

## Covid-19: E-sign here, please!

April, 2020

**The impact of the Covid-19 pandemic and the norm of social distancing in both employment performance and customer relationships, has imposed clear impediments to a traditional signing process in business transactions. As it seems that there's no turning back to ink and paper, the use of e-signatures can offer the contracting parties flexibility and efficiency in executing business documents. Is this, however, a way to execute valid contracts in Greece? Which e-signature process or solution should you choose, depending on the nature of the transaction?**

### Conclusion of contracts

To start with, in Greece, as long as the parties have lawfully reached an agreement, most contracts do not have to follow a specific legal form, i.e. be represented in writing, to be enforceable.

However, where a law governing the transactions of a specific nature or an agreement entered into by the parties requires so, compliance with the form required (which can be either in writing, or by a notarial deed or by a declaration before public authority) is mandatory, otherwise the contract is

considered to be invalid. These kinds of contracts require the contracting parties' handwritten signature or alternatively an e-signature with the equivalent legal effect of a handwritten signature.

### What is deemed to be an e-signature?

E-signatures are valid in Greece and recognized by virtue of Presidential Decree No 150/2001, which incorporated the previous Directive (EC) No 1999/93 on a Community framework for e-signatures, and Regulation (EU) No 910/2014 of the European Parliament and of the Council on electronic identification and trust services for electronic transactions in the internal market, also known as eIDAS.

Pursuant to these provisions, e-signature means data in electronic form, which are attached to or logically associated with other data in electronic form, and it is used by the signatory to sign, while certificate for e-signature means an electronic attestation which links electronic signature validation data to a natural person and confirms at least the name or the pseudonym of that person. To this extent, any electronic method useful for the proof of the authenticity of an electronic document falls within the definition of the e-

signature, regardless of its degree of certainty or security.

According to the above, the following fall within the legal concept of e-signature:

- ✓ a Personal Code Number (PIN) used in closed network following a contact of the contracting parties;
- ✓ the cryptography method (which includes, inter alia, the advanced and qualified e-signature);
- ✓ according to Greek case law, under certain circumstances, the email address which accompanies email messages.

Of course, the printing of a signature through a mechanical device shall not be equivalent to a handwritten one, although technically the data is in electronic form and attached to a file, since it does not follow the conditions set by eIDAS. Therefore it cannot serve as proof for the execution of an agreement required to be formulated in writing and may also raise doubts as to the authenticity of the signature.

Even valid e-signatures do not guarantee per se the validity of the contract and the evidence of its execution, which depends on the nature of the transaction and the ad hoc circumstances.

So, in order to provide consistency across all EU member states in the way document signing is carried out, eIDAS mainly set the

definitions for e-Signatures, Advanced e-Signatures and Qualified e-Signatures, classifying e-signatures by level of assurance.

In principle, a contractual document, which by law or agreement is required to be formulated in writing, shall be electronically signed by the contracting parties by a qualified e-signature, constituting full evidence in legal proceedings as to the content and the author thereof.

### [eIDAS Advanced e-signatures](#)

As advanced e-signature is deemed to be the e-signature meeting the following requirements: (a) it is uniquely linked to the signatory, (b) it is capable of identifying the signatory, (c) it is created using e-signature creation data that the signatory can, with a high level of confidence, use under his sole control, and (d) it is linked to the data signed therewith in such a way that any subsequent change of the data is detectable.

An advanced e-signature issued by an EU member state is always treated as handwritten signature in same EU member state and may also be admissible in other EU member states.

### [eIDAS Qualified e-signatures](#)

As “qualified e-signature” is deemed to be the advanced e-signature which, in addition, is created by a qualified e-signature creation device and is based on a qualified certificate for e-signatures.

A qualified certificate for e-signatures is an electronic attestation, which links e-signature validation data to a natural person and confirms at least the name or the pseudonym of that person, provided that it meets certain legal and technical requirements and is provided by a service provider who fulfils also certain requirements and is qualified by the competent authority.

A qualified e-signature issued by an EU member state is always treated as handwritten signature within the territory of all EU member states.

### How to obtain an eIDAS qualified e-signature in Greece?

The competent Greek authority for the designation and supervision of providers of e-signatures is the Hellenic Telecommunication and Post Commission. According to the latter, in Greece currently operate the following qualified e-signature providers:

- The Hellenic Public Administration Certification Authority
- ADACOM Advanced Internet Applications S.A.
- BYTE Computer S.A.
- The Hellenic Academic and Research Institution Certification Authority

- The Hellenic Exchanges - Athens Stock Exchange S.A.



### Other services

The known Greek bureaucracy succumbed to the disruption caused by Covid-19, which has already prompted measures allowing for a fast procedure of electronic attestation of signatures. Through a mouse click, the portal [www.gov.gr](http://www.gov.gr) allows the issuance of e-proxies and e-solemn declarations, ready to use before public or private bodies and individuals.

### Caution required

Given, however, that an expected increase in fraud is arising during the Covid-19 crisis, we would urge a cautious approach when making use of electronic communication and e-signatures in entering into corporate contracts. Since the circumstances necessitate parties entering into contracts without necessarily having face to face contact, there

needs to be increased scrutiny when entering into contracts to ensure that the correct person has affixed their e-signature.

***Your Legal Partners** have already obtained qualified e-signatures and are actively advising clients in relation to the Covid-19 outbreak. Please do not hesitate to [get in touch with us](#) if your business has been affected.*

*If you have questions or would like additional information, please contact the authors:*

*Marina Mantzana, Senior Associate*

*[marina.mantzana@yourlegalpartners.gr](mailto:marina.mantzana@yourlegalpartners.gr)*

*Fotini Mavrikaki, Senior Associate*

*[fotini.mavrikaki@yourlegalpartners.gr](mailto:fotini.mavrikaki@yourlegalpartners.gr)*

*Follow us*

