

## **PROPOSAL REGARDING THE SYSTEM FOR ISSUING CERTIFICATES ON ELECTRONIC SIGNATURES IN THE REPUBLIC OF MACEDONIA**

The existence of secure electronic signatures is a significant prerequisite for any IT society, being necessary for the usage of the specific IT applications. For the time being an adequate system for issuing certificates on electronic signatures does not exist in the Republic of Macedonia, a situation which *Impact* regards as entirely unsustainable.

Some private entities are prepared to begin the work of issuing such certificates and claim to have the necessary competence and capacity to do so. However they lack the legal right to do so.

The EU Directive 1999/93/EC on a Community framework for electronic signatures facilitates the use of electronic signatures and their legal recognition by establishing the necessary legal framework. The Directive, being part of the *Aquis Communautaire*,<sup>1</sup> should be properly implemented in Macedonia.

The Directive has so far only partly been transposed through the Law on Data in Electronic Form and Electronic Signature (OG no.34/01, 6/02) and related bylaws. Regardless the Law, no certificates can be legally issued in Macedonia. This presents a violation with regard to EU commitment and seriously deters the introduction of essential e-Government applications and the use of IT in business.

One should be aware that the Directive sets the obligatory tasks of the responsible body for notification/registration and supervision of certification-service providers. The issuance of certificates by a state body is not an obligation. The relevance of creating such an undertaking in Macedonia should be discussed separately and may not in any way delay the introduction of the tasks Macedonia is obligated to do.

### **Actions that should be taken:**

#### **1. Legal issues**

##### **Action**

- The present Law on Data in Electronic Form and Electronic Signature must be amended in line with the EU Directive 1999/93/EC. Especially, the following key points have to be in place:
  - ✓ Introduce clear provision in the Law where **fair competition** on the market of certification-service providers would be guaranteed.

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<sup>1</sup> As a consequence of signing the Stabilization and Association Agreement with EU, Macedonia has the obligation to fully implement the EU *Aquis Communautaire*, i.e. existing EU legislation.

- ✓ **Registration / notification system:** Following the EU Directive no formal authorisation process may be in force, only a simple registration/notification process that should be initiated not less than 8 days prior to commencement of the provider's activity. A State agency must be in charge of the registration/notification process and, following the present administrative structure that could ideally be the Ministry of Finance (MoF). However, MoF does not need to have advanced e-signature to keep the Register or transitional period for MoF to obtain advanced e-signature could be set in the Law.
- ✓ **Supervision authorities:** MoF must be given the legal support and greater authority to conduct supervision of certification-service providers in accordance with the Directive. The law must be adapted accordingly.
- ✓ **Liability clause:** The Law should provide the necessary legal obligations on the issuers regarding insurance and damage compensation. The amounts should be set realistically and corresponding to the Macedonian economy.

A detailed list of proposals for amendments to the Law including proposed new text will be provided by Impact.

- The present 4 bylaws to be amended in some parts in order to be in compliance with the EU requirements and the amended Macedonian Law.
- 3 new bylaws to be drafted and adopted in order to wrap-up the legal framework on e-signatures and facilitate the implementation of the Law;

#### **Time frame**

- Amendments to the Law;
  - ✓ Impact proposals will be presented, discussed and finalized in the period between 25 April – 06 May 2005;
  - ✓ Amended Law to be on the agenda of the Parliament's general session end of May 2005 at latest.
- The complete procedure for drafting and/or amending the remaining 3 bylaws and the present 4 bylaws could be completed in a month (May 2005)

#### **Cost**

- Impact offers assistance and is willing to provide all necessary proposals. There should thus not be any costs for MoF.

## **2. Administrative issues**

#### **Action**

- MoF to take on the responsibility for registration/notification of issuers of digital signatures. If MoF would prefer an alternative solution with regard to the responsibility for registration and monitoring, that could be discussed at a later stage.
- In light of the potential e-signature market in Macedonia, fulfilment of the administrative and supervisory tasks should not require more than 2-3 persons of different profile (e.g. IT specialist, lawyer etc.), but they would not be fully engaged on these tasks.

#### **Time frame**

- Once the legal framework is completed (end of May 2005), responsible body (MoF) could commence its work and starts register the providers (June/July 2005). In parallel with the drafting process, the staff should be trained and administrative routines developed.

#### **Cost**

- Costs to set up the responsible body and run the operations could be estimated as follows:
  - ✓ Salaries for 2-3 persons working on these tasks on part time. The cost could be carried through possible corresponding fees to be paid by the certificate issuers. In that case, corresponding legal provisions must be developed. A model is to be found in the new Law on Electronic Communications.
  - ✓ Staff training is required, recommendable in other country, which is more experienced in the field of e-signatures. The training could potentially be financially supported by Impact.
  - ✓ No HW/SW investment is foreseen for MoF to perform its tasks.

### **3. Private sector initiatives**

#### **Action**

- At least 2 private entities are interested to become certification-service providers. They already have proper HW/SW equipment, trained staff and internal rules in line with the present Law. According to the proposed changes they would need to submit notification and other necessary documents to the responsible body informing about their intention to commence with the operations.

#### **Time frame**

- Once the legal framework is completed (end of May 2005), responsible body notified (June 2005) the certification-service providers could start operating and issuing certificates (June/July 2005).

#### **Cost**

- Private entities may only pay an annual monitoring fee to the responsible body and take on the minimum insurance amount in accordance with the Law.