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# Legal Framework of E-Government

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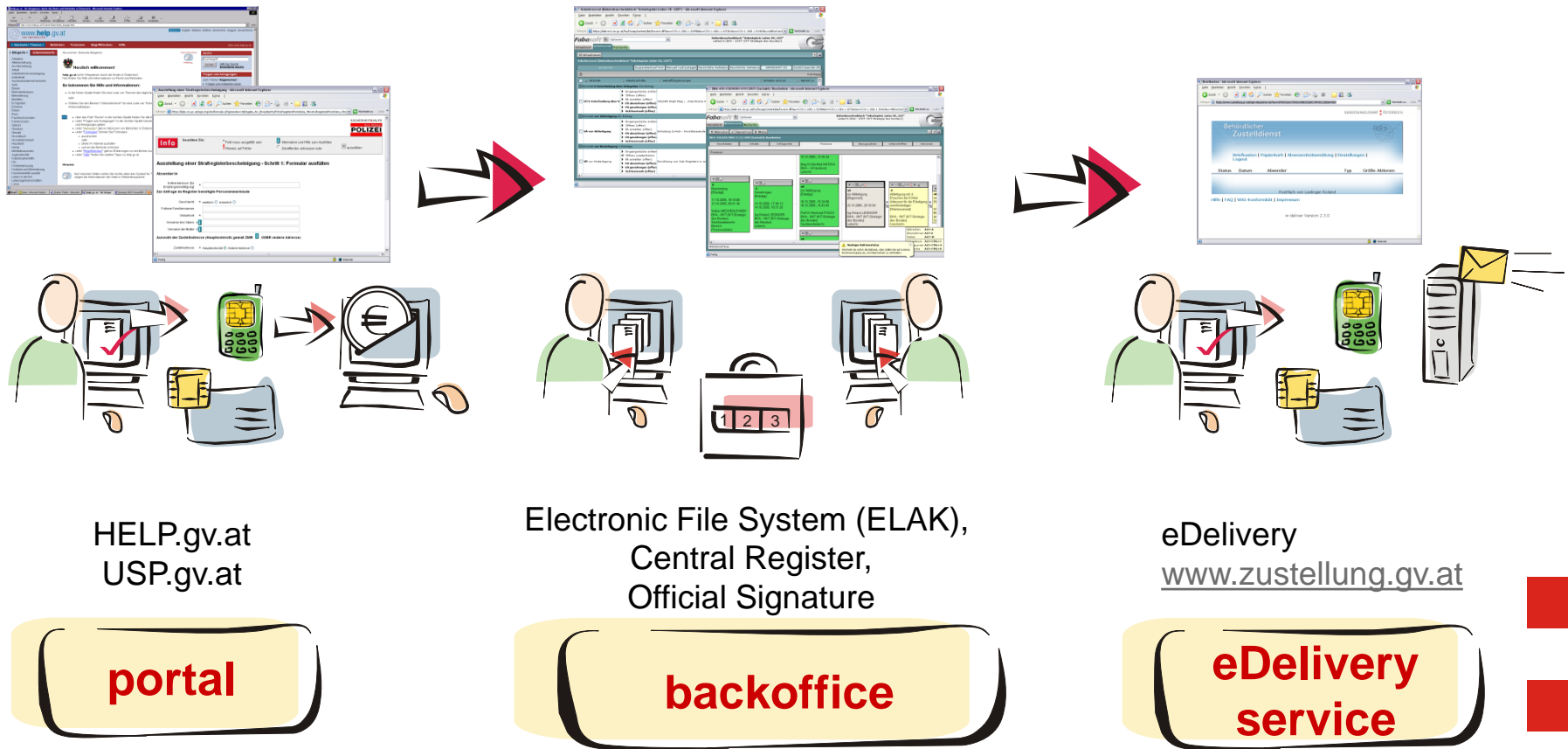


13.11.2019

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# Typical E-Government-Process: Goal: seamless procedures



# Legal bases

## Legal Bases

**E-Government  
Act**

**General Admin.  
Procedure Act  
1991**

**Electronic  
Signature and  
Trust Services  
Act**

**Delivery  
Act**

**Data Protection  
Act 2000**

**Register of  
Residents Act**

**Fed. Law on  
Associations  
2002**

**Fee Act 1957**

**Register of  
Buildings and  
Homes Act**

# eID and eSignature

## eIDAS Regulation and Signature and Trust Services Act

# eIDAS-Regulation



- Aim:
  - To strengthen EU Single Market by boosting TRUST and CONVENIENCE in secure and seamless cross-border and cross-sector electronic transactions
  - To stimulate new business opportunities

- Background:

- Digital Agenda
- E-Government Action Plan 2011-2015
- Single Market Act
- Political Pressure by Council and European Council



# eSignature – overview and legal frame

- EU Signature Directive (1999/93)
  - was replaced by EU Regulation (2014/940) on electronic identification and trust services for electronic transactions in the internal market (**eIDAS-Regulation**) by 1<sup>st</sup> July 2016
- AT Signature Act (SigG)
  - was replaced by Signatur and Trust Services Act - **SVG** (BGBl. I Nr. 50/2016)
- Signature Ordinance (SigV)
  - was replaced by Signatur and Trust Services Ordinance - **SVV** (BGBl. II Nr. 208/2016)

# eSignature – overview and legal frame

- Regulation (2014/940) on electronic identification and trust services for electronic transactions in the internal market (“eIDAS Regulation“)
  - Includes eID and eSignature topic
  - directly applicable in the Member States!
  - Applicable for Trust Services since 1<sup>st</sup> July 2016
- New Signature and Trust Services Act in AT complementing the EU Regulation
  - covers procedures/ supervision of trust services (e.g. Trust Service Providers) etc.
- E-Government Act
  - was amended for further eID-details in line with eIDAS

## eID (1/2)

- The Regulation does **not** require / address / contain:
  - Member States **to have** an eID scheme
  - Member States **to notify** their eID scheme(s)
  - «**Notified**» eIDs are **not** necessarily **ID cards**
  - "EU database" **of any kind**
  - "EU eID"



## eID 2/2

- Voluntary notification of eID means in accordance with the **implementing acts**
- Criteria are:
  - Identity proofing at issuing side
  - Issuing process
  - Authentication mechanism
  - Issuing party
  - Technical and security specification of eID means
- Mutual recognition of notified eIDs of other MS for Assurance Level „substantial“ or „high“
- Voluntary recognition of level „low“
- For private sector voluntarily and under the conditions of the issuer

# Minimum Data Set eID for a natural person

mandatory attributes:

- (a) current family name(s);
- (b) current first name(s);
- (c) date of birth;
- (d) a unique identifier constructed by the sending Member State in accordance with the technical specifications for the purposes of cross-border identification and which is as persistent as possible in time.

additional attributes:

- (a) first name(s) and family name(s) at birth;
- (b) place of birth;
- (c) current address
- (d) gender

# Minimum Data Set eID for a legal person

mandatory attributes:

- (a) current legal name;
- (b) a unique identifier constructed by the sending Member State in accordance with the technical specifications for the purposes of cross-border identification and which is as persistent as possible in time.

additional attributes:

- (a) current address;
- (b) VAT registration number;
- (c) tax reference number;
- (d) the identifier related to Article 3(1) of Directive 2009/101/EC of the European Parliament and of the Council (1);
- (e) Legal Entity Identifier (LEI) referred to in Commission Implementing Regulation (EU) No 1247/2012 (2);
- (f) Economic Operator Registration and Identification (EORI) referred to in Commission Implementing Regulation (EU) No 1352/2013 (3);
- (g) excise number provided in Article 2(12) of Council Regulation (EC) No 389/2012

# Trust service providers (TSP)

- non-qualified and qualified TSP (Art. 20 eIDAS)
- Prior authorization for qual. TSPs:  
need conformity assessment report by a conformity assessment body  
(Art. 21)
- Supervision on qual. TSP (Art. 17)  
in Austria: Telekom-Control-Kommission / RTR (§ 12 SVG)
- reactive (ex post) measures for non-qual. TSP  
(„light touch approach“)
- Trust lists of qual. TSPs and qual. TS have to be published  
(Art. 22)

# Trust services – Electronic Signature

- natural person
- electronic Signatures must be admitted as evidence = „Principle of non-discrimination“
- Legal value: Qualified Signature has the equivalent legal effect of a handwritten signature
- qualified electronic signature based on a qualified certificate issued in one Member State shall be recognised as a qualified electronic signature in all other Member States
- Art. 3 Z 12 and Art. 25 eIDAS-VO
- Innovative solutions are covered (server/ remote signing; Hardware Security Modules – HSM etc.)

## Trust services – Electronic Seal



- legal person (broad notion!)
- like a digital stamp
- electronic Seals must be admitted as evidence = „Principle of non-discrimination“
- qualified „seal“: „shall enjoy presumption of integrity of the data and of correctness of the origin“
- Not the same legal effects like a qu. electronic signature!
- a qualified electronic seal based on a qualified certificate issued in one Member State shall be recognised as a qualified electronic seal in all other Member States.
- Art. 3 Z 25 and Art. 35 eIDAS-VO

## Further Trust Services

- Electronic Preservation Services
- Electronic Validation Services
- Electronic Time Stamping Services
- Electronic registered Delivery Services
- Website Authentication

# Legalistic implementation in Austria

## BGBI. I Nr. 50/2016

- Federal Law on electronic signature and trust services for electronic transactions (Signatur- und Vertrauensdienstegesetz – SVG)
- Repeal Signature Law (SigG)
- Amend E-Government-Law (E-GovG)
- Legistic adaption of more Federal Laws
- entred into force: **1. July 2016**



# Signature and Trust Services Act

# Electronic Signature – Specific legal effect for qualified signatures

- A qualified electronic signature meets the legal requirement for the written form in accordance with § 886 of the Austrian Civil Code (ABGB).
- Other statutory or contractual form requirements, particularly those entailing involvement of a notary or lawyer, are not affected (§ 4 Abs. 1 SVG)

## Electronic Signature – Exceptions of specific legal effect (§ 4 Abs. 2 SVG)

Qualified signature does not have the legal effects of the written form in the case of:

- Testamentary dispositions
- declarations of intent in family or inheritance law which are bound by the written form or a stricter form requirement \*
- a surety bond (Bürgschaft - § 1346 Abs. 2 ABGB) delivered by persons outside their trade, business or professional activity \*

\* Except the declaration contains a declaration by a notary or lawyer declaring that he or she has explained the legal consequences of the signature to the signatory

# Electronic Signature – Consumer Protection

- explicitly Consumer Protection provision in § 4 Abs. 3 SVG
- A business(person) may not exclude the effectiveness of a document signed with a qualified electronic signature by a consumer unless this has been individually negotiated
- Terms of service (Allgemeine Geschäftsbedingungen – AGB) don't fulfill the requirement of individually negotiated

## Issuing of qualified certificate

TSP (or an institution acting on his behalf) has to prove the identity of natural person

- by an official photo ID (“Lichtbildausweis”) or
- verifying by the others in its reliability equivalent documented or documented evidence (Article 24(1)(a) of the eIDAS Regulation)
  - if the person is physically present
- other methods of identification may be used which offer equivalent assurance with respect to the reliability provided by physical presence (Article 24(1)(d) of the eIDAS Regulation)
  - if the person is physically not present
  - e.g. “RSa-Brief”

# E-Government Act

**citizen  
card**

**identity-  
link**

**mandates**

**source PIN**

**sector  
specific  
eID**

**source PIN  
REGISTER**

**supplement  
REGISTER**

**standard-  
document  
REGISTER**

**official  
signature**

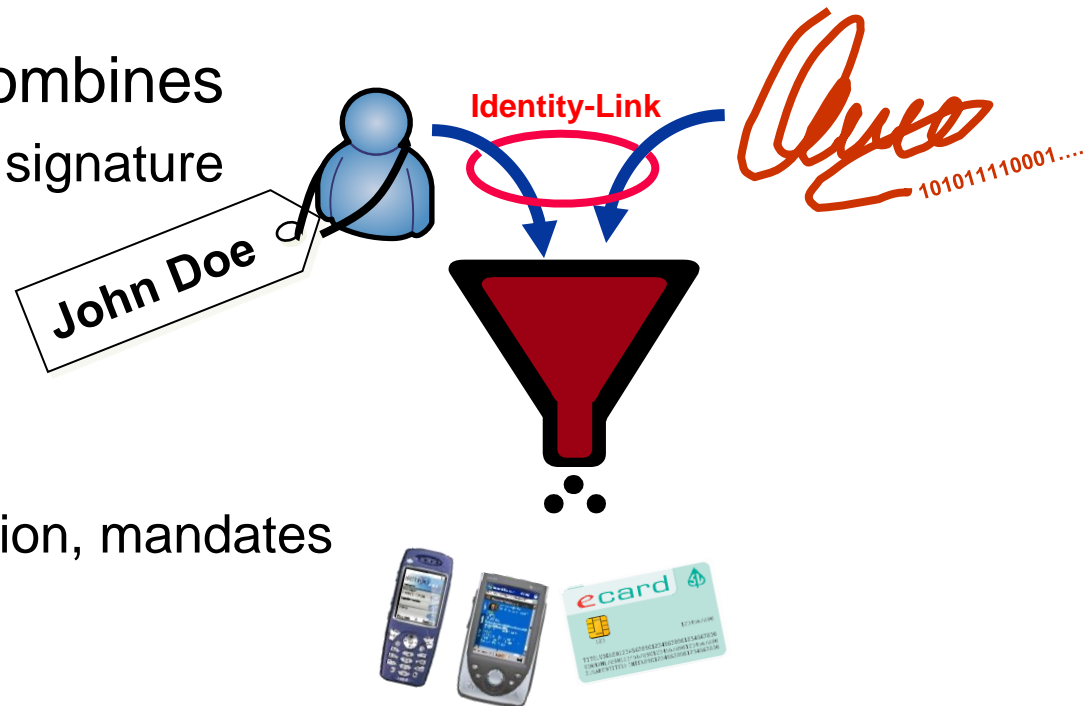
**Register  
queries**

# E-Government Act

citizen  
card

# eID in AT: the citizen card concept

- The Austrian citizen card is a concept, not a specific technology
- The Citizen Card combines
  - Qualified electronic signature  
→ **Authentication**
  - electronic identity  
→ **Identification**
  - data on representation, mandates  
→ **Representation**





# Overview - Austrian Citizen Card

## Smartcard



Bank cards  
*from 2005; ceased*



Health insurance card  
*since 2005*



Profession cards, service cards,  
...  
*e.g. notaries, lawyers, ministries,*  
...



**Technology-neutral approach allowed for different implementations**

## Mobile



A1 signature  
service by a MNO  
*from 2005; ceased in 2008*  
*limited success*



**Mobile phone signature**  
*Launched end 2009*



## Defines functions, not the technology

- Identification, sector-specific to enhance privacy
- Qualified signatures, for written form
- Electronic mandates, representation

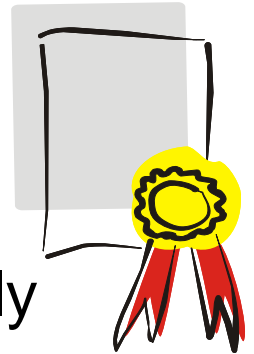
## Implementation of this function

§ 4 Abs. 2 E-GovG:

- The unique identification of an natural person results of his/her **Source-PIN**  
(= **encrypted Number of the Central Resident Register/CRR**)

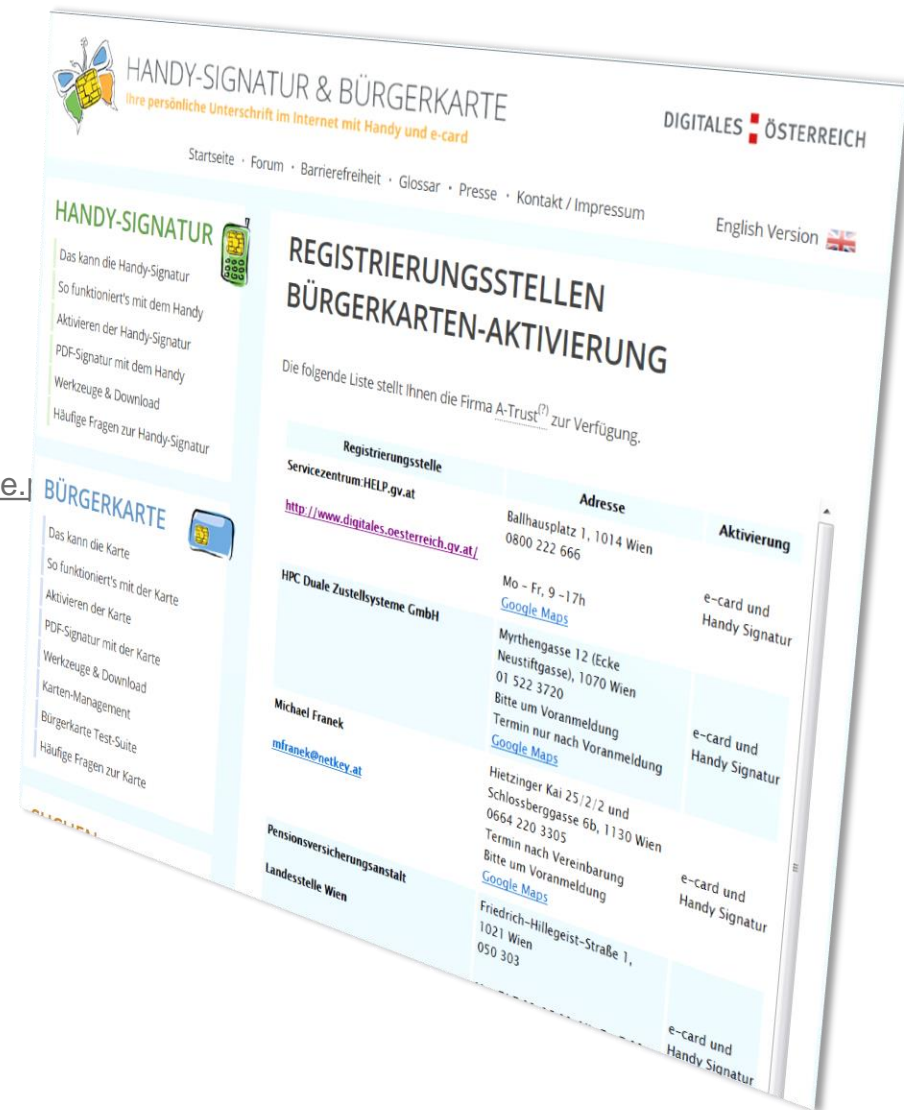
§ 4 Abs. 4 E-GovG:

- The authenticity of the electronically electronically submitted application is provided by means of the **electronic signature**.



# Registration

- Registration offices
  - All tax offices
  - Many municipalities
  - Many regional entities
  - Social security offices
  - Schools
  - <http://www.buergerkarte.at/registrierungsstellen.de>
- Online Registration (+ postal delivery of activation code)
  - via FinanceOnline
  - via Post.at
  - via online banking
  - [www.youtube.com/watch?v=qBBafPdi-hY](http://www.youtube.com/watch?v=qBBafPdi-hY)
- „Self Registration“ using a qualified signature (existing citizen card):
  - <https://www.handy-signatur.at/>



# Outlook: E-GovG amendment 2017

## E-Government Act

„new citizen  
Card“ = eID

# Citizen Card „new“ by E-GovG-amendment

- Change of terms
  - „**Elektronischer Identitätsnachweis (E-ID)**“  
instead of „Citizen Card“
- Official process for the **registration** of an E-ID:
  - Registration of an E-ID (Identification) in the context of the application for a passport at the passport authority
- Extension of the functional scope of the E-ID, in particular by the inclusion of **further attributes**:
  - Proof of data from registers of public sector (such as civil status register, resident register, driving license register)
  - Access to such features only with the consent and knowledge of the person concerned

## Transitional provision

- Start of application of the law not until there are technical/organizational requirements for real operation E-ID-system established
- Until the start of the application of the law ("real operation E-ID"), existing citizen card system remains applicable

# E-Government Act

official  
signature

# „Official signature“ of documents

- It facilitates recognition of the fact that a document originates from an authority
- It has to be visualized with certain elements

bundespolizeidirektion Wien  
Strafregisteramt

Wasagasse 22  
1090 Wien

Gebühr entrichtet

BEZUG: SB INTERNET SRB2008072509213901  
(REFERENCE NUMBER)

STRAFREGISTERBESCHEINIGUNG  
(CRIMINAL RECORD CERTIFICATE)

Familienname(n): Kustor  
(Family Name)

Geschlecht: männlich  
(Gender: MALE)

Vorname(n): Peter Michael  
(First Name)

Akad. Grad: Mag.  
(Academic Degree)

Geboren am: 24.06.1970  
(Date of Birth: DD.MM.YYYY)

Geburtsort: Wien  
(Place of Birth)

Im Strafregister der Republik Österreich - geführt von der Bundespolizeidirektion Wien - scheint keine Verurteilung auf.  
(No convictions are listed in the criminal records database of the Republic of Austria, kept by the Federal Police Directorate of Vienna.)

DVR: 0003506

Tagesdatum: 25.07.2008  
(Date)

Uhrzeit: 14.48.37  
(Time)

	Verfahren	urs-publicidrgv.at:fdm-srb-1.1
	Datum	2008-07-25T12:48:52
	Aussteller	CN=s-sign-corporate-light-02,OU=s-sign-corporate-light-02,O=A-Trust Ges. f. Sicherheitssysteme im elektr. Datenverkehr GmbH,C=AT
	Seriennummer	82210
	Signaturwert	R6Dul30uXsLJdu/NT936Y41quGdDLzTzsoCvo5ovcCdrhRX/0amVnAGQAYj4TFWm9Tc0NhbK06EQ/ER1axfzcSo7fM6zdu2Py8+84j1fBcvRzKVM/YbB2kK6YUjjxdG3MDikOi2nU6ZTqk1UEW5KkPqKmhClv4kGBgfB8levo-
Prüfinformation	Informationen zur Prüfung der elektronischen Signatur finden Sie unter: <a href="https://apps.egis.gv.at/srb-ver?">https://apps.egis.gv.at/srb-ver?</a>	
Hinweis	Dieses Dokument wurde amtssigniert. Auch ein Ausdruck dieses Dokuments hat gemäß §20 E-Government-Gesetz die Beweiskraft einer öffentlichen Urkunde.	






## Official Signatur (Amtssignatur)


- only for signing by of the public sector
- at least “advanced” electronic signature or seal, depend on natural or legal person is certificate holder
- The signature / seal certificate includes a specific attribute, which only the public sector is allowed to use
- authority may act as creator of a seal
- Official signature can be based on software-based server certificate, because of “advanced” or seal

# Different implementations rgd visualization

## Minimum content:


- logo of the authority
- Explicit information that it was “officially signed”
- Information needed for the verification of the electronic signature and the printout

Signaturwert	LF0bBxaQvybBYuzAFMr0C3LuSBBdnz2knSA22A+6K6M8Ur37KCoG8OWSR0cQ2hU4uPw97qpUslnmmWJC8TpMqb9sX8BVSvs9m9T1bjQ0jfnPFkhLiWe9gBzjU5C1WjpP//Bq4ZgcaFfdj1ZgskWuSQ1V56G+mZziPyKai7iFfZjx0GeX49V8hVklZk+QJaks0oIJMqEypKjZyAHQ4PuLMch3+YifytE/u5bfbjYbXrPo6iZaTMVXOHjYPCu9qD6Ifg1s6/fZpaDdTZLQaniiYqa6LXX827WzLQ9Q27Z0aTgld5jbVKt6D1UmpPpOH/LU5QAiC5jiHW72f60GIwRHiw==	
	Unterzeichner	BMI SU-ZMR
	Datum/Zeit-UTC	2010-09-07T14:08:30+02:00
	Aussteller-Zertifikat	CN=a-sign-corporate-light-02,OU=a-sign-corporate-light-02,O=A-Trust Ges. f. Sicherheitssysteme im elektr. Datenverkehr GmbH,C=AT
	Serien-Nr.	450207
	Methode	urn:pdfsigfilter:bka.gv.at:text:v1.2.0
	Parameter	etsi-bka-moa-1.0
Prüfinformation	Informationen zur Prüfung der elektronischen Signatur finden Sie unter: <a href="http://www.signaturpruefung.gv.at">http://www.signaturpruefung.gv.at</a> . Zur Prüfung des Ausdrucks senden Sie bitte einen Scan an <a href="mailto:zmr-clearingstelle@bmi.gv.at">zmr-clearingstelle@bmi.gv.at</a>	
Hinweis	Dieses Dokument wurde amtssigniert. Auch ein Ausdruck dieses Dokuments hat gemäß § 20 E-Government-Gesetz die Beweiskraft einer öffentlichen Urkunde.	



Dieses Dokument wurde amtssigniert.

Informationen zur Prüfung der elektronischen Signatur und des Ausdrucks finden Sie unter: <https://www.wien.gv.at/amtssignatur/>



Dieses Dokument wurde amtssigniert.

Informationen zur Prüfung der elektronischen Signatur finden Sie unter <http://www.signaturpruefung.gv.at>

Die Echtheit eines Ausdrucks kann durch Vorlage beim Absender verifiziert werden. Details siehe: <http://e-government.bgl.gv.at/amtssignatur>

	Datum/Zeit-UTC	2012-05-21T15:19:03+02:00
	Hinweis	Dieses Dokument wurde elektronisch signiert. Auch ein Ausdruck dieses Dokuments hat die Beweiskraft einer öffentlichen Urkunde.
	Prüfinformation	Informationen zur Prüfung der elektronischen Signatur und des Ausdrucks finden Sie unter: <a href="http://kundmachungen.justiz.gv.at/justizsignatur">http://kundmachungen.justiz.gv.at/justizsignatur</a> .

# Signature (seal) validation

Follow the **link** in the individual document for information or go directly to the **signature verification service** of the AT Supervisory Authority for electronic signatures (seals)



The screenshot shows the RTR (Regulierungs-GmbH) website for signature verification. The page title is "Signature Verification" and it includes a navigation breadcrumb: "Home > Trust services > Directory > Signature Verification". A main heading "Signature Verification" is followed by a note: "Please refer to the [notes](#) if you encounter problems with signature verification." There are links for "E-Government", "select appropriate statements", "information and help", and "interactive help". A red "Info" box contains the message: "\* Field has to be filled out" and "Error note". Below this is a "Verify document signature" section with a "Verification report" table. The table lists details for a document: File name, Hash value, Size, and Type. Below the table, there is a "Signatures" table with columns for "Signer", "S", and "C". The "Signer" column shows "BML-TRUSTCENTER". At the bottom, there is a legend: "A signature is regarded as 'valid' if signature evaluation (S) and certificate evaluation (C) return 'OK'".

Document	
File name	<a href="#">2016 Strafrechtsregisterbescheinigung.pdf</a>
Hash value	rQW1Ipe58ebv0m9AP1v87nmqfoe
Size	128.83 kB
Type	PDF signature (PDFES)

Signer	S	C
<a href="#">BML-TRUSTCENTER</a> *	OK	OK

A signature is regarded as "valid" if signature evaluation (S) and certificate evaluation (C) return "OK".

[www.signature-verification.gv.at](http://www.signature-verification.gv.at)



## Probative Value of Printouts (§ 20 E-GovG)

- electronic official signed document is always considered as original = authentic public document (öffentliche Urkunde)
- also an electronic document of an authority (e.g. “Bescheid”) printed out on to paper is assumed to be authentic (§ 292 ZPO)
- regardless of whether authority or recipient prints the official signed document

# Documents issued by Public Authorities

- § 18 of the General Administrative Procedure Act 1991 (AVG) foresees that (since 1.1.2011)
  - Official documents issued **electronically** have to bear an **official signature** (§ 19 E-GovG)
  - Official documents issued on **paper** have to be
    - **manually signed** by the official approving the document or
    - manually **certified** by the office, indicating that the document corresponds with the document approved by the responsible official or
    - the paper document is the printout of an electronic document which bears an **official signature**. In this case, no further requirements need to be met.

# General Administration Procedure Act (AVG)



## Submissions/Applications (Anträge)

- Submissions may be filed in *writing*, *orally* or by *telephone* (§ 13 Abs. 1 AVG)
- *Written* submissions may be communicated to the authority in any technically feasible form
- by *e-mail* however to the extent that no specific means of communication are provided for the electronic communication between the authority and the persons involved. (§ 13 Abs. 2 AVG)
  - e.g. e-form
- From 2020: Everyone has the **right to electronic communication** with the courts and administrative authorities (in matters which are federal law in legislation) (§ 1a E-GovG)



## Submissions/Applications (Anträge)

- Eventual *technical* requirements (file format, interfaces) or
- *organisational* restrictions of the electronic communication between the authority and the persons involved (time limitation, certain e-mail-address)
- are to be published in the internet
  - is no enabling provision, but merely a publicity requirement for any organizational restriction (VfGH-Erkenntnis 106/2013-10 vom 3.3.2014)
  - Sending an application to an other e-mail-address than the published, bears the risk of loss or of delay of the application

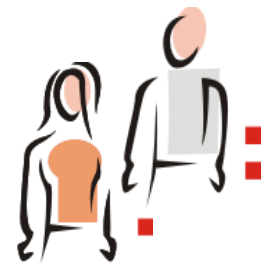
## Submissions/Applications (Anträge)

- the authority is obligated only during office hours to accept submissions in writing or
- operate receiving appliances (Fax!)
- the office hours and the hours for the public are to be published in the internet (§ 13 Abs. 5 AVG)
  - AVG links only to the organizational set office hours and their publication in the internet  
(VfGH-Erkenntnis 106/2013-10 vom 3.3.2014)

# Service of documents (delivery act)

## Electronic Delivery (Zustellgesetz)

- transmission of documents in execution of the laws (§ 1 ZustG)
- not applicable for private sector
- different regulations for finance authorities (Finanz Online!) and
- courts of law (ERV – Elektronischer Rechtsverkehr für Gerichte)



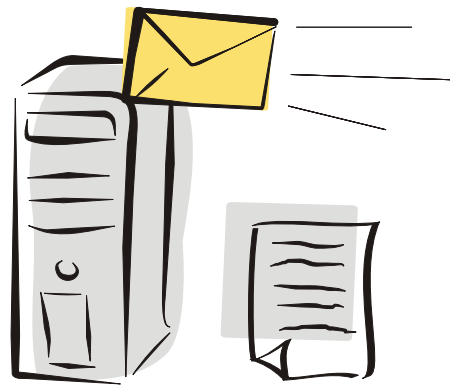
## 4 Types of electronic delivery (ZustG)

1. delivery to an electronic delivery address (e-mail)
  - without proof of service
2. via the electronic communication system of the authority (§ 37 ZustG)
  - without proof of service
3. immediate electronic release (§ 37a ZustG)
  - without proof of service except citizen card was used for logon

## 4 Types of electronic delivery (ZustG)

4. e-Delivery via electronic delivery service providers (§ 35 ZustG)
  - delivery **with** proof of service (like Rsa/RSb in paper)
  - delivery confirmation through using the qualified electronic signature of the citizen card
  - citizen card is mandatory
  - service provider are authorized (§ 30 ZustG) and
  - supervised (§ 31 ZustG) by the Federal Chancellor

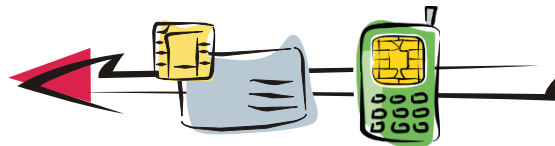
# e-Delivery via electronic delivery service providers



1) document transmitted by administration



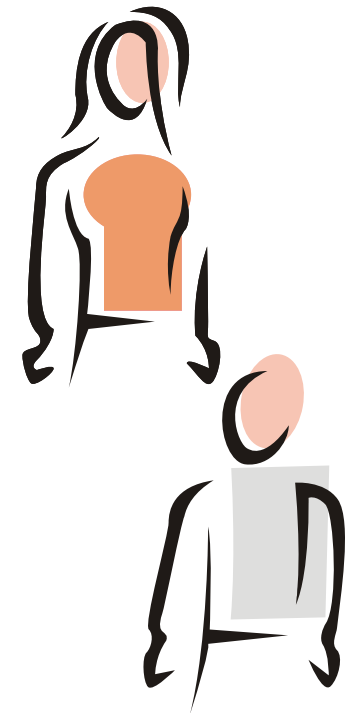
2) eMail notification



3) eID and signature based login (to confirm receipt)

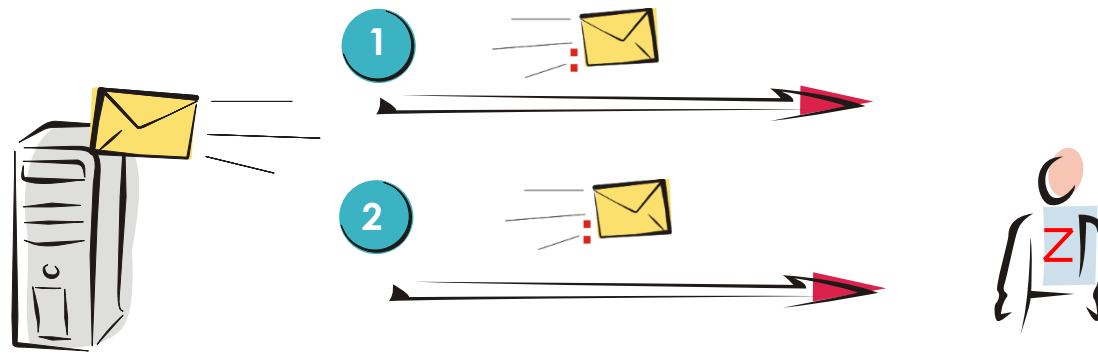


4) deliver document content



# e-Delivery via electronic delivery service providers:

## Notification through delivery service provider



1. Electronic notification (immediately to all electronic addresses)
2. Electronic notification (if the document is not picked up within 48 hours)



## e-Delivery via electronic delivery service providers: delivery effect (Zustellwirkung)

- Document is at the latest considered as delivered when picked up (§ 35 Abs. 5 ZustG)
- else on the first workday after the electronic notification has been sent (§ 35 Abs. 6 ZustG)
  - Saturday is no workday
- Document is considered to be delivered without being picked-up by the recipient

## e-Delivery via electronic delivery service providers: Exeptions of delivery effect

- No delivery effect, if
  - the electronic notification was not received by the recipient, but delivery will take effect on the day following the electronic notification is received within pick-up period (14 days). (§ 35 Abs. 6 2. sentence ZustG),
  - the recipient of the electronic notification had no knowledge of the notification or
  - the recipient was aware of the notification, but was not merely temporarily absent from all delivery points during the pick-up period, delivery will take effect on the day following the return to one of the delivery points within the pick-up period at which the document could be collected. (§ 35 Abs. 7 ZustG)

## Display module / Anzeigemodul § 37b ZustG

- Bundles documents from different delivery systems
  - Electronic Delivery Services
  - electronic communication system of the authority (§ 37 ZustG),
  - ERV,
  - FinanzOnlinein common view.
- Delivery systems introduce meta-information into the display module, which is then displayed
- Documents themselves remain with the respective delivery system
- it is only accessed via the display module



# mandatory participation in electronic delivery for companies

- § 1b E-GovG idF BGBl. I Nr. 40/2017 (DRG 2017)
- **Companies** have to participate in an electronic delivery system
- At the latest **1.1.2020**
- Display modul (§ 37b ZustG) for bundled view of all documents.

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# Thank you

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for your attention!

**Dr. Bernhard Karning**  
Federal Chancellery of Austria  
Section I/Department 11  
E-Government –  
Legal, Organisational and International Issues

