

THE CROATIAN PARLIAMENT

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Pursuant to Article 89 of the Constitution of the Republic of Croatia, I hereby issue the

DECISION

PROMULGATING THE ACT ON THE IMPLEMENTATION OF REGULATION (EU) NO 910/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 23 JULY 2014 ON ELECTRONIC IDENTIFICATION AND TRUST SERVICES FOR ELECTRONIC TRANSACTIONS IN THE INTERNAL MARKET AND REPEALING DIRECTIVE 1999/93/EC

I hereby promulgate the Act on the Implementation of Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC, passed by the Croatian Parliament at its session on 19 June 2017.

Class: 011-01/17-01/25

Reg. No.: 71-06-01/1-17-2

Zagreb, 21 June 2017

The President of
the Republic of Croatia
Kolinda Grabar-Kitarović, m. p.

ACT

ON THE IMPLEMENTATION OF REGULATION (EU) NO 910/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 23 JULY 2014 ON ELECTRONIC IDENTIFICATION AND TRUST SERVICES FOR ELECTRONIC TRANSACTIONS IN THE INTERNAL MARKET AND REPEALING DIRECTIVE 1999/93/EC

I. GENERAL PROVISIONS

Purpose of the Act

Article 1

This Act:

1. lays down the competent authorities and tasks of competent authorities for the implementation of Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic

transactions in the internal market and repealing Directive 1999/93/EC (SL L 257/73 28.8.2014 – hereinafter: Regulation (EU) No 910/2014)

2. lays down the bodies for the supervision of the implementation of Regulation (EU) No 910/2014

3. determines the body competent for accreditation of conformity assessment bodies

4. lays down the rights, obligations and responsibilities of the signatories and trust service providers

5. determines misdemeanour provisions for acting contrary to Regulation (EU) No 910/2014.

Terms

Article 2

(1) For the purposes of this Act, the terms shall have the same meaning as terms used in Regulation (EU) No 910/2014.

(2) The term of legal person from Article 3, paragraphs 24, 29 and 38 of Regulation (EU) No 910/2014 shall mean legal persons governed by public law and legal persons governed by private law.

II. COMPETENT AUTHORITIES

Competent authority for the area of identification

Article 3

(1) The competent authority for the implementation of Regulation (EU) No 910/2014 and this Act with respect to provisions governing electronic identification from Article 6 to Article 12 of Regulation (EU) No 910/2014 shall be the central state administration body competent for e-Croatia.

(2) The central state administration body referred to in paragraph 1 of this Article shall perform the following tasks:

1. notifying national electronic identification systems to the European Commission for their publication in the Official Journal of the European Union and removing them therefrom

2. cooperating with personal data protection bodies.

Competent authority for trust services

Article 4

(1) The competent authority for the implementation of Regulation (EU) No 910/2014 and this Act with respect to provisions governing trust services from Article 13 to Article 45 of

Regulation (EU) No 910/2014 shall be the central state administration body competent for the economy.

(2) The central state administration body referred to in paragraph 1 of this Article shall perform the following tasks:

1. supervising trust service providers, granting and withdrawing qualified status, analysing conformity assessment reports, auditing, requiring trust service providers to remove all failures to comply with the provisions of Regulation (EU) No 910/2014
2. establishing, maintaining and publishing trusted lists of trust service providers and qualified trust service providers
3. cooperating with supervisory bodies in other Member States of the European Union (providing mutual assistance, exchanging good practice)
4. notifying other authorities and the public about security breaches
5. periodical annual reporting to the European Commission on its principal activities (by 31 March for the previous calendar year).

(3) The head of the central state administration body competent for the economy shall lay down by way of an ordinance other identification methods which provide equivalent assurance in terms of reliability to physical presence, by which trust service provider verifies the identity and, if applicable, any specific attributes of the natural or legal person to whom the qualified certificate is issued.

National accreditation body

Article 5

The body competent for accreditation of conformity assessment bodies of qualified trust service providers and qualified trust services that they provide, in accordance with provisions of Article 3, point 18 and Article 20 of Regulation (EU) No 910/2014, shall be the national accreditation body.

Cooperation

Article 6

(1) The bodies referred to in Articles 3 and 4 of this Act shall cooperate with each other and with other competent authorities in the Republic of Croatia, as well as with other European Union Member States' bodies competent for the supervision of the implementation of Regulation (EU) No 910/2014 and, where appropriate, with other relevant competent authorities in accordance with the legislation of the European Union and national legislations of the European Union Member States.

(2) Within the framework of the cooperation referred to in paragraph 1 of this Article, the bodies referred to in Articles 3 and 4 of this Act shall exchange information among themselves, and also:

1. with other European Union Member States' bodies competent for the supervision of the implementation of Regulation (EU) No 910/2014

2. with the European Commission and, where appropriate, with other public bodies

3. with other bodies competent in accordance with laws governing personal data protection.

(3) Submission of information referred to in paragraph 2 of this Article shall not be considered a breach of the obligation to keep confidentiality of data.

(4) The body that receives information referred to in paragraph 2 of this Article shall keep its confidentiality and may use it only for the purpose for which it was submitted, and may make it available to third persons only in accordance with special regulations.

III. SUPERVISION

Article 7

(1) Supervision of the implementation of Regulation (EU) No 910/2014 and this Act with respect to provisions laying down electronic identification from Articles 6 through 12 of Regulation (EU) No 910/2014 shall be carried out by civil servants of the central state administration body competent for e-Croatia authorised for the implementation of supervision.

(2) Supervision of the implementation of Regulation (EU) No 910/2014 and this Act with respect to provisions laying down trust services from Articles 13 through 45 of Regulation (EU) No 910/2014 shall be carried out by inspectors and other civil servants of the central state administration body competent for the economy authorised for the implementation supervision.

(3) Supervision of the work of trust service providers and qualified trust service providers and national electronic identification systems in the field of collection, use and protection of personal data of signatories shall be carried out by inspectors and other civil servants authorised for the implementation of supervision determined by the law and other regulations governing personal data protection, in accordance with their prescribed scope of activities.

(4) Within the framework of the supervision of trust service providers and qualified trust service providers:

– it shall be established whether the conditions laid down by Regulation (EU) No 910/2014 and implementing regulations adopted pursuant to Regulation (EU) No 910/2014 have been met

– correctness of application of prescribed procedures and organisational and technical measures and the implementation of internal rules related to the conditions laid down by Regulation (EU) No 910/2014 and implementing regulations adopted pursuant to Regulation (EU) No 910/2014 shall be supervised.

(5) The trust service provider and the qualified trust service provider shall, for the purpose of implementation of supervision, enable unrestricted inspection of data on business operations,

inspection of business documentation, access to the signatory's register and the accompanying computer equipment and devices.

IV. RIGHTS, OBLIGATIONS AND RESPONSIBILITIES OF SIGNATORIES, TRUST SERVICE PROVIDERS AND HOLDERS OF ELECTRONIC IDENTIFICATION MEANS

Article 8

Each signatory shall undertake all necessary measures for protection from loss and damage they may cause to other signatories, providers of trust services or third persons.

Article 9

The signatory shall, with due diligence, use and keep the devices and data for the creation of the electronic signature, use the devices and data for the creation of the electronic signature in accordance with the provisions of this Act, and protect and keep the devices and data for the creation of the electronic signature from unauthorised access and use.

Article 10

(1) The signatory shall submit to the trust service provider all the necessary data and information on changes that affect or may affect the accuracy of the electronic signature within seven days from the occurrence of changes.

(2) The signatory shall request revocation of their certificate immediately after gaining knowledge in all cases of loss or damage of devices or data for the creation of their electronic signature.

Article 11

(1) The holder of the electronic identification means shall undertake all necessary measures to have the electronic identification means under their exclusive supervision, in order to prevent theft, loss or unauthorised cession of their electronic identification means and shall, immediately, with the issuer of the electronic identification means, revoke their electronic identification if they establish that it has been lost, stolen or ceded to others without authorisation.

(2) If electronic identification means are revoked or their validity expires, the holder of the electronic identification means must not use them consciously, or employ them.

Article 12

(1) The signatory shall be responsible for the damage that arises due to their failure to comply with their obligations laid down by this Act.

(2) The signatory may, exceptionally, be released from responsibility in cases when they can prove that the injured party did not undertake or incorrectly undertook actions related to the validation of the electronic signature.

Article 13

The trust service provider shall have, in addition to obligations stated in Regulation (EU) No 910/2014, also the following obligations:

1. to enable all interested parties to inspect identification data of trust service providers
2. to keep all data and documentation on issued certificates for at least ten years from the day of their issuance, where data and accompanying documentation may be also in electronic form
3. to use the provisions of acts and other regulations governing personal data protection.

Article 14

(1) The trust service provider shall discontinue their certification service or revoke the certificate from those signatories:

1. who have expressly requested it
2. for whom inaccurate or incomplete data were found in the Records of Certificates
3. for whom official notification of death was received
4. for whom official notification of loss of legal capacity was received
5. for whom it was established that they use the data for the creation of the electronic signature contrary to legal regulations of the Republic of Croatia.

(2) The trust service provider shall keep updated records of all revoked certificates.

(3) The trust service provider shall notify the signatory of the revocation of the certificate within 24 hours from receiving the notification or from the occurrence of the circumstances due to which the certificate is being revoked.

(4) The head of the central state administration body competent for the economy shall lay down by way of an ordinance the rules on temporary suspension of certificates for electronic signatures and certificates for electronic seals in cases where the certificate temporarily loses its validity; these cases shall be different from revocation of the certificate.

Article 15

The trust service provider issuing qualified certificates shall keep all documentation on issued and revoked certificates as a means for providing evidence and verification in court, administrative and other proceedings, for the period of at least ten years from the expiry of the validity of certificates to which that documentation refers.

Cessation of provision of trust services

Article 16

(1) The trust service provider shall inform about possible cessation of providing services all users of trust services, as well as the state administration body competent for the economy or the supervisory body at least three months before the expiry of trust services entrusted to them by a contract.

(2) The trust service provider, which ceases providing these services, shall ensure with another trust service provider the continuation of performance of trust services for signatories to whom they issued certificates, and if this is not possible, they shall revoke all issued certificates and inform thereon immediately and without delay the state administration body competent for the economy or the supervisory body.

(3) The trust service provider, which ceases providing trust services, shall deliver all documentation related to trust services carried out to another trust service provider to whom they transfer obligations related to provision of trust services.

Article 17

Provisions of Title IV of this Act shall apply *mutatis mutandis* to services of issuing electronic seals, time stamps and electronic registered delivery service.

V. MISDEMEANOUR PROVISIONS

Natural persons

Article 18

(1) The natural person shall be fined for a misdemeanour in the amount of HRK 2,000.00 to HRK 10,000.00 if they:

–access and use data and devices for the creation of electronic signature, advanced electronic signature, qualified signature, electronic seal, advanced electronic seal, or qualified electronic seal, without authorisation.

(2) The signatory or a natural person or a responsible person in a legal person who represents the signatory shall be fined for a misdemeanour in the amount of HRK 2,000.00 to HRK 10,000.00 if they:

1. do not use devices and data for the creation of electronic signature, advanced electronic signature, qualified signature, electronic seal, advanced electronic seal, or qualified electronic seal (Article 9 of this Act) with due diligence

2. do not deliver to a certification service provider, within seven day from the changes occurred, necessary data and information on any change that affects or may affect the accuracy of the electronic signature, advanced electronic signature, qualified signature, electronic seal, advanced electronic seal, or qualified electronic seal (Article 10 of this Act)

3. do not deliver to a certification service provider the request for revoking the certificate in a timely manner, or if, immediately after gaining knowledge, do not request revoking of their certificate in cases of loss or damage of devices/data for the creation of their electronic signature (Article 10 of this Act).

Legal persons

Article 19

The qualified trust service provider shall be fined for a misdemeanour in the amount of HRK 5,000.00 to HRK 100,000.00 if they:

1. do not verify validly the identity of the natural or legal person to whom the qualified certificate is issued (Article 24, paragraph 1 of Regulation (EU) No 910/2014)
2. do not inform the supervisory body of any change in the provision of their qualified trust services and an intention to cease those activities at least 3 (three) months before the expiry of trust services entrusted to them by a contract (Article 24, paragraph 2, subparagraph (a) of Regulation (EU) No 910/2014)
3. do not employ staff and/or subcontractors who possess the necessary expertise, reliability, experience, and qualifications and who have received appropriate training regarding security and personal data protection rules and apply administrative and management procedures which correspond to European or international standards (Article 24, paragraph 2, subparagraph (b) of Regulation (EU) No 910/2014)
4. do not maintain sufficient financial resources and/or obtain appropriate liability insurance, in connection with Article 13 of Regulation (EU) No 910/2014 (Article 24, paragraph 2, subparagraph (c) of Regulation (EU) No 910/2014)
5. before entering into a contractual relationship, do not inform, in a clear and comprehensive manner, any person seeking to use a qualified trust service of the precise terms and conditions regarding the use of that service, including any limitations on its use (Article 24, paragraph 2, subparagraph (d) of Regulation (EU) No 910/2014)
6. do not use trustworthy systems and products that are protected against modification and ensure the technical security and reliability of the processes supported by them (Article 24, paragraph 2, subparagraph (e) of Regulation (EU) No 910/2014)
7. do not use trustworthy systems to store data provided to them, in a verifiable form (Article 24, paragraph 2, subparagraph (f) of Regulation (EU) No 910/2014)
8. do not take appropriate measures against forgery and theft of data (Article 24, paragraph 2, subparagraph (g) of Regulation (EU) No 910/2014)
9. do not record and keep accessible for an appropriate period of time, including after the activities of the qualified trust service provider have ceased, all relevant information concerning data issued and received by the qualified trust service provider, in particular, for the purpose of providing evidence in legal proceedings and for the purpose of ensuring continuity of the service (Article 24, paragraph 2, subparagraph (h) of Regulation (EU) No 910/2014)
10. do not have an up-to-date termination plan to ensure continuity of service in accordance with provisions verified by the supervisory body under Article 17, paragraph 4, point (i) of

Regulation (EU) No 910/2014 (Article 24, paragraph 2, subparagraph (i) of Regulation (EU) No 910/2014)

11. do not ensure lawful processing of personal data in accordance with Directive 95/46/EC (Article 24, paragraph 2, subparagraph (j) of Regulation (EU) No 910/2014)

12. in case of qualified trust service providers issuing qualified certificates, do not establish and keep updated a certificate database (Article 24, paragraph 2, subparagraph (k) of Regulation (EU) No 910/2014).

VI. TRANSITIONAL AND FINAL PROVISIONS

Article 20

(1) The head of the central state administration body competent for the economy shall issue ordinances referred to in Article 4, paragraph 3 and Article 14, paragraph 4 of this Act within one year from the day of entry into force of this Act.

(2) Upon entry into force of this Act, the Electronic Signature Act (Official Gazette 10/02, 80/08 and 30/14) shall cease to have effect.

Article 21

This Act shall enter into force on the eighth day of its publication in the Official Gazette.

Class: 022-03/17-01/33

Zagreb, 19 June 2017

THE CROATIAN PARLIAMENT

The President
of the Croatian Parliament
Gordan Jandroković, m. p.