

Position Paper

2023 November

Bitkom on eIDAS 2.0 and QWACs

Summary

After the political trilogue on November 8th, a final compromise on the eIDAS Regulation has been reached. Ahead of the upcoming vote in the ITRE-Committee on this final version of the regulation there has been a lot of controversy around article 45 and the Qualified Website Authentication Certificates (QWAC). Bitkom as Germany's largest digital association clearly and firmly positions itself **in favour of the current version of the eIDAS regulation as a whole and the revision of Article 45 in particular**. The forebrought allegations especially concerning potential spyware being introduced by European Member States are wrong both on a regulatory and a technical level.

In the contrary, Bitkom regards QWACs and the revised Art. 45 as a central tool for strengthening European Digital Sovereignty, the European market as well as European consumer protection. QTSPs undergo regular and vigorous auditing processes and conformity assessments, undertaken by independent auditors, with a clear focus on Security and Privacy. The EU has thus created a number of Checks and Balances, putting high standards and barriers against fraudulent activity into place. We urge all members of the ITRE-Committee to consider the facts, as well as the implications a failure of negotiations would have on the future of digitization in Europe and Digital Sovereignty of all European Member States and their citizens.

QWACs and Web-Browsers

Article 45 aims to strengthen confidence of web-users in the identity of the entity standing behind a website on the basis of a European Governance System for Website Certificates that provides a transparent and lawful approach of issuing QWACs in order to regulate the issuance of qualified Website Authentication Certificates. QWACs specifically and eIDAS 2.0 generally don't impact the way Browsers ensure Web-Security through TLS-Certificates.

So far, websites operate within a de facto Governance System of the Browsers. As Gatekeepers, they are able to issue certificates through new "root certification authorities (CA)" or their own CA. Browsers were able to make and impose their own rules, without being obliged to accept European norms (as defined by ETSI) that are

being used by European QTSPs as a proof of conformity. They were thus both the regulatory body (deciding who is allowed to issue trustworthy TLS-certificates) and opponent of official Certificate Authorities issuing these certificates (like EU-QTSPs) since Browsers can issue their own certificates for example to their Cloud-Hosting-Clients. The new eIDAS regulation tackles this issue by imposing European rules on European web traffic. This step is not only logical and in line with European law and sovereignty, but also long overdue. Browsers will have to fall in line with the rules of the region they're operating in.

QWACs are safe because they have to fulfil the standards of the CA Browser Forum. They are issued by qualified trust service providers (QTSPs), which are certified and monitored and audited on a regular basis and will be – as a critical infrastructure - be subject to the NIS2 Directive in the near future with higher IT security requirements than those that browsers place on the trust service provider in order to access their root stores.

The trilogue compromise amendment also takes into account the interests of web-browsers. It gives them the possibility of taking immediate action in the event of security concerns and suspend QWACs. The suspicious case can then be checked within the EU governance system. No approval for suspension by European supervisory authorities is needed:

“In case of substantiated concerns related to breaches of security or loss of integrity of an identified certificate or set of certificates, **web-browsers may take precautionary measures in relation to that certificate or set of certificates.**” Browsers can suspend and have suspicious certificates investigated without the clearance of the authorities. This procedure enables them to retain their decision-making authority.

Against this background the Art. 45 amendment is – from Bitkom's point of view - a very well-balanced compromise.

Bitkom represents more than 2,200 companies from the digital economy. They generate an annual turnover of 200 billion euros in Germany and employ more than 2 million people. Among the members are 1,000 small and medium-sized businesses, over 500 start-ups and almost all global players. These companies provide services in software, IT, telecommunications or the internet, produce hardware and consumer electronics, work in digital media, create content, operate platforms or are in other ways affiliated with the digital economy. 82 percent of the members' headquarters are in Germany, 8 percent in the rest of the EU and 7 percent in the US. 3 percent are from other regions of the world. Bitkom promotes and drives the digital transformation of the German economy and advocates for citizens to participate in and benefit from digitalisation. At the heart of Bitkom's concerns are ensuring a strong European digital policy and a fully integrated digital single market, as well as making Germany a key driver of digital change in Europe and the world.

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Bitkom 2023

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