

Implementation of qualified electronic signatures in the process of creating project and technical documentation

The experiences of member countries of the ECEC-
Italy



January 28th 2016



Agenda



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- The use of digital instruments by the Italian Engineers
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- Digital signature users in Italy

EU Directive and its implementation in Italy



EU Directive 1999/93/EC on a *Community framework for electronic signatures*



Implemented in Italy by means of **Legislative Decree 7/3/2005, n. 82**

(Digital Administration Code - CAD) and its following modifications (the latest through Legislative Decree 18/05/2015, n. 102)

EU Directive and its implementation in Italy



Although European Directive concerning the electronic signature dates from 1999

ITALY

was one of the first European country to provide itself in 1997 with legislation regarding electronic signature

EU Directive and its implementation in Italy



Main implementing regulations

- **D.P.C.M. 30/03/2009** - *Technical rules regarding generation, application and confirmation of digital signatures and temporal validation of IT documentation*
- **DPCM 10/02/2010** - *The terms of authorization of self-certification on the correspondence between automatic signature disposal and security requirements*
- **DPCM 19/07/2012** - *Decree on automatic signature disposals – HSM*
 - **DPCM 22/02/2013** - *New technical rules*
 - **DPCM 5/02/2015** - *Certified disposals for the application of electronic signatures*

EU Directive and its implementation in Italy



The Digital Administration Code (CAD) **applies to both private and public bodies**; its main contents are the following:

- **communications between public and private bodies** should be transmitted exclusively through digital devices;
- new distinctions have been introduced between **copies and duplicates** from digital to paper versions and *viceversa*;
- the possibility of **certifying the storage process** has also been introduced.

EU Directive and its implementation in Italy



The new CAD (art. 21, par. 2) provides for a new kind of signature defined as the **advanced electronic signature**, which will be the fourth kind of signature provided by national legislation (including “simple” electronic signature). In particular:

- advanced electronic signature
- qualified electronic signature
 - digital signature

ALL SATISFY LEGAL REQUIREMENTS TO THE SAME DEGREE

(same legal value as a handwritten signature).

EU Directive and its implementation in Italy



To the contrary:

“simple” electronic signature “is freely valuable on the probative plan, considering its objective characteristics of quality, security, integrity and unchangeability” (art. 21, par. 1, CAD).

EU Directive and its implementation in Italy



Advanced electronic signature (as defined in EU Directive) should meet the following requirements:

- ✓ it is *uniquely linked* to the signatory;
- ✓ it is *capable of identifying* the signatory;
- ✓ it is created using means that the signatory can maintain under *his sole control*; and
- ✓ it is *linked to the data* to which it relates that any subsequent *change of the data is detectable*.

EU Directive and its implementation in Italy



DPCM (Decree of the President of the Council of Ministers) dated 22/07/2013 has provided *New technical rules on electronic signature*



Full legal value has been granted to **Graphometric Signature**, which consists of a handwritten signature being added to a digital document by means of a tablet using a special pen.

EU Directive and its implementation in Italy



NEW GRAPHOMETRIC SIGNATURE

- can be regarded as either an electronic signature or an advanced electronic signature (depending on the different security measure adopted);
 - is mostly used by Italian banks;
- the only limitation concerns contracts regarding real estate, which cannot be signed with a “Graphometric Signature”, but require a digital signature.

EU Directive and its implementation in Italy



As in other European countries, also in Italy electronic signature shall be implemented by using **Hash Algorithm SHA256** (art. 63, par. 3, DPCM 22/07/2013 – *Hash algorithm codification*).

EU Directive and its implementation in Italy



The whole electronic signature legislation and its implementation forms part of the
**PROCESS OF DIGITALIZATION OF ITALIAN
PUBLIC ADMINISTRATION**

together with the introduction of:

- electronic invoice;
- electronic protocol and electronic storage of digital documentation;
- Certified Electronic Mail (*Posta Elettronica Certificata* – PEC)

The use of digital instruments by the Italian professionals



Article 16 of Law Decree No. 185/2008 (converted by Law No. 2/2009):

Certified practising professionals (i.e. registered professionals) SHALL communicate to their Professional Association their **PEC address**.

Personal data and PEC address of the certified professionals will be published in a **confidential list on the Professional Association website**, to be consulted only by the Public Administration.

The use of digital instruments by the Italian professionals



Lack of publication of the confidential list concerning personal data and PEC addresses of the certified professionals can also bring to the **dissolution or compulsory administration of the Professional Association**
(article 7bis of Law Decree No. 185/2008)

The use of digital instruments by the Italian **Engineers**



In particular:

Although not formally required by Law, certified professional Engineers *SHOULD* all have their personal digital signature in order to conduct their own professional activities in Italy.

Main applications relating to the engineering activities



1. On-line submission of administrative documentation/application through Unified Help-Desk for Productive Activities (SUAP) or Unified Help-Desk for Construction Activities (SUAE)

e.g. online receipt and transmission of Certified Notification on the Commencement of Activity (SCIA) and Declaration on the Commencement of Activity (Super DIA – formerly DIA) to the competent administrative authority by using PEC and digital signature.

In accordance with DPR September 7, 2010 No 160, SUAP are going to be implemented and become fully effective also in **smallest Italian Municipalities.**

Main applications relating to the engineering activities



2. Submission of documents to the Real Estate Registry Office (*Ufficio del catasto*)

Starting from June 1st, 2015 submission of real estate documentation is only possible on-line by accessing to the dedicated e-portal “SiSter” of the Regional Agency (i.e. Agenzia del Territorio) and at the following conditions:

- to have previously bought a digital signature disposal;
- to have filled the application e-form available on “SiSter”;
- to have completed the qualification process at the competent Provincial Agency (*Agenzia Provinciale del Territorio*).

Main applications relating to the engineering activities



3. Participation to public e-procurement procedure

Starting from 2012 and according to the provisions of Law No. 94/2012, **Public Administration Electronic Market (MePa)** has become the mandatory e-procurement instrument for public purchase below the EU threshold

Since 2001 **Consip** (joint-stock company held by the Italian Ministry of Economy and Finance – MEF), manage the dedicated e-portal for e-procurement (www.acquistinretepa.it).

Main applications relating to the engineering activities



4. In particular: AVCpass system for the simplification and standardization of tender application procedures

According to Leg. Dec. No. 5/2012, AVCpass is the web-based system that allows economic operators to take part in tenders for contract which require a CIG (Tender Identification Code), by using IT tools for loading and managing documents that prove the necessary requisites for participation.

It was created with the technological contribution from engineering personnel of the National Anticorruption Authority or ANAC (formerly Public Contracts Supervisory Authority or AVCP).

Main applications relating to the engineering activities



5. **Submission of CTU (Court appointed Technical Consultancy) or CTP (Party-appointed Technical Consultancy) report in Italian civil trials**

Starting from June 30th, 2014 (according to Stability Law No. 228/2012) the electronic deposit of all judicial acts and documents became compulsory in civil trials, due to the implementation of the Civil Telematics Process (PCT).

The appointed Technical Consultant/Expert Witness shall register to **ReGIndE** (General Address of Electronic Addresses) to interact with the competent jurisdictional court office, by using PEC and digital signature.

Digital signature providers in Italy



- Before October 31st, 2010: digital signature could also be provided by the Public Administration, such as the Regional Agency (*Agenzia per il Territorio*);
- After October 31st, 2010: relevant pen-drive or smart-card shall only be released by **accredited certification bodies** authorized by AgID (*Agenzia per l'Italia Digitale*), such as Poste S.p.A., Italian Chamber of Commerce (*Camera di Commercio*), Aruba S.p.A., etc.*

(*more information on accredited certification bodies providing digital signature can be found in the dedicated Matrix available on http://www.agid.gov.it/sites/default/files/linee_guida/a_chi_richiedere_la_firma_digitale_2015.10.pdf or on <http://www.agid.gov.it/identita-digitali/firme-elettroniche/certificatori-attivi>).

Digital signature providers in Italy



In 2009, the National Council of Italian Engineers (CNI) has signed a **dedicated agreement with ARUBA S.p.A.**, to allow certified professional Engineers to obtain at favorable price a specific “kit” composed of:

- ✓ digital signature
associated to
- ✓ the certification attesting the registration of the Engineer to its Professional Association (*certificato di ruolo*).

The “kit” has the scope to qualify the digital signature as a signature specifically occurring from a certified Engineer registered to the Professional Association and up to date with the payment of its own registration fee.

Digital signature users in Italy



With reference to the period May 2014 - July 2015, information provided by accredited certification bodies shows an **increase of more than 50% in the total number of «active» digital signature certificates.**

In fact:

- in **May, 2014** about 5.319.800 valid certificates have been estimated *while*
- in **July, 2015** about 8.104.615 valid certificates have been estimated.

It's been also estimated that about 75% of digital signature active certificates are actually referred to **remote digital signature systems***.

(* all data published on AgID – Agenzia per l'Italia digitale website: <http://www.agid.gov.it/agenda-digitale/infrastrutture-architetture/firme-elettroniche>)

Questions ?



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Thank you!