




EU digital identity wallets might face delays as technical discussions turn political

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The technical specifications for the European digital wallets are becoming a bone of contention between the European Commission and some EU countries, as there are significant disagreements on how to operationalize privacy safeguards. The German government is leading the charge in pushing for alternative rules, with the support of other large EU countries.

The implementation of the European Digital Identity, an EU initiative meant to offer an alternative to ID wallets offered by tech companies like Apple and Google, might face delays as the discussion on the technical specifications is getting politicized.

The European Digital Identity is intended to create the framework conditions for EU countries to recognize at least one national ID wallet that is interoperable with its counterparts across the bloc.

Still, what is a highly technical file was always intensely politicized, with European countries concerned about how the technical aspects would fit with their pre-existing national schemes and about potential privacy implications.

– Draft implementing acts –

These tensions have resurfaced as the European Commission published five draft implementing acts for consultation this summer. These acts cover critical technical aspects such as the wallet's core functionalities, person identification, certification, protocols, and trusted frameworks.

On Aug. 22, Germany's state secretary for the Federal Ministry for Digital and Transport, Stefan Schnorr, and the state secretary for the Federal Ministry for the Interior and Community, Markus Richter, sent a letter to the EU's then industry chief Thierry Breton raising concerns about the drafts.

"Even though we are well aware of the time pressure on the commission's side to finalize the implementation acts, we would like to point out that the success of the revised regulation is highly dependent on reaching the necessary quality level and early availability of the implementing acts," reads the letter, seen by MLex.

The letter says that Germany – along with technical experts from France, the Netherlands and Spain – has written an alternative draft for the implementing acts, which was sent with the letter.

"The commission is analyzing the letter," a spokesperson for the institution told MLex.

– Alternative proposal –

The implementing act needs the approval of a "qualified majority" of a dedicated committee of national experts for it to be adopted, meaning that either 15 out of 27 EU countries need to support the plan or a

group of countries equivalent to 65 percent of the bloc's population need to be in favor. The four countries mentioned would suffice to form a so-called "blocking minority."

According to the German government, their alternative draft covers areas not sufficiently addressed in the commission's version: privacy, interoperability, harmonization of standards, and explicit references to mandatory standards and certification schemes.

The German-led initiative also goes beyond what is strictly in the law, calling for European ID providers to ensure interoperability with secure hardware devices. German ID cards have a chip that holds the key to their digital identity.

Several EU countries voiced their concerns at a closed-door "comitology" meeting in September, a procedure under which committees modify EU laws. On Oct. 8, the commission shared a revised version of the implementing act with the national representatives.

– Outstanding issues –

From the member states' perspective, the new draft includes some improvements, but several significant issues remain, MLex understands.

Points of contention include the right to use pseudonyms; the possibility of issuing cross-border data erasure requests; the limitation in using the wallet based on a public registry; and the mandatory attributes to identify a person, which some see as the reintroduction of the controversial "unique persistent identifier."

For instance, the relevant implementing act requires wallets to use pseudonyms, which the digital identity framework allows in all situations where there is no legal obligation to identify the person.

However, critics contend that the draft implementing act does make this right enforceable, since it does not provide the technical specifications to inform the user or the wallet about which use case fall under such a legal obligation and which don't.

The EU executive rejects this criticism, saying that its legal service verifies that the implementing acts strictly adhere to the legislator's powers.

– Facing delays –

The EU executive must send the version of the documents that it wants to submit to a vote at least two weeks before the next comitology meeting.

For this reason, the relevant committee meeting had to be postponed from Oct. 17 to Oct. 22, and the commission had to reimburse the travel costs for the national representatives who had booked their trips to Brussels.

While EU governments are still analyzing the new drafts, MLex understands that a blocking minority is far from a remote possibility. Without enough support for its text, the commission will have to go back to the drawing board.

Adopting these implementing acts starts the clock for EU countries to provide at least one digital identity wallet that complies with the technical specifications. Thus, delays in their adoption will affect when EU digital wallets would start working.

At the same time, several EU countries are not in a rush to adopt the secondary regulations since the technical standards for the wallet are still far from ready. However, some European governments might be reluctant to clash with the EU's executive arm.

Member states envisaged using digital IDs to verify children's age online, a hotly debated topic for child protection. Since the wallets will not become fully operational at least until 2026, some interim measures might be in order.

Thus, an interim solution would give the commission leverage as it might disregard the progress that some EU countries have made on age verification at the national level, forcing them to change their existing initiatives.

Still, even if the implementing acts are formally adopted, consumer groups and civil society organizations might advise people not to use digital wallets if they are not fully satisfied with the level of privacy protection, limiting their uptake.

"It is crucial to ensure highest standards at the European level and that consumers are equally protected, no matter where they identify themselves with the wallet," Marielle Findorff, of the German consumer group vzbv, told MLex. "The next step will then be to look at the final product on the national level."

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