Position paper on the European Commission's draft amending Regulation (EU) No 910/2014 as regards establishing a framework for a European Digital Identity

Berlin, 01.06.2022

The eIDAS Regulation of 2014 created a uniform EU-wide legal framework for electronic trust services and identities. Part of the regulation was a planned evaluation to assess the success of the eIDAS Regulation and make adjustments if necessary. This evaluation is provided for in the regulation and should take place by 1 July 2020 at the latest. The aim was to take into account "the experience gained in the application of this Regulation, as well as technological, market and legal developments". In the evaluation, the Commission established that "the current Regulation falls short of addressing these new market demands, mostly due to its inherent limitations to the public sector". In conclusion, the Commission proposes greater involvement of the private sector. This is intended to increase the acceptance and use of trust services and digital identities under the eIDAS Regulation. In addition, the Commission's draft aims to expand the existing regulation to create a legal framework for EU-wide interoperable digital identities (EUid) that meet the demands of the market and the new technical possibilities.

eco supports, in principle, the EU Commission's initiative for uniform digital identities across Europe as an important step towards creating a digital single market in the EU. At the same time, eco also points out that the private sector must be significantly involved and integrated to achieve a high level of dissemination and a high level of acceptance of the EUid in the overall economy and among citizens. With the following key points, eco would like to point out the essential points to be considered in the new eIDAS Regulation, espachially with regards to digital identities and the proposed EUid Wallet.

I.   Making digital identity uniform across Europe for the single market

Secure and user-friendly digital identities are a key factor for the successful digitalisation of government and society. It is also the cornerstone of many digital business models and services. For eco, it is therefore important that a digital identity is interoperable across Europe to prevent fragmentation of the single market.
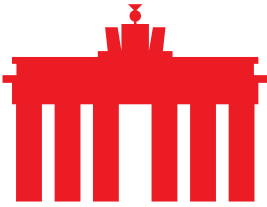
Up to now, eIDs have only been used to a small extent in the EU, as correctly stated by the Commission, especially for authentication in eGovernment services. eco, therefore, supports the EU Commission's initiative and associates it with the hope that it will contribute to an increase in the acceptance, dissemination and use of digital identities. Citizens should be able to use their digital identity to access digital services from public and private service providers across the EU.

In order to achieve a high level of use, it is important that the solution proposed by the Commission is oriented towards the usage habits of the citizens. A European digital identity should therefore be available on the smartphone, as this is what users expect. In addition, it should also be possible to use it offline for authentication. A technology-neutral design of digital identities is important in order not to hinder competition for the best solutions. From eco's point of view, a rigid commitment to one technology would be a hindrance to the development of innovative solutions, especially since technical standards usually evolve quickly.

II. Open standards for the EUid Wallet

The legal framework for an EUid Wallet should be designed in such a way that several wallets can coexist in the market. Users should be given the opportunity to choose between different providers and thus select the most suitable and user-friendly wallet for their purposes. This is essential in order to increase acceptance and thus use by the citizens. The Commission itself states in its draft of the new eIDAS Regulation that users are already accustomed to convenient and easy-to-use private sector authentication solutions. This is also due to the mostly high comfort of use. The Commission's proposal should therefore define uniform criteria and open standards according to which EUid Wallets can be developed, issued and certified.

The Wallet should be able to be issued by a variety of different actors, including private ones. The EUid Wallet is intended to offer the possibility to store official documents electronically and to use them for identification for online or offline services. It should also enable users to securely, transparently and traceably request, receive, store, select, combine and share the required legal personal identification data and electronic attribute certificates, and to sign with a qualified electronic signature. These functions are provided for in the draft, which eco welcomes. However, according to the Commission's draft, the provision of the EUid Wallet is to be carried out by a Member State, under a mandate from a Member State or independently by a body recognised by a Member State, which does not indicate market provision and competition from private actors. This is incomprehensible from eco's point of view, as competition between different
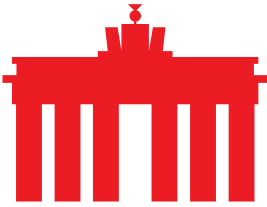
providers in a market environment has proven capable of producing user-friendly and secure solutions, also with regard to the planned digital identities and the EUid Wallet.

eco welcomes the fact that the EUid Wallet will have open interfaces so that various qualified and non-qualified trust service providers can store their qualified and non-qualified attribute certificates in the Wallet. The Wallet as a whole should be designed in such a way that the most diverse providers are able to integrate it into their services without any problems.

III. High level of data protection and data sovereignty

The EUid Wallet should be designed in such a way that users have full control over it. According to the Commission's draft, the wallet provider should be prohibited from "collect[in] information about the use of the wallet which are not necessary for the provision of the wallet services (...)". Also, the combination of personal identification data and other data arising in connection with the use of the Wallet may not be collected or disclosed to third parties unless it is necessary for the provision of wallet services. In addition, it states that personal data must be kept physically and logically separate in relation to the provision of EUid Wallet. eco welcomes a high level of data protection, as a high degree of trust in the security of one's own data is necessary for the acceptance of the EUid Wallet, in addition to its ease of use. In addition, eco believes that it is right to give users control over their data and to let them decide on the use of certain attributes. In this context, eco supports Self Sovereign Identity approaches for handling one's own data, which should be enabled by the new eIDAS Regulation.

IV. No mandatory use of the EUid Wallet

The draft provides for an obligation of so-called gatekeepers, according to the Digital Markets Act (DMA), to have to accept the EUid Wallet as a means of authentication if the users request this. In addition, other private actors from specific sectors, such as banking and financial services, health, digital infrastructures, telecommunications, etc., should also be obliged to accept the EUid Wallet if they have to provide online identification with strong user authentication. eco rejects a blanket, mandatory use of a specific individual product. The Commission's aim is to establish an EU-wide interoperable, secure edit that can be used for both public and private services. In order to achieve real acceptance in the market, it is essential for service providers and users to be as comfortable as possible. An obligation of different providers to accept a certain product for
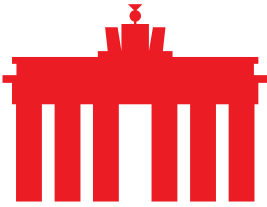
authentication interferes with the private autonomy and design of the services of the companies and also leads to additional costs. Acceptance among companies for the use of the EUid Wallet should primarily be achieved through open interfaces and easy integration of the EUid Wallet into the services of various providers. In eco's view, this could achieve broad acceptance in the market, even beyond the sectors envisaged in the draft.

V. Summary

The digitalisation of government and society continues to advance. This is demonstrated by the fact that more and more services are shifting from the analogue to the digital world. The demand and use of digital services and offers among citizens have also increased. This development was further accelerated, not least by the Covid-19 pandemic. Against this background, eco supports, in principle, the European Commission's initiative to create a uniform legal framework for a digital identity in the EU. A secure and Europe-wide uniform solution for authentication is needed so that users can use online services with confidence, regardless of whether they are provided by public or private providers. In order to achieve a high level of acceptance in the market and among users, the Commission's proposal relies on the mandatory use of the EUid Wallet by large platforms and other private players. In eco's view, this approach does not lead to the desired results. The acceptance of the Wallet in the market will depend, among other things, on its user-friendliness. The provision of the EUid Wallet should therefore be market-based and competition between different providers for users through user-friendly solutions should be encouraged. To this end, the eIDAS Regulation should define open standards for the design of the EUid Wallet, which should also ensure that companies can also use the Wallet easily through open interfaces. In addition, these standards should be formulated in a technology-neutral way to take into account the dynamics of new technical developments.

eco supports the high demands on the Wallet in the area of data protection and IT security. Trust in digital solutions is essential to increase user acceptance of a digital identity and to increase usage.