedom to conduct a business) and Article 21 (non-discrimination) https://www.europarl.europa.eu/charter/pdf/text_en.pdf.

Proposal:

ESD suggests that the Commission provide clear guidance on the interpretation of Article 5a(5)(g) by adding new entries to the Q&A section on Trust Services under eIDAS, which has proven to be a highly effective tool for ensuring consistent interpretation of the eIDAS rules since its adoption:

What does “ability to sign” “free of charge” under Article 5a, para. 5 (g) mean?

The provision states that EUDI wallet providers – private or public – may not charge the wallet user, a natural person, for the act of signing with a qualified signature when such signing is triggered through the embedded wallet feature.

The conditions for issuing of a qualified certificate to the wallet user by the qualified trust service provider and all relations between them remain out of scope of this rule. So do the relations between the wallet user and the relying parties, as well as the relations between the qualified trust service providers and the relying parties.

What does “non-professional purposes” under Article 5a, para. 5 (g) mean?

Member States are free to establish at their own discretion national rules, whereby signing through the EUDIW free of charge shall be limited by the wallet providers only to one or several purposes which could be considered “non-professional”, i.e. where the activities or actions are undertaken by one or more natural persons purely for personal, recreational or private use, with no connection to any business, commercial, or occupational objectives.

These activities are not intended to generate income, profit or any form of compensation, the transaction itself does not have a monetary value, and these are not performed on behalf of an organization, employer or client and the documents to be signed are not intended to be provided to a private organization, employer or other, legal entity as relying party.

Member States may thus introduce any conditions where non charging for signing shall be limited to: (i) particular relying parties which by default are non-professional (i.e. public institutions, or NGOs), (ii) to number of signings per year for such uses, or (iii) to particular listed purposes, which might be considered non-professional, etc.



Motives:

I. With respect to the applicability of Article 5a (5) (g):

Article 5a (5) (g) provides restrictions to wallet providers which operate EUDI Wallets. The “free of charge” obligation should be interpreted as applying to the wallet functionality that enables users to trigger the creation of qualified electronic signatures (QES), and not as an obligation that the issuance of qualified certificates for QES by trust service providers must be free-of-charge.

This is based on the following supporting arguments, which we present to the Commission for consideration:

1. Article 5a Obligations fall on Wallet Providers and cannot be shifted to QTSPs.

Our understanding is that in principle, legal rules imposed by the eIDAS framework are addressed to particular subjects which must abide by them.

The rule of Article 5a (5) (g) is directed to European Digital Identity Wallet (EUDIW) providers the majority of which now seems being government-owned or mandated by designated private issuers, and not to private qualified trust service providers (QTSPs).

The context and placement of this provision clearly indicate that the obligation “*to offer the ability to sign by means of QES by default and free of charge*” is part of the wallet provider’s responsibilities under Article 5a – a new provision introduced to establish the EUDIW framework.

Article 5a falls under the section of eIDAS dealing with electronic identity and wallet provision, which sets requirements for Member States and wallet providers. There is no parallel amendment in the trust services section of eIDAS requiring QTSPs to issue qualified certificates at no cost for natural persons who are users of the EUDIW.

All “free-of-charge” requirements in eIDAS consistently refer to the obligations of wallet providers or Member States with respect to the EUDIW’s features, not to the services offered by independent identity providers or QTSPs and their business models.

This interpretation is supported by the structure of the law and the absence of any language altering the existing commercial framework for trust services in Chapter III of eIDAS.

2. The same Article 5a includes multiple wallet-focused free-of-charge obligations that reinforce this view, notably:

- Article 5a, para. 13 explicitly states that “*the issuance, use and revocation of the European Digital Identity Wallets shall be free of charge to all natural persons.*”

This provision establishes that citizens must be able to obtain and use the Wallet itself without fees. It is a requirement placed on Member States/wallet providers to ensure no cost is passed on to users for the core Wallet service (such as downloading the app, onboarding, or having the Wallet revoked/replaced).

- Article 5a, para. 8 requires Member States to provide certain validation services free of charge, namely mechanisms to verify the authenticity and validity of the Wallet and of relying parties' identity credentials. Again, this is an obligation for the Wallet ecosystem (e.g. providing validation tools or infrastructure at no cost to users or relying parties), ensuring the trust and interoperability of the system without creating cost barriers.
3. In each case, the Regulation requires that Wallet's features are free-of-charge, to promote adoption and ease of use.

The "*ability to sign by means of QES*" is thus a feature of the Wallet that must be available by default to every user without the user having to pay for the availability of such functionality.

This, however, does not equate to mandating that the behind-the-scenes issuance of a qualified certificate or the trust service itself be provided for free by the QTSP, here included other services such as certificate status services¹, long-term preservation of the signature, etc. The intent is that the Wallet interfaces with qualified electronic signature services (for example, by invoking a remote signing service or certificate stored in the Wallet) and that the user does not have to pay a fee to facilitate this integration.

This interpretation aligns with Recital 19 of Regulation 2024/1183 which states that once onboarded to a Wallet, individuals "*should be able to use it to sign with qualified electronic signatures, by default without being charged by the wallet provider, without having to go through any additional administrative procedures or further monetary burdens.*" In other words, the requirement of Article 5a (5) (g) reflects the user-centric intent of the legislator and shall be understood to mean that the Wallet should natively support QES for the citizen with no bureaucratic or financial hurdles at the point of use, not that the QES service provided by QTSPs through the Wallet shall be unpaid.

4. The free-of-charge signing feature in the Wallet is aligned with the broader policy goal of widespread adoption of the European Digital Identity Wallet.

By eliminating the costs for the QES functionality itself within the Wallet, the EU aims at encouraging individuals to utilize qualified electronic signatures, thereby fostering EUDI Wallet adoption and a vast and digitalized EU single market environment. The requirement under Article 5a for free core features (including QES functionality) mirrors other free-of-charge elements meant to make the Wallet attractive and accessible.

Together, these measures lower barriers to entry and use, creating an incentive for EU citizens to adopt the Wallet as a daily tool for secure digital transactions.

¹ Certificate Revocation List - a compulsory service by Trust Service providers to publish the certificate status.

5. Interpreting the requirement under Article 5a, para. 5 (g) in a way that qualified certificates must be issued free of charge to end users (with QTSPs bearing the cost) would be unrealistic, and even a serious misinterpretation of the intents of the Regulation. Such an interpretation would have several negative consequences:

- *Distortion of competition:* QTSPs operate in a competitive market, offering, in the context of Wallet requirements, remote certificate issuance and electronic signing services. These services entail significant costs related to compliance, audits, security, infrastructure (e.g. qualified signature creation devices, HSMs), personnel, innovation and technology, customer support, etc.

Requiring QTSPs to absorb the costs of free qualified signatures, or the presence of a state owned QTSP that floods the market with free certificates would distort fair competition and undermine the sustainability of the entire trust services market. It risks concentrating the market in the hands of a few subsidized providers, contrary to eIDAS's goal of fostering a competitive and resilient digital ecosystem supporting the economic growth of the EU single market. There is no common and legal sense that eIDAS was meant to distort the competition that way.

- *Unfair burden on QTSPs:* Imposing free services without clear compensation mechanisms effectively transfers the financial burden to QTSPs alone. Mandating a free service for end users without a clear plan to cover the underlying costs borne by QTSPs is unsustainable.

Without reimbursement, QTSPs would bear the financial burden, risking a decline in service quality or even market exit, ultimately weakening the European trust framework. It is hard to believe that this was the intent of European legislators.

- *Legal and contractual conflicts:* Today, the relationships between the QTSP, the end user, and the relying party are governed by commercial agreements/contracts. For example, a QTSP may have a contract with an organization to provide certificates for its employees or customers, or a direct subscription model with individuals. These agreements include payment terms reflecting the service's value.

An extreme interpretation that QES must now be free to the end-user would effectively invalidate or force renegotiation of countless contracts across Europe. It is unrealistic and inconceivable that the EU legislator intended to abruptly nullify all such arrangements without any transitional plan or compensation scheme.

Moreover, if the user had a paid agreement for issuing a qualified certificate for two years to be used for any purpose, say primarily outside wallets, and for one particular time the user would like to trigger remote signing through the wallet, obviously the rule of Article 5a (5) (g) could not apply whatsoever because in no way the "free signing" could take place. Lack of clarity would lead to litigation and continued uncertainty in the interpretation of the rules.



II. With respect to the option for Member States to limit the possibility to trigger the remote signing feature of the wallet free of charge for non-professional use.

Such option is left to Member States' own discretion.

If no rules thereof are enforced on a national level, the general rule will apply. However, several questions appear as to what these "non-professional" purposes would be and where lays the limit of Member States' freedom to establish different variations and conditions of such uses.

- *Communication of the non-professional purpose to the Wallet providers:* When addressing the concept of "non-professional" use of the signing, clearly the wallet provider to whom this rule applies, is not able to know what the exact purpose of the about-to-be-signed document is. The reason should come from the relying party.

Whenever the API call indicates the "non-professional" purpose, the wallet provider may be aware of that and not trigger charging; otherwise, the wallet provider would charge for professional use. That is to say, the API communication between the wallet and the relying party connector should work in a way that this information is communicated to the wallet provider.

- *Notion of "non-professional use":* According to our understanding on the spirit of eIDAS, when using the notion of "non-professional use" the European legislator refers to activities or actions undertaken by one or more natural persons purely for personal, recreational or private use, with no connection to any business, commercial, or occupational objectives.

These activities are not intended to generate income, profit or any form of compensation, the transaction itself does not have a monetary value, and these are not performed on behalf of an organization, employer or client and the documents to be signed are not intended to be provided to a private organization, employer or other legal entity as Relying Party.

- *Limitations:* Still, even if free-of-charge non-professional use is provided for, such use must be clearly limited, both in scope and frequency, in order to avoid placing an unsustainable burden on the wallet providers.

A reasonable cap, such as three signatures per year, for example, would help ensure that the measure remains proportionate and targeted. To that end, precise and consistent guidance on what constitutes "non-professional use" is crucial and urgently needed to support coherent implementation across Member States.

- *Compensation measures:* Since eIDAS leaves room for private and government EUDIWs, all of them shall operate in a non-discriminatory environment. If for the government wallets the triggering of the signing feature can be borne by the state within the government budget, private wallets' costs should also be compensated by the Member States, considering the fact that the "free-of-charge signing" concept is introduced to the benefit of the natural persons.



Thus, we consider that Article 5a (5) (g) leaves to the Members States the option to provide effective and proportionate measures to the wallet providers, in order to ensure that the ability to use qualified electronic signatures without being imposed charges by the wallet provider for natural persons is compensated, or to regulate on a national level that the costs of providing qualified electronic signature services free-of-charge is borne by a party interested in or initiating the transaction.

III. Upcoming Revision Procedure of eIDAS

Besides the above proposed guidelines, we encourage the Commission and other European policy makers to involve the Trust Services industry players and the ESD when the scheduled review of the eIDAS Regulation takes place. Such a review process could provide invaluable data and insights summarizing two years of extensive industry discussion about the regulation since its effective date, as well as its current implementation practices.

Conclusion:

With a view to the above, we find that amendment of the Questions-and-Answers section referred above by the Commission with the suggested texts would help unify the understanding of the eIDAS provisions, both within the market and by respective local regulators, and would thus create a clearer and foreseeable legal and commercial framework for the operation of EUDI wallets and provision of eIDAS regulated trust services.

It should be noted that the lack of such common understanding has already led to extensive discussions, controversies and different interpretations, which in some cases has led to significant distortions on the trust services market by the appearance of state-owned QTSPs offering free services in many Member States.

While these QTSPs serve only public bodies in general – which in itself distorts the market, several Member States plan to expand these offerings to their citizens with little or no limitation. A clear example is Hungary, where the local regulators have already interpreted the provision of Article 5a (5) (g) in a way that resulted in launching a state-owned qualified trust service in 2024, which provides qualified certificates for all Hungarian citizens free of charge, creating blatantly unfair competition.

Interpretations that extend to obliging QTSPs to issue free certificates at their own expense to ensure compliance with Article 5a (5) (g), contrary to existing market practice and the spirit of the updated eIDAS Regulation, pose a significant risk for even further market distortions.



In light of the above, ESD respectfully calls on the European Commission to:

- issue clear and authoritative guidance on Article 5a(5)(g) in the eIDAS Trust Services Q&A, clarifying that the obligation to offer “signing by means of qualified electronic signatures by default and free of charge” lies with EUDI wallet providers in relation to the wallet signing functionality, and does not require QTSPs to issue qualified certificates or provide trust services free of charge;
- define harmonized criteria and boundaries for the notion of “non-professional purposes”, including permissible national limitations and the conditions under which Member States should ensure proportionate compensation or financing mechanisms for free-of-charge wallet signing.

ESD stands ready to support the Commission throughout this process and welcomes the Commission’s commitment to ensuring structured and continuous engagement with our industry on this matter, as well as on wider digital and eIDAS-related issues.

For further information, please feel free to contact us:

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