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COMMISSION DECISION

of 25 February 2011

establishing minimum requirements for the cross-border processing of documents signed electronically by competent authorities under Directive 2006/123/EC of the European Parliament and of the Council on services in the internal market

(notified under document C(2011) 1081)

(Text with EEA relevance)

(2011/130/EU)

(OJ L 53, 26.2.2011, p. 66)

Amended by:

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**COMMISSION DECISION****of 25 February 2011****establishing minimum requirements for the cross-border processing of documents signed electronically by competent authorities under Directive 2006/123/EC of the European Parliament and of the Council on services in the internal market***(notified under document C(2011) 1081)***(Text with EEA relevance)**

(2011/130/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market ⁽¹⁾, and in particular Article 8(3) thereof,

Whereas:

- (1) Service providers whose services fall within the scope of Directive 2006/123/EC must be able to complete, through the Points of Single Contact and by electronic means, the procedures and formalities necessary for the access to and the exercise of their activities. Within the limits established in Article 5(3) of Directive 2006/123/EC, there may still be cases where service providers have to submit original documents, certified copies or certified translations when completing such procedures and formalities. In those cases, service providers may need to submit documents signed electronically by competent authorities.
- (2) The cross-border use of advanced electronic signatures supported by a qualified certificate is facilitated through Commission Decision 2009/767/EC of 16 October 2009 setting out measures facilitating the use of procedures by electronic means through the 'points of single contact' under Directive 2006/123/EC of the European Parliament and of the Council on services in the internal market ⁽²⁾ which, inter alia, imposes an obligation on Member States to carry out risk assessments before requiring these electronic signatures from service providers and establishes rules for the acceptance by Member States of advanced electronic signatures based on qualified certificates, created with or without a secure signature creation device. However, Decision 2009/767/EC does not deal with formats of electronic signatures in documents issued by competent authorities, that need to be submitted by service providers when completing the relevant procedures and formalities.

⁽¹⁾ OJ L 376, 27.12.2006, p. 36.

⁽²⁾ OJ L 274, 20.10.2009, p. 36.

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- (3) As competent authorities in Member States currently use different formats of advanced electronic signatures to sign their documents electronically, the receiving Member States that have to process these documents may face technical difficulties due to the variety of signature formats used. In order to allow service providers to complete their procedures and formalities across borders by electronic means, it is necessary to ensure that at least a number of advanced electronic signature formats can be technically supported by Member States when they receive documents signed electronically by competent authorities from other Member States. Defining a number of advanced electronic signature formats that need to be supported technically by the receiving Member State would allow greater automation and improve the cross-border interoperability of electronic procedures.
- (4) Member States whose competent authorities use other electronic signature formats than those commonly supported, may have implemented validation means that allow their signatures to be verified also across borders. When this is the case and in order for the receiving Member States to be able to rely on these validation tools, it is necessary to make information on these tools available in an easily accessible way unless the necessary information is included directly in the electronic documents, in the electronic signatures or in the electronic document carriers.
- (5) This Decision does not affect the determination by the Member States of what constitutes an original, a certified copy or a certified translation. Its objective is limited to facilitating the verification of electronic signatures if they are used in the originals, certified copies or certified translations that service providers may need to submit via the Points of Single Contact.
- (6) For the purpose of allowing Member States to implement the necessary technical tools, it is appropriate that this Decision applies as of 1 August 2011.
- (7) The measures provided for in this Decision are in accordance with the opinion of the Services Directive Committee,

HAS ADOPTED THIS DECISION:

*Article 1***Reference format for electronic signatures****▼M1**

1. Member States shall put in place the necessary technical means allowing them to process electronically signed documents that service providers submit in the context of completing procedures and formalities through the Points of Single Contact as foreseen by Article 8 of Directive 2006/123/EC, and which are signed by competent authorities of other Member States with an XML, a CMS or a PDF advanced electronic signature at any conformance level or using an associated signature container at basic level provided these comply with the technical specifications listed in the Annex.

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2. Member States whose competent authorities sign the documents referred to in paragraph 1 using other formats of electronic signatures than those referred to in that same paragraph, shall notify to the Commission existing validation possibilities that allow other Member States to validate the received electronic signatures online, free of charge and in a way that is understandable for non-native speakers unless the required information is already included in the document, in the electronic signature or in the electronic document carrier. The Commission will make that information available to all Member States.

*Article 2***Application**

This Decision shall apply from 1 August 2011.

*Article 3***Addressees**

This Decision is addressed to the Member States.

▼ **M1***ANNEX***LIST OF TECHNICAL SPECIFICATIONS FOR XML, CMS OR PDF
ADVANCED ELECTRONIC SIGNATURES AND THE ASSOCIATED
SIGNATURE CONTAINER**

Advanced electronic signatures mentioned in Article 1 paragraph 1 of the Decision must comply with one of the following ETSI technical specifications:

XAdES Baseline Profile	ETSI TS 103171 v.2.1.1 ⁽¹⁾
CAdES Baseline Profile	ETSI TS 103173 v.2.2.1 ⁽²⁾
PAdES Baseline Profile	ETSI TS 103172 v.2.2.2 ⁽³⁾

⁽¹⁾ http://www.etsi.org/deliver/etsi_ts/103100_103199/103171/02.01.01_60/ts_103171v020101p.pdf

⁽²⁾ http://www.etsi.org/deliver/etsi_ts/103100_103199/103173/02.02.01_60/ts_103173v020201p.pdf

⁽³⁾ http://www.etsi.org/deliver/etsi_ts/103100_103199/103172/02.02.02_60/ts_103172v020202p.pdf

Associated signature container mentioned in Article 1 paragraph 1 of the Decision must comply with the following ETSI technical specifications:

Associated Signature Container Baseline Profile	ETSI TS 103174 v.2.2.1 ⁽⁴⁾
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⁽⁴⁾ http://www.etsi.org/deliver/etsi_ts/103100_103199/103174/02.02.01_60/ts_103174v020201p.pdf