[FR] Electronic Signature Draft Bill

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As the first stage in the legislative programme announced by Lionel Jospin on 26 August 1999 at the Communication Summer School (IRIS 1999-8: 4), the Minister for Justice submitted at the meeting of the Cabinet on 1 September a draft bill «on adapting legislation concerning proof to information technologies and on the use of electronic signature". The current provisions of the Civil Code regarding evidence, drawn up at a time when paper was the only medium used for showing the existence or the content of contracts and for furnishing proof of the same, are hampering the development of electronic trading and are poorly suited to the increasing dematerialisation of exchanges. Based on this realisation, the draft bill proposes accepting an electronic document as proof on a par with a text written on paper, subject to the conditions that the technical means used ensure that the message is properly conserved and that it is possible to clearly identify the person from whom the document originated. For this purpose, a new definition of literal proof - i.e., proof in writing - is being put forward, in terms which could be applied equally to an electronic document and to a conventional text written on paper. Lastly, the draft bill sets out the conditions for the validity of an electronic signature. These include the requirement that a reliable identification process be used that guarantees the connection between the document and the electronic signature it bears. In keeping with the draft European Directive on electronic signatures to be adopted shortly, a process is presumed to be reliable, unless proven otherwise, where the electronic signature is created, the identity of the signatory is assured and the entirety of the document is guaranteed according to conditions to be laid down at a later date by a decree of the Council of State.

Projet de loi portant adaptation du droit de la preuve aux technologies de l'information et relatif à la signature électronique.

Draft bill on adapting legislation concerning proof to information technologies and on electronic signature.

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