

<p style="text-align: center;"><b>THE EUROPEAN EIDAS REGULATION</b></p>	<p>欧盟统一市场为电子交易的电子身份与可信服务条例</p>
<p style="text-align: center;">GIUSELLA FINOCCHIARO FULL PROFESSOR OF PRIVATE LAW AND OF INTERNET LAW DEPARTMENT OF LEGAL SCIENCES UNIVERSITY OF BOLOGNA</p>	<p style="text-align: center;">博洛尼亚大学法学系私法 与互联网法教授吉塞拉·费 诺其奥</p>
<p><i>1. Introduction</i></p>	<p>1. 引言</p>
<p>Generally speaking it could be affirmed that legal obstacles to the complete digitalisation of processes have been removed, laws on electronic documents and on electronic signatures allow us to do anything in a digital form that we can do on paper. However, in this scenario, the issue of online identification is more serious than ever, especially for the development of services requiring identity checks, such as particular services provided by public administration and certain banking services.</p>	<p>总体而言，可以肯定的是，虽然流程完全数字化的法律障碍已经被扫除了，有关电子文件和电子签名方面的法律，允许我们以数字形式做我们能以纸面形式做的任何事情。但是，在这种情况下，特别是对于那些需要进行身份验证的服务的发展，诸如公共行政部门和某些银行业务等提供的特定服务，（这使得）在线身份问题比以往任何时候都更为严峻。</p>
<p>The real issue in this new phase of digitalisation concerning all services</p>	<p>关于所有需要验证身份的服务在数字化的新阶段中，它真正的要害问题</p>

<p>requiring verification of identity is how to authenticate someone's identity. For instance, when opening a new bank account or sending an official request to one or another public administration office or taking part when tendering for public contracts.</p>	<p>在于该如何认证某人的身份。譬如，(某人)在开立新的银行账户，给一个或者另一个公共行政部门递交正式请求，或者在参与公共合同的竞标之时。</p>
<p>Obviously, not all services online require verification of identity. Many electronic commerce services only require payments online and do not require verification of identity. In brief, in these cases, all that is required is a credit card and nothing else. But sometimes verification of identity is necessary: namely, for examples, in the case of asking for a credit card.</p>	<p>显然，并不是所有的在线服务都需要验证身份。许多电子商务服务只需在线支付，而无需验证身份。简言之，在这些情况下，全部所需的就仅仅是一张信用卡，除此之外，什么也不需要。但是有时候，即譬如在申办信用卡的情形下，身份验证却是必要的。</p>
<p>In order to solve this problem, the European Parliament adopted "European Regulation n. 910/2014 of the European Parliament and of the Council of 23rd July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC", published in the Official Journal of the European Union of 28th August 2014, L 257/73 (hereinafter the "eIDAS Regulation" or the</p>	<p>为了解决这一问题，欧洲议会通过了《欧洲议会和理事会 2014 年 7 月 23 日第 2014/910 号关于内部市场电子交易中电子身份和可信服务以及废止 1999/93/EC 指令的条例》(以下简称《eIDAS 条例》或《电子身份条例》)，该条例被公布于 2014 年 8 月 28 日的欧盟官方期刊 (L 257/73)。</p>

<p>“Regulation on Electronic Identification”).</p>	
<p><i>2. The Regulation on Electronic Identification</i></p>	<p>2. 电子身份条例</p>
<p>The eIDAS Regulation builds upon Directive 1999/93/EC of the European Parliament and of the Council of the 13th of December 1999 on a community framework for electronic signatures and seeks to enhance trust in electronic transactions in the internal market and ensure the mutual recognition of electronic identification, authentication, signatures and other trust services across borders, thereby increasing the effectiveness of public and private online services in the European Union (hereinafter the European Directive on Electronic Signatures).</p>	<p>《eIDAS 条例》建立在《欧洲议会和欧盟理事会 1999 年 12 月 13 日关于建立电子签名共同法律框架的 1999/93/ EC 指令》（以下简称《欧盟电子签名指令》）的基础之上，它旨在提高（欧盟）内部市场电子交易的信任度和保障电子身份、电子认证、电子签名和其他跨境可信服务的相互承认，从而提高欧盟公共和私人在线服务的效率。</p>
<p>The eIDAS Regulation shall apply from the 1st of July 2016, while Directive 1999/93/EC on electronic signatures will be repealed with effect from the same date.</p>	<p>《eIDAS 条例》应于 2016 年 7 月 1 日起生效，与此同时《欧盟电子签名指令（1999/93/EC）》将自同日起失效。</p>
<p>Concerning electronic identification,</p>	<p>就电子身份而言，《eIDAS 条例》通</p>

<p>the eIDAS Regulation addresses the requirement of a citizen to use their electronic identification to authenticate themselves in other European Member States by establishing the principle of mutual recognition in relation to online services.</p>	<p>过创建有关在线服务的互任原则，以解决一国公民在其他的欧盟成员国通过使用他们的电子身份来认证他们自己的需求。</p>
<p>In particular, the Regulation lays down the conditions under which European Member States must recognise electronic identification means of both natural and legal persons in the internal market to facilitate cross-border businesses and interactions with public authorities.</p>	<p>特别是，《eIDAS 条例》规定了若干条件，根据这些条件，欧盟成员国必须认可内部市场中自然人和法人的电子身份手段，以促进跨境贸易的发展和其与公共当局的互动。</p>
<p>The eIDAS Regulation does not decree the freedom of European Member States to use or introduce means for electronic identification purposes for accessing online services, but it establishes clear rules for the recognition and acceptance of electronic identification means that will be directly applicable and identical in all of the European Member States.</p>	<p>虽然《eIDAS 条例》并未规定欧盟成员国为了访问在线服务的目的而有使用或引进电子身份手段的自由，但是该条例建立了明晰的规则以认可和接受电子身份手段，此电子身份手段将在所有的欧盟成员国中被直接适用且完全相同地适用。</p>

<p>3. <i>A Regulation, not a Directive</i></p>	<p>3. 它是条例，而非指令</p>
<p>In relation to the eIDAS Regulation it is worth mentioning that, even if it builds upon the European Directive on Electronic Signatures, the legal instrument chosen to regulate the subject is not a Directive, but a Regulation.</p>	<p>关于《eIDAS 条例》值得一提的是，尽管它建立在《欧盟电子签名指令》的基础之上，但用于规范该调整对象的法律文件却选用了条例而非指令。</p>
<p>The Regulation is a binding legislative act, just like the Directive. Nevertheless, the Regulation does not require any enacting act on the part of Member States.</p>	<p>条例如同指令一样是有拘束力的立法法案，不过，就欧盟成员国而言，条例并不需要成员国制定任何法案。</p>
<p>Therefore, once the eIDAS Regulation becomes operational, all of the European Member States will be bound by the same rules on electronic identification and trust services for electronic transactions. With this instrument, European States will go beyond harmonization, since the Regulation on Electronic Identification will provide for real unification of the legislative infrastructure on electronic signatures among European Member States, ensuring full juridical and technological interoperability.</p>	<p>因此，一旦《eIDAS 条例》开始实施，所有的欧盟成员国就将在电子交易中的电子身份和可信服务方面受到同样的规则约束。通过此法律文件，欧盟国家将远不止协调统一，因为《eIDAS 条例》将在欧盟成员国之间提供真正统一的电子签名立法基础设施，以充分保障法律和技术的互操作性。</p>

<p>The Regulation is divided into four parts: the first one establishes a set of general provisions; the second one deals with electronic identification and authentication; the third one regulates electronic signatures; the fourth one establishes the discipline on trust services.</p>	<p>《eIDAS 条例》分为四个部分：第一部分构建了一系列的总则条款；第二部分内容涉及电子身份的识别和认证；第三部分规制电子签名；第四部分规定了可信服务的准则。</p>
<p><i>4. The eIDAS and electronic identification</i></p>	<p>4. 《eIDAS 条例》与电子身份</p>
<p>The recognition process begins with the notification of an electronic identification scheme by one of the Member States to the Commission. Such a scheme is defined in the Regulation as a system for electronic identification under which electronic identification means are issued.</p>	<p>认可的过程始于成员国的一方将电子身份的方案通知给欧盟委员会。在条例中这一方案被定义为电子身份系统，依据此方案，电子身份的手段被签发。</p>
<p>The notifying State has to forward to the Commission the information related to the electronic notification scheme, including the authority responsible for the notified electronic identification scheme, the issuer of the electronic identification means under that scheme and its</p>	<p>通知国须将与该电子身份方案相关的信息递交给欧盟委员会，这些信息包括负责该通告的电子身份方案的当局、依据该方案的电子身份手段的签发方以及它的保证等级。</p>

<p>assurance levels.</p>	
<p>The assurance level of electronic identification schemes (low, substantial or high) is determined in accordance with the parameters provided for in art. 8 of the eIDAS Regulation. Assurance levels characterise the degree of confidence that an electronic identification means provides in claimed or asserted identity of a legal or natural person.</p>	<p>电子身份方案的保证等级（低/达标/高）取决于《eIDAS 条例》第 8 条规定的因素。保证等级表征着电子身份手段在所要求或者宣称的自然人或者法人身份方面提供的可信度。</p>
<p>Following notification by the Member States, the Commission will publish in the Official Journal of the European Union the list of the electronic identification schemes which have been notified. The Commission will also publish the amendments to the list within two months of the receipt of any new notification by a Member State. On the other hand a Member State may submit to the Commission a request to remove the identification scheme previously notified by the same State.</p>	<p>在收到成员国的通知后，欧盟委员会将在欧盟官方期刊上发布已通告的电子身份方案的列表。欧盟委员会也将在收到一方成员国任何新的通知后的两个月内，公布该列表的修正案。另一方面，一方成员国也可以向欧盟委员会呈交要求移除该国之前已通告的电子身份方案的请求。</p>

<p>The eIDAS Regulation also establishes the conditions to be met by the electronic identification schemes to be eligible for notification.</p>	<p>《eIDAS 条例》还规定了电子身份方案的适格“通知”所应满足的条件。</p>
<p>Specifically, an electronic identification scheme is eligible for notification if all of the conditions listed in art. 7 of the eIDAS Regulation are met. In particular, it is worth underlining that the electronic identification means under that scheme has to be issued by the notifying Member State or recognised by that State and that the electronic identification means has to be used to access at least one service provided by a public sector body in the notifying Member State.</p>	<p>确切地说，假如满足《eIDAS 条例》第 7 条所列举的所有条件，电子身份方案的“通知”才是适格的。特别需要强调的是，依据该方案的电子身份手段必须被通知国签发或者被认可，并且该电子身份手段须被用于访问通知国公共部门提供的至少一种服务。</p>
<p>According to the principle of mutual recognition, the eIDAS Regulation provides that when electronic identification is required to obtain access to a service provided by a public sector body at national level, Member States shall recognise and accept electronic identification means issued in another Member State if that electronic means is issued under an electronic identification</p>	<p>根据互任原则，《eIDAS 条例》规定当访问某个国家级公共部门所提供的服务需要进行电子身份时，如果电子身份手段的签发是以欧盟委员会公布列表中的电子身份方案为依据，那么欧盟成员国应该认可并接受另一个成员国签发的电子身份手段。</p>



<p>scheme included on the list published by the Commission.</p>	
<p>Furthermore, two additional conditions relating to the assurance level of the electronic identification means must be simultaneously met: the electronic identification means must have an assurance level equal to or higher than that required by the public sector body to access that service online and the assurance level used by the relevant public sector body in relation to accessing that service online must be “substantial” or “high”.</p>	<p>此外，与电子身份手段的保证级别相关的两个附加条件必须被同时满足：访问在线服务时电子身份的手段须有与公共机构要求的保证级别相同或更高的等级，并且相关公共部门采用的关于访问该在线服务的保证等级须为“达标”或“高”。</p>
<p>If the electronic identification means which is issued under an electronic identification scheme included in the list published by the Commission corresponds to the assurance level “low”, the public sector bodies have discretionary power whether to recognize it or not for the purposes of cross-border authentication.</p>	<p>如果依据欧盟委员会公布列表中的电子身份方案，其签发的电子身份手段对应于“低”保证等级，那么公共部门为了跨境认证的目的，就具有自由裁量是否认可它的权力。</p>
<p>The eIDAS Regulation provides for the liability of the notifying Member State, the party issuing the electronic identification means and the party</p>	<p>虽然《eIDAS 条例》规定了通知国、电子身份手段签发方以及认证程序运行方没有履行他们义务后的法律责任，但是它丝毫不减损欧盟各成员国国内</p>

<p>operating the authentication procedure, for failing to comply with their obligations, but it does not derogate national rules on the definition of damages.</p>	<p>法律关于“损害赔偿”定义的规定。</p>
<p>In addition to the need to assure mutual recognition of electronic identification schemes among Member States, the Regulation also aims at granting the technical interoperability of the schemes.</p>	<p>除了有必要确保成员国之间在电子身份方案的相互认可外，该条例还旨在授予该方案的技术互操作性。</p>
<p>Therefore it is stated that national electronic identification schemes notified in accordance with the Regulation shall be interoperable and an European interoperability framework shall be established.</p>	<p>因此，它强调依据《eIDAS 条例》的规定，被通告的国家电子身份方案应具有互操作性，并且应该构建欧盟的互操作性框架。</p>
<p>The approach chosen in the Regulation seems to be technologically neutral: the interoperability framework will not discriminate between any specific national technical solutions for electronic identification within the European Member States and it will refer to minimum technical requirements for interoperability and minimum technical requirements related to the assurance</p>	<p>《eIDAS 条例》选择的路径似乎是技术中立的：互操作性框架将不会在欧盟成员国之间歧视任何特定国家的电子身份的技术解决手段以及它将涉及互操作性的最低技术要求和上文已经提及的保证等级相关的最低技术要求。</p>

<p>levels already mentioned.</p>	
<p>Moreover, aiming at facilitating cooperation among the States, it is provided that at least six months prior to notification of the electronic identification scheme to the Commission, the notifying Member State shall provide other Member States with a description of the scheme. If electronic identification schemes require specific hardware or software to be used by relying parties at the national level, Member States should not impose such requirements on relying parties established outside the Country.</p>	<p>此外，为了促进成员国之间的合作，《eIDAS 条例》规定，在电子身份方案通知给欧盟委员会的至少六个月之前，通知国应该将对方案的说明提供给其他成员国。假如在国家层面上，电子身份方案需要依赖方使用特殊的硬件或者软件，成员国不得将其对依赖方设定的此类要求强加于他国。</p>
<p><i>5. The European Commission recent Implementing Regulations</i></p>	<p>5. 欧盟委员会最新的实施条例</p>
<p>According to article 12 of the eIDAS Regulation, the national electronic identification schemes notified shall be interoperable.</p>	<p>根据《eIDAS 条例》第 12 款的规定，通告的国家电子身份方案应具有互操作性。</p>
<p>On the 8th of September 2015 the European Commission adopted two implementing acts to set uniform conditions for the implementation of interoperability. The first one is the</p>	<p>2015 年 9 月 8 日欧盟委员会通过了两部实施办法来设定实施互操作性的统一条件。第一个实施办法是《欧盟委员会实施条例 (EU) 2015/1501 号根据〈欧洲议会和欧盟理事会条例第</p>

<p>“European Commission Implementing Regulation 2015/1501 on the interoperability framework pursuant to article 12(8) of European Regulation n. 910/2014 of the European Parliament and of the Council on electronic identification and trust services for electronic transactions in the internal market” (hereinafter the Regulation on Interoperability Framework).</p>	<p>2014/910 号关于内部市场电子交易中电子身份和可信服务条例&gt;第 12 条第 8 款制定的互操作性框架实施条例》(以下简称《互操作性框架实施条例》)。</p>
<p>The Regulation on Interoperability Framework lays down the technical and operational requirements of the interoperability framework in order to ensure the interoperability of the electronic identification schemes, which Member States notify to the Commission. Those requirements include the minimum technical requirements related to assurance levels, the minimum technical requirements for interoperability, the minimum set of person identification data uniquely representing a natural or legal person and common operational security standards. Furthermore, the Regulation provides that, where possible, any dispute concerning the interoperability framework shall be resolved by the Member States concerned through</p>	<p>《互操作性框架实施条例》建立在互操作性框架的技术和操作需求的基础之上，以确保成员国通知给欧盟委员会的电子身份方案具有互操作性。这些需求包括有关保证等级和互操作性的最低技术要求，以及唯一代表自然人或法人身份的最小数据集和共同的操作安全标准。除此以外，该实施条例规定，在可能的情况下，任何与互操作性框架相关的争议都应被相关成员国通过协商的方式加以解决。</p>

<p>negotiation.</p>	
<p>On the same day of the adoption of the Regulation on Interoperability Framework, the European Commission also adopted the “European Commission Implementing Regulation 2015/1502 on setting out minimum technical specifications and procedures for assurance levels for electronic identification means pursuant to article 8(3) of European Regulation n. 910/2014 of the European Parliament and of the Council on electronic identification and trust services for electronic transactions in the internal market” (hereinafter the Regulation on Assurance Levels).</p>	<p>在同一天通过《互操作性框架实施条例》的同时，欧盟委员会也通过了《欧盟委员会实施条例（EU）2015/1502 号根据〈欧洲议会和欧盟理事会条例第 2014/910 号关于内部市场电子交易中电子身份和可信服务条例〉第 8 条第 3 款制定的电子身份方式保证等级的最低技术性规范和程序实施条例》（以下简称《保证等级实施条例》）。</p>
<p>The Regulation on Assurance Levels sets out specifications and procedures according to which the assurance levels low, substantial and high for electronic identification means issued under a notified electronic identification scheme shall be determined. The same Regulation also establishes as a general rule that when the electronic identification means issued under a notified electronic identification scheme meet a requirement listed in a higher assurance level, then it</p>	<p>《保证等级实施条例》对技术规范 and 程序做出了规定，根据该条例的规定，依据通告的电子身份方案签发的电子身份手段，它的低/达标/高保证等级应加以明确。该同一的实施条例也设立了一条准则，即当依据通告的电子身份方案签发的电子身份手段，满足较高保证等级列举的条件之时，那么应推定它（也）满足较低保证等级的同等要求。</p>

<p>shall be presumed to fulfil the equivalent requirement of a lower assurance level.</p>	
<p>6. <i>The eIDAS and electronic signatures</i></p>	<p>6. 《eIDAS 条例》与电子签名</p>
<p>The part of the eIDAS Regulation dealing with electronic signatures does not bring about substantial differences compared to the previous legislative European framework.</p>	<p>《eIDAS 条例》涉及电子签名的这部分规范与之前的欧盟立法框架相比，其并没有产生实质性的差异。</p>
<p>The principle of non-discrimination of the electronic document and of electronic signatures – according to which a signature should not be denied legal validity only because of its electronic form - is confirmed. According to art. 25 (1) “an electronic signature shall not be denied legal effect and admissibility as evidence in legal proceedings solely on the grounds that it is in an electronic form or that it does not meet the requirements for qualified electronic signatures”.</p>	<p>电子文件和电子签名的非歧视原则被确认——根据这个原则的规定，不得仅因为签名采用电子形式而否定其法律效力。根据《eIDAS 条例》第 25 条第 1 款的规定“在法律程序中不得仅仅以它是电子形式或者不能满足合格电子签名的要求为由而否认它的法律效力以及证据资格”。</p>

<p>Three kinds of signature are defined by the Regulation: the electronic signature, the advanced electronic signature and the qualified signature.</p>	<p>《eIDAS 条例》界定了三种类型的签名：电子签名、高级电子签名和合格电子签名。</p>
<p>The definition of electronic signature is totally neutral from a technological point of view. According to art. 4 of the eIDAS Regulation, “electronic signature” means 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.</p>	<p>电子签名的定义是完全从技术中立的角度加以界定的。根据《eIDAS 条例》第 4 条的规定，“电子签名”是指被附着于其他电子数据，或者与之有逻辑联系并被签署者用于签名的电子形式的数据。</p>
<p>The definition of advanced electronic signature is also neutral from a technological point of view, as the Regulation establishes that the advanced electronic signature is an electronic signature that meets four different requirements. According to art. 26 of the Regulation, the advanced electronic signature shall be uniquely linked to the signatory, capable of identifying the signatory, created using electronic signature creation data that the signatory can use under their sole control and linked to the data signed therewith in such a way that any subsequent change in</p>	<p>高级电子签名的定义也是从技术中立的角度加以界定的，正如《eIDAS 条例》所规定的，高级电子签名是指满足四种不同要求的一类电子签名。根据《eIDAS 条例》第 26 条的规定，高级电子签名对签名人而言其联系应是唯一的；可用于鉴别签名人；采用电子签名制作数据能仅由签名人唯一地控制；以及它和与之签署的数据相联系，以这种方式，数据的任何嗣后变化都可以被察觉。</p>

<p>the data is detectable.</p>	
<p>The third kind of signature provided for is the qualified electronic signature, which is an advanced electronic signature created by a qualified electronic signature creation device and which is based on a qualified certificate for electronic signatures.</p>	<p>《eIDAS 条例》规定的第三种电子签名类型为合格电子签名，它是指由合格电子签名创造工具和合格电子签名证书的基础之上生成的高级电子签名。</p>
<p>Taking into consideration the legal value of the signature, art. 25(1) of the eIDAS Regulation provides that qualified electronic signatures shall have the equivalent legal effect of a handwritten signature.</p>	<p>考虑到签名的法律效力，《eIDAS 条例》第 25 条第 1 款规定，合格电子签名的法律效力应该与手写签名的法律效力相同。</p>
<p>Also, in terms of mutual recognition of electronic signatures among Member States, it is established according to art. 25(3) of the eIDAS Regulation that a qualified electronic signature based on a qualified certificate issued in one Member State shall be recognised as a qualified electronic signature in all other Member States.</p>	<p>另外，在成员国电子签名的互任方面，它根据《eIDAS 条例》第 25 条第 3 款的规定确立，它指在一个成员国签发的合格证书基础之上（生成）的合格电子签名，它在其他所有的成员国都应被认可为合格电子签名。</p>
<p>The eIDAS Regulation also introduces the electronic seal, defined as data in electronic form attached to or logically associated with other data in</p>	<p>《eIDAS 条例》也引入了电子签章，它是指被附着于其他电子数据，或者与之有逻辑联系，以确保后者数据来源和完整性的电子形式的数据。它是一种可</p>



<p>electronic form to ensure the latter's origin and integrity. It is an instrument that can be used to guarantee the integrity of the document to which it is associated. Like the electronic signature, the electronic seal can be simple, advanced or qualified. From a first analysis, the electronic seal seems to represent the signature of the juridical person, but its nature of signature will have to be confirmed by each European Member State's legislation. The principle of technological neutrality also applies to the electronic seal. Art. 35(1) of the eIDAS Regulation provides that an electronic seal shall not be denied legal effect and admissibility as evidence in legal proceedings solely on the grounds that it is in an electronic form or that it does not meet the requirements for qualified electronic seals.</p>	<p>以用来确保与之相关联的文件完整性的工具。像电子签名一样，电子签章能够是简便、先进或合格的。初步分析，电子签章似乎代表了法人的签名，但是其签名的性质必须得到每个欧盟成员国立法的确认。技术中立的原则同样也适用于电子签章。《eIDAS 条例》第 35 条第 1 款规定在法律程序中不得仅仅以它是电子形式或者不能满足合格电子签章的要求为由而否认它的法律效力以及证据资格。</p>
<p>If the electronic seal is qualified, it enjoys the presumption of data integrity and of correctness of the origin of that data to which the qualified electronic seal is linked. Furthermore, a qualified electronic seal based on a qualified certificate issued in one Member State shall be recognised as a qualified</p>	<p>假如电子签章是合格的，其就拥有推定与合格电子签章相关联的原始数据为完整且正确的权利。此外，在一个成员国签发的合格证书基础之上（生成）的合格电子签章在其他所有的成员国都应被认可为合格电子签章。</p>

<p>electronic seal in all other Member States.</p>	
<p>7. <i>The eIDAS and trust services</i></p>	<p>7. 《eIDAS 条例》与可信服务</p>
<p>The last part of the Regulation establishes the rules on so-called “trust services”.</p>	<p>《eIDAS 条例》的最后部分规定了被称为“可信服务”的规范。</p>
<p>The definition of a trust service is very broad and includes many of the electronic services offered by the market. According to the Regulation, a trust service is an electronic service, normally provided for remuneration, which consists of the creation, verification, and validation of electronic signatures, electronic seals or electronic time stamps, electronic registered delivery services and certificates related to those services. It can also consist of the creation, verification and validation of certificates for website authentication or the preservation of electronic signatures, seals or certificates related to those services.</p>	<p>“可信服务”的定义非常广泛并且涵盖市场提供的许多电子服务。根据《eIDAS 条例》的规定，可信服务是指一种通常提供报酬的电子服务，它包括电子签名、电子签章、电子时间戳、注册电子传输服务以及和这些服务相关的证书的制作、认证和验证。它也包括网站认证书的制作、认证和验证或者电子签名、电子签章或者这些服务相关证书的证据保全。</p>
<p>The European legislator has provided for a distinction between qualified and non-qualified trust services</p>	<p>欧盟立法者规定了合格和不合格的可信服务以及可信服务提供者的区别。“合格可信服务”是仅指符合《eIDAS</p>

<p>as well as for trust services. Qualified trust services are only those which meet the requirement indicated in the Regulation, ensuring a certain level of security. The supervisory body shall verify whether trust service providers comply with the requirements laid down in the Regulation and in particular with the requirements for qualified trust service providers and for the qualified trust services they provide. The trust service provider shall then be registered on a trust list, as already happens for certification service providers issuing qualified certificates.</p>	<p>条例》规定的要求，确保一定程度安全的服务。监督机构应该核实可信服务提供者是否符合条例规定的要求，特别是，其是否满足合格可信服务提供者以及他们提供的服务是否为合格可信服务的要求。可信服务提供者应接着被登记在一个信任列表上，正如已经发生的认证服务提供者签发合格证书一样。</p>
<p>After the qualified status has been indicated in the trust list, qualified trust service providers may use the European trust mark to indicate in a simple, recognisable and clear manner the qualified trust services they provide.</p>	<p>在信任列表中显示为合格状态后，合格可信服务提供者可以使用欧盟的信任标志以简便、可识别的和清晰的方式来表明他们提供的是合格可信服务。</p>
<p>Qualified and non-qualified trust service providers shall take appropriate technical and organisational measures to manage the risks posed to the security of the trust services they provide. In particular, measures shall be taken to prevent and minimise the impact of</p>	<p>合格的以及不合格的可信服务提供者应该采取适当的技术和管理措施来管理由他们提供的可信服务安全性造成的风险。特别是，这些措施应该用来防止和减弱安全事故造成的影响并且其应将这类事故的不利后果通知给利益相关者。</p>

<p>security incidents and inform stakeholders of the adverse effects of such incidents.</p>	
<p>It is emphasised that qualified and non-qualified trust service providers shall notify the supervisory body, the competent national body for information security or the data protection authority of any breach of security or loss of integrity that has a significant impact on the trust service provided or on the personal data stored therein. If a breach of security or loss of integrity concerns two or more Member States, the notified supervisory body shall inform the supervisory bodies in other Member States concerned and ENISA (the European Union Agency for Network and Information Security).</p>	<p>需要强调的是，合格的和不合格的可信服务提供者都应该将其中任何违反安全或者缺失完整性等会对提供的可信服务或者储存的个人数据产生重要影响的情形通知给监管部门、信息安全的国家主管机构或者数据保护的当局。假如违反安全或者缺失完整性的事项涉及到两个或以上的成员国，这个被通告的监管机构应该通知其他相关成员国的监督机构和 ENISA（欧盟网络与信息安全局）。</p>
<p>8. <i>Other innovations</i></p>	<p>8. 其他创新点</p>
<p>It is also worth mentioning that the eIDAS Regulation introduces the so-called “electronic time stamp”, the “registered delivery service” and the “certificate for website authentication”.</p>	<p>还值得一提的是，《eIDAS 条例》引入了所谓的“电子时间戳”、“注册（电子）传输服务”以及“网站认证书”。</p>

<p>The electronic time stamp is a set of data in electronic form, which binds other data in electronic form to a particular time, providing evidence that the latter data existed at that time. The electronic time stamp does not attest that the electronic document was created at a precise moment, but it proves that the document already existed at that time. The time stamp can be “simple” or “qualified”.</p>	<p>“电子时间戳”是以电子形式存在的一组数据，该组数据与某个特定时间点的其他电子形式的数据相结合，作为后者在当时存在的证据。电子时间戳虽然并不能证明电子文件被创作完成的确切时间，但它能够证明该文件在当时已经存在。时间戳可以是“简便的”或者“合格的”。</p>
<p>The registered delivery service is a service that makes it possible to transmit data between third parties by electronic means and provides evidence relating to the handling of the transmitted data, including proof of sending and receiving the data, and that protects transmitted data against the risk of loss, theft, damage or any unauthorised alterations. In Italy, the most widespread registered delivery service is the so-called PEC (posta elettronica certificata).</p>	<p>“注册（电子）传输服务”是指通过利用电子手段使得在第三方平台之间传输数据成为一种可能的服务，并且其提供了处理传输数据有关的证据，包括发送以及接收数据的证据，以及保护传输数据免受丢失、盗取以及未经授权被修改的风险。在意大利，流传最广的注册（电子）传输服务被称为 PEC（电子邮件认证）。</p>
<p>Finally, the certificate for website authentication is an attestation that makes it possible to authenticate a website and links the website to the natural or legal person to whom the certificate is issued.</p>	<p>最后，“网站认证书”是使对网站进行认证并且将网站和被签发证书的自然人或法人联系起来而成为一种可能的证明。就像电子时间戳一样，网站认证书能够是简便的或者合格的。网站</p>

<p>Just like the electronic time stamp, the certificate for website authentication can be simple or qualified. The goal pursued by the certificate for website authentication is to link the website to a person granting different levels of reliability.</p>	<p>认证书所追求的目标是把网站与个人联系起来，给予其不同级别的可信度。</p>
<p>9. <i>Final considerations</i></p>	<p>9. 结语</p>
<p>The eIDAS Regulation should be framed among those pieces of law which seek to enhance trust in electronic transactions by providing a common foundation for secure electronic interaction between citizens, businesses and public authorities, thereby increasing the effectiveness of online services, electronic business and electronic commerce in the European Union.</p>	<p>《eIDAS 条例》应该建立在一系列的法律之上，这些法律通过提供共同的基础以在公民、企业和政府机构之间实现安全的电子化互动，旨在提升电子交易的信任度，从而提高欧盟在线服务、电子交易和电子商务的效率。</p>
<p>It is worth highlighting that, differently from the previous acts adopted by the European Union, the legal instrument chosen to regulate the subject is a Regulation. As already mentioned, a European Regulation is a binding legislative act, which must be applied in its entirety across the European Union</p>	<p>值得强调的是，不同于欧盟之前通过的法案，（此次）用于规范调整对象的法律文件选用了“条例”。正如上文已经提及的那样，欧盟条例是有拘束力的法案，它必须被完全地适用于整个欧盟，且并不需要成员国制定任何法案。因此，对于电子交易中的电子身份和可信服务而言，所有的欧盟成员国将被同</p>

<p>and does not require any enacting acts by the Member States. Therefore all of the European Members will be bound by the same rules on electronic identification and trust services for electronic transactions, ensuring full juridical and technological interoperability.</p>	<p>样的规则约束，以充分确保法律以及技术的互操作性。</p>
<p>The eIDAS aims to remove existing barriers to the cross-border use of electronic identification means among European Member States for authentication, but it does not aim to intervene with regard to electronic identity management systems and related infrastructures established inside the European Member States. The Regulation will ensure that with secure electronic identification and authentication it will be possible to access the cross-border online services offered by Member States. It in fact establishes a general principle of mutual recognition of key enablers across borders, such as electronic identification, electronic documents, electronic signatures and electronic delivery services. Nevertheless, it should also be remembered that the eIDAS Regulation only applies to public services.</p>	<p>《eIDAS 条例》的宗旨在于扫除欧盟成员国之间跨境使用电子身份手段认证的既有障碍，但是它的目的并不在于干涉欧盟成员国内部建立的有关电子身份认证管理系统和相关的基础设施。《eIDAS 条例》将凭借安全的电子身份和认证，以确保访问欧盟成员国提供的跨境在线服务成为一种可能。事实上，《eIDAS 条例》建立了诸如电子身份、电子文件、电子签名和电子传输服务等跨境关键促进因素互任的一般原则。尽管如此，《eIDAS 条例》也应当被记住的是，它仅适用于公共服务。</p>

<p>This Regulation creates appropriate conditions to enhance legal interoperability among Member States and improve trust in electronic transactions and markets. It does not, of course, address the issue of the mutual recognition of on line identity outside Europe, but it does create a uniform internal legislative infrastructure that offers hope for further future developments in relation to the subject of mutual recognition at an international level.</p>	<p>《eIDAS 条例》规定了适当的情形来增强成员国之间的法律互操作性和提高电子交易及市场的信任度。当然，《eIDAS 条例》并没有解决欧盟国家之外在线身份的互认问题，但是它确实构建了一套统一的欧盟内部立法基础设施，这将为未来在国际层面进一步发展与该议题有关的互认带来了希望。</p>
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