



EUROPEAN PARLIAMENT

2009 - 2014

Plenary sitting

A7-0004/2014

20.12.2013

*****I**
REPORT

on the proposal for a Directive of the European Parliament and of the Council
on electronic invoicing in public procurement
(COM(2013)0449 – C7-0208/2013 – 2013/0213(COD))

Committee on the Internal Market and Consumer Protection

Rapporteur: Birgit Collin-Langen

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ■ symbol or strikeout, e.g. 'ABCD'. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a Directive of the European Parliament and of the Council on electronic invoicing in public procurement
(COM(2013)0449 – C7-0208/2013 – 2013/0213(COD))**

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2013)0449),
 - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0208/2013),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 16 October 2013¹,
 - having regard to the opinion of the Committee of the Regions of 28 November 2013²,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on the Internal Market and Consumer Protection (A7-0004/2014),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ Not yet published in the Official Journal.

² Not yet published in the Official Journal.

Amendment 1

Proposal for a directive Recital 5

Text proposed by the Commission

(5) Obstacles to trade deriving from the co-existence of several legal requirements and technical standards on electronic invoices and from the lack of interoperability should be removed or reduced. In order to achieve this objective, a common European standard for the semantic data model of the **core** electronic invoice should be developed.

Amendment

(5) Obstacles to trade deriving from the co-existence of several legal requirements and technical standards on electronic invoices and from the lack of interoperability should be removed or reduced ***in the case of crossborder trade***. In order to achieve this objective, a common European standard for the semantic data model of ***the key elements of*** the electronic invoice should be developed. ***This standard should describe the key elements of electronic invoicing and map those elements to the various technical standards, thus facilitating the sending and receipt of electronic invoices between systems based on different technical standards. Existing national technical standards should neither be replaced nor impaired by this standard, and it should remain possible to continue to apply them in parallel with it.***

Amendment 2

Proposal for a directive Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council^{2a}.

^{2a} *Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).*

Amendment 3

Proposal for a directive Recital 6

Text proposed by the Commission

The Commission should apply the relevant provisions of Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation³ to request the relevant European standardisation organisation to draft a European standard for the semantic data model of the **core** electronic invoice. In its request to the relevant European standardisation organisation, the Commission should require that such European standard is technologically neutral, in order to avoid any distortion of competition. Since electronic invoices may contain personal data, the Commission should also require that such European standard **guarantees** personal data protection in accordance with Directive 95/46/EC of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data⁴. In addition to these minimum requirements, the Commission should determine, in its request to the relevant European standardisation organisation, further requirements as to the content of such

Amendment

The Commission should apply the relevant provisions of Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation³ to request the relevant European standardisation organisation to draft a European standard for the semantic data model of **the key elements of** the electronic invoice. In its request to the relevant European standardisation organisation, the Commission should require that such European standard is technologically neutral, in order to avoid any distortion of competition. Since electronic invoices may contain personal data, the Commission should also require that such European standard **has regard to** personal data protection in accordance with Directive 95/46/EC of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data⁴ **and the principles of data protection by design, proportionality and data minimisation**. In addition to these minimum requirements, the Commission should determine, in its

European standard and a deadline for its adoption.

request to the relevant European standardisation organisation, further requirements as to the content of such European standard and a deadline **of 24 months** for its adoption.

³ OJ L 316, 14.11.2012, p. 12.

⁴ OJ L 281, 23.11.1995, p. 31.

³ OJ L 316, 14.11.2012, p. 12.

⁴ OJ L 281, 23.11.1995, p. 31.

Amendment 4

Proposal for a directive Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) Definitions relating to the award of contracts which are contained in this Directive should be in accordance with European legislation on public procurement.

Amendment 5

Proposal for a directive Recital 6 b (new)

Text proposed by the Commission

Amendment

(6b) The European standard should define semantic data elements referring to, in particular, complementary seller and buyer data, process identifiers, invoice attributes, invoice item details, delivery information, and payment details and terms. The key components of an electronic invoice should be in accordance with Council Directive 2006/112/EC^{da} and should be included in every electronic invoice. This would ensure clear and uniform application of e-invoicing. Finally, the standard should

be compatible with relevant international standards in order to prevent suppliers from third countries encountering technical market access barriers.

^{4a} *OJ L 347, 11.12.2006, p.1*

Amendment 6

Proposal for a directive Recital 6 c (new)

Text proposed by the Commission

Amendment

(6c) Furthermore, the European standard should also be suitable for use in commercial transactions between enterprises. Therefore, in order that private economic operators can use any standard which is drawn up in their business dealings with one another, the Commission should ensure that no standard is developed solely for use in the area of public procurement.

Amendment 7

Proposal for a directive Recital 7

Text proposed by the Commission

Amendment

(7) The European standard for the semantic data model of the **core** electronic invoice should build on existing specifications, including in particular those developed by European or international organisations such as CEN (CWA 16356 and CWA 16562), ISO (Financial Invoice based on the ISO 20022 methodology), **and** UN/CEFACT (CII v. 2.0). It should not

(7) The European standard for the semantic data model of the **key components of an** electronic invoice should build on, **and be compatible with**, existing specifications, including in particular those **specifications** developed by European or international organisations such as CEN (CWA 16356-**MUG** and CWA 16562-**CEN BII**), ISO (Financial Invoice based on the ISO 20022

require electronic signatures. *Such European standard should define semantic data elements referring to, in particular, complementary seller and buyer data, process identifiers, invoice attributes, invoice item details, delivery information, payment details and terms.* It should also be compatible with the existing standards for payments in order to allow for automatic processing of payments.

methodology), and UN/CEFACT (CII v. 2.0, *NDR 2.0*, and *CCTS 2.01*). It should not require electronic signatures. *In carrying out the standardisation request, the relevant European standardisation organisation should also take into account the results of large-scale pilot projects implemented within the framework of the Information Communication Technologies Policy Support Programme of the Competitiveness and Innovation Framework Programme and e-invoicing specifications of any other relevant bodies and organisations that are widely used by the business community.* It should also be compatible with the existing standards for payments in order to allow for automatic processing of payments.

Amendment 8

Proposal for a directive Recital 7 a new

Text proposed by the Commission

Amendment

(7a) In order to ensure that small and medium-sized enterprises can also benefit from electronic invoicing in public procurement, the European standard should be user-friendly, namely easy to understand and easy to use. In this respect, the fact that small and medium-sized enterprises, in particular, as well as smaller contracting authorities and contracting entities have only limited staff and financial resources should also be taken into account.

Amendment 9

Proposal for a directive

Recital 7 b new

Text proposed by the Commission

Amendment

(7b) In the implementation of this Directive, Member States should take into account the needs of small and medium-sized enterprises and smaller contracting authorities and contracting entities, and offer to all contracting authorities and contracting entities and suppliers the necessary support so that the new European standard can be used. Moreover, training measures should be provided, in particular for small and medium-sized enterprises.

Amendment 10

Proposal for a directive Recital 8

Text proposed by the Commission

Amendment

(8) Where the European standard drawn up by the relevant European standardisation organisation satisfies the requirements contained in the Commission's request, the ***references of*** such ***European*** standard ***should be*** published in the Official Journal of the European Union.

(8) Where the European standard drawn up by the relevant European standardisation organisation satisfies the requirements contained in the Commission's request ***and where such standard has been tested, the Commission should, by means of an implementing act, decide to publish the reference to*** such standard in the *Official Journal of the European Union*.

Amendment 11

Proposal for a directive Recital 8 a new

Text proposed by the Commission

Amendment

(8a) The standard to be developed should guarantee the interoperability of the applications based on the existing technical standards. With a view to ensuring that adjustments in line with the rapid technological developments in the ICT sector are carried out, the Commission should be empowered to take measures to maintain, review and update the European standard, and to clear the way for the mapping of appropriate technical formats.

Amendment 12

**Proposal for a directive
Recital 8 b new**

Text proposed by the Commission

Amendment

(8b) Prior to the introduction, in the Member States, of the European standard for the semantic data model of the key components of an electronic invoice the practical application of the standard should be sufficiently tested. The practical application of the standard should be thoroughly assessed through a separate testing phase or, alternatively, during the process of drawing up the standard. The assessment should involve end users, should address, in particular, aspects of practicality and user-friendliness, and should demonstrate that the standard can be implemented in a cost efficient and proportionate manner.

Amendment 13

Proposal for a directive

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Recital 8 c new

Text proposed by the Commission

Amendment

(8c) In order to amend the requirements for the European standard for the semantic data model of the key components of an electronic invoice, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of adjustments to relevant technical and legal developments in the field. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

Amendment 14

Proposal for a directive

Recital 9

Text proposed by the Commission

Amendment

(9) Contracting authorities and contracting entities should not **refuse** the reception of electronic invoices which comply with such common European standard on the grounds of non-compliance with other technical requirements (for example national or sector specific requirements).

(9) Contracting authorities and contracting entities should ***be in a position to receive and process*** electronic invoices which comply with the common European standard. ***Once the deadline laid down in this Directive has passed, reception of invoices should not be refused solely*** on grounds of non-compliance with other technical requirements (for example national or sector specific requirements). ***Other compelling grounds for refusal (e.g. relating to contracts) should not be affected by this obligation. Contracting***

authorities and contracting entities should remain free to verify, before paying the invoice, whether the content of the electronic invoice correctly reflects all the details of the business transaction. The obligation not to refuse electronic invoices in accordance with this Directive is without prejudice to Article 4 of Directive 2011/7/EU of the European Parliament and of the Council^{4a}.

^{4a} *Directive 2011/7/EU of the European Parliament and of the Council on combating late payment in commercial transactions (OJ L 48, 23.2.2011).*

Amendment 15

Proposal for a directive Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) In his opinion of 11 November 2013, the European Data Protection Supervisor published his recommendations for ensuring adequate data protection in the application of this Directive. These recommendations should be borne in mind when drawing up the standard and in the processing of personal data by public authorities and contracting entities. In particular, it should be made clear that existing data protection laws also apply in the area of electronic invoicing and that the publication of personal data for transparency and accountability purposes must be in keeping with the protection of privacy.

(see amendments to Articles 3(1) and 4a)

Justification

The processing of electronic invoices also requires the processing of personal information.

Data protection therefore plays an important role in electronic invoicing.

Amendment 16

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) This Directive should apply to electronic invoices received by contracting authorities and contracting entities issued as a result of the performance of contracts awarded in accordance with Directive [replacing Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts⁵], Directive [replacing Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors⁶], or Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC⁷ .

Amendment

(10) This Directive should apply to electronic invoices, received by contracting authorities and contracting entities, issued ***and transmitted*** as a result of the performance of contracts awarded in accordance with Directive [replacing Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts⁵], Directive [replacing Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors⁶], or Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC⁷ . ***However, contracting authorities and contracting entities should not be required to receive electronic invoices in accordance with this Directive where they consider it necessary, in the interests of security, to use invoice formats or impose other invoicing requirements which are incompatible with this Directive. Moreover, it would also be appropriate to exclude contracts awarded under Article 16 of Directive 2009/81/EC, as these are subject only to specific***

requirements governing technical specifications and contract award notices.

⁵ OJ L 134, 30.4.2004, p. 114.

⁶ OJ L 134, 30.4.2004, p. 1.

⁷ OJ L 216, 20.8.2009, p. 76.

⁵ OJ L 134, 30.4.2004, p. 114.

⁶ OJ L 134, 30.4.2004, p. 1.

⁷ OJ L 216, 20.8.2009, p. 76.

Justification

This Amendment is intended to emphasise that these are indeed “e” “invoices” which are therefore transmitted electronically and the latter part of this Amendment is intended primarily to highlight that there may be occasional case-specific security needs (e.g. invoices have to be transmitted by courier, or using particular secure channels) which are not compatible with the obligations of this Directive.

Amendment 17

Proposal for a directive Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) In the implementation of this Directive, Member States should bear in mind that electronic invoices received in accordance with the European standard are also accepted in internal administrative processing by other bodies (for example, grant applications).

Amendment 18

Proposal for a directive Recital 16 a (new)

Text proposed by the Commission

Amendment

(16a) The Directive should require only recipients, i.e. contracting authorities, central purchasing bodies and contracting entities, to accept and process electronic invoices. The invoicing entity, on the

other hand, should be able to choose between submitting the invoice in accordance with the European standard, in accordance with national or other technical standards, or in paper format.

Amendment 19

Proposal for a directive Recital 18

Text proposed by the Commission

(18) In order to allow contracting authorities and contracting entities to take the technical measures that, following the establishment of the European standard, are necessary to comply with the provisions of this Directive, a transposition deadline of **48** months is justified.

Amendment

(18) In order to allow contracting authorities and contracting entities to take the technical measures that, following the establishment of the European standard, are necessary to comply with the provisions of this Directive, a transposition deadline of **51** months is justified. ***Member States should be allowed to delay application of the national provisions necessary to comply with this Directive for sub-central contracting authorities and contracting entities until the first day of the 67th month from the date of entry into force of this Directive.***

Amendment 20

Proposal for a directive Recital 18 b (new)

Text proposed by the Commission

Amendment

(18b) A standardisation of electronic invoicing is in line with the expansion of Union law and national and international law for electronic public procurement in the Union.

Amendment 21

Proposal for a directive Recital 19 b (new)

Text proposed by the Commission

Amendment

(19b) The intended use of structural fund resources to support the establishment of electronic public procurement in Europe should also promote the use of electronic invoicing for public contracts.

Amendment 22

Proposal for a directive Recital 20 a (new)

Text proposed by the Commission

Amendment

(20a) The European Data Protection Supervisor has been consulted in accordance with Article 28, paragraph 2, of Regulation (EC) No 45/2001 of the European Parliament and of the Council^{11a} and issued an opinion on 11 November 2013.

^{11a} Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

Amendment 23

Proposal for a directive Article 1

Text proposed by the Commission

This Directive shall apply to electronic invoices issued as a result of the performance of contracts **awarded in accordance with** Directive [replacing Directive 2004/18/EC], Directive [replacing Directive 2004/17/EC], or Directive 2009/81/EC.

Amendment

This Directive shall apply to electronic invoices issued as a result of the performance of contracts **to which** Directive [replacing Directive 2004/18/EC], Directive [replacing Directive 2004/17/EC], or Directive 2009/81/EC **apply, with the exception of contracts awarded under Article 16 of Directive 2009/81/EC.**

Article 4 of this Directive shall not apply where the contracting authority or contracting entity considers it necessary in the interests of security to use invoice formats or impose other invoicing requirements incompatible with this Directive.

Justification

This Amendment takes into account occasional case-specific security issues which may arise and is inserted in particular if Directive 2009/81 on defence and security is brought within the scope of this Directive.

Amendment 24

**Proposal for a directive
Article 2 – point 1**

Text proposed by the Commission

(1) ‘electronic invoice’ means an invoice that has been issued and received in **any** electronic format;

Amendment

(1) ‘electronic invoice’ means an invoice that has been issued, **transmitted** and received in **a structured** electronic format **which allows for its electronic processing;**

Justification

This Amendment emphasises the “electronic” requirement. Only if invoices are issued and forwarded in a structured electronic format, so that they can be processed fully automatically, will it be possible to achieve the expected efficiency gains.

Amendment 25

Proposal for a directive Article 2 – point 2

Text proposed by the Commission

(2) ‘semantic data model’ means a structured and logically interrelated set of terms and meanings that specify the content ***exchanged in*** electronic invoices;

Amendment

(2) ‘semantic data model’ means a structured and logically interrelated set of terms and ***their*** meanings that specify the content ***of the key components of*** electronic invoices;

Justification

A semantic data model is an abstract representation of certain contents and contexts. In the case in point the semantic data model is intended to describe the content and the meaning of the terms (and in particular the key components) used in an electronic invoice. This ensures that the relevant terms and their content can be easily understood and interpreted by the sender and the recipient and forwarded using a computerised, machine-readable procedure.

Amendment 26

Proposal for a directive Article 2 – point 3

Text proposed by the Commission

(3) ‘***core*** electronic invoice’ means ***a subset of information contained in*** an electronic invoice to enable cross-border interoperability, including the necessary information to ensure legal compliance;

Amendment

(3) ‘***key components of an*** electronic invoice’ means ***the key components which*** an electronic invoice ***must contain*** to enable cross-border interoperability, including the necessary information to ensure legal compliance;

Justification

The key components of an electronic invoice should be laid down in accordance with Council Directive 2006/112/EC and be contained in every electronic invoice. This will make invoicing uniform and more straightforward, and the key components will form the basis of the new European standard.

Amendment 27

Proposal for a directive

Article 2 – point 4 a (new)

Text proposed by the Commission

Amendment

(4a) 'central government authorities' means central government authorities as defined in Article 2(2) of Directive [replacing Directive 2004/18/EC];

Justification

Necessary adjustment in line with the new staggered implementing provisions that also provide for a period of 15 months for central contracting authorities.

Amendment 28

Proposal for a directive

Article 2 – point 4 b (new)

Text proposed by the Commission

Amendment

(4b) 'sub-central contracting authorities' means sub-central contracting authorities as defined in Article 2(3) of Directive [replacing Directive 2004/18/EC];

Justification

Necessary adjustment in line with the new staggered implementing provisions that also provide for a period of 18 months for central contracting entities.

Amendment 29

Proposal for a directive

Article 2 – point 4 c (new)

Text proposed by the Commission

Amendment

(4c) 'central purchasing bodies' means central purchasing bodies as defined in Article 2(10) of Directive [replacing Directive 2004/18/EC];

Justification

Necessary adjustment in line with the new staggered implementing provisions that also provide for a period of 15 months for central contracting authorities.

Amendment 30

Proposal for a directive Article 3

Text proposed by the Commission

1. The Commission shall request the relevant European standardisation organisation to draw up a European standard for the semantic data model of the **core** electronic invoice.

The Commission shall require that the European standard for the semantic data model of the **core** electronic invoice be technologically neutral, **and guarantee** personal data protection in accordance with Directive 95/46/EC.

Amendment

1. The Commission shall, at the latest by [date three months after the date of the entry into force of this Directive], request the relevant European standardisation organisation to draft a European standard for the semantic data model of the **key components of an** electronic invoice. ***The Commission shall set the European standardisation organisation a deadline of 24 months for the elaboration and adoption of the European standard.***

The Commission shall require that the European standard for the semantic data model of the **key components of an** electronic invoice ***contain at least the elements listed in the Annex and that it:***

- is technologically neutral;
- ***is interoperable;***
- ***meets the requirements of Council Directive 2006/112/EC:***
 - ***has regard to the need for personal data protection in accordance with Directive 95/46/EC, to a 'data protection by design' approach and to the principles of proportionality, data minimisation and purpose limitation;***
 - ***allows for the establishment of practical, user-friendly and flexible e-invoicing systems;***

The request shall be adopted in accordance with the procedure laid down in Article 10(1) to (5) of Regulation (EU) No 1025/2012.

2. Where the European standard drawn up ***following the*** request referred to in paragraph 1 satisfies the requirements contained therein, the Commission shall publish the reference to such European standard in the Official Journal of the

- ***takes into account the special needs of small and medium-sized enterprises as well as the sub-central contracting authorities and contracting entities;***
- ***is suitable for use in commercial transactions between enterprises;***
- ***is compatible with relevant international standards on electronic invoicing.***

The request shall be adopted in accordance with the procedure laid down in Article 10(1) to (5) of Regulation (EU) No 1025/2012.

2. Once the competent European standardisation organisation has adopted the European standard for the semantic data model for the key components of an electronic invoice and the Commission has verified that the standard is consistent with the request, the Commission shall test, within a period of six months, the practical application of the standard, as it shall exist for use by an end user. In so doing, the Commission shall take special account of the respect of the criteria of practicality, user-friendliness and possible implementation costs in accordance with subparagraph 2 of paragraph 1. Within one month of completion of the testing procedure, the Commission shall submit a report on the outcome to the European Parliament and the Council.

3. The Commission may dispense with the test procedure if it, or the competent standardisation organisation, has already verified, during the process of drawing up the standard, as referred to in paragraph 1, that the practical application of the standard, as referred to in paragraph 2, meets the relevant requirements.

4. Where the European standard, drawn up in accordance with the request referred to in paragraph 1, satisfies the requirements contained therein and where a test phase in accordance with paragraph 2 or 3 has been completed, the Commission shall

European Union.

adopt an implementing act, in which it shall state that the standard satisfies the requirements of the request and that it decides to publish the reference to such standard in the Official Journal of the European Union. If paragraph 2 applies, the Commission shall adopt the implementing act at the latest 9 months after the adoption of the standard by the relevant standardisation organisation, and if paragraph 3 applies, at the latest 3 months after the adoption of the standard by the relevant standardisation organisation.

5. The implementing acts referred to in paragraphs 1 and 4 shall be adopted in accordance with the examination procedure referred to in Article 5a(3).

Amendment 31

Proposal for a directive Article 3 a (new)

Text proposed by the Commission

Amendment

Article 3a

Formal objections to the European standard

1. When a Member State or the European Parliament considers that the European standard does not entirely satisfy the requirements which are set out in Article 3(1) and in the Annex, it shall inform the Commission thereof with a detailed explanation, and the Commission shall, after consulting the committee referred to in Article 5a, decide:

- a) to publish, not to publish, or to publish with restriction the references to the European standard concerned in the Official Journal of the European Union;*
- b) to maintain, to maintain with restriction or to withdraw the references*

to the European standard concerned in, or from, the Official Journal of the European Union.

2. The Commission shall publish information on its website on the European standard that has been subject to the decision referred to in paragraph 1.

3. The Commission shall inform the European standardisation organisation concerned of the decision referred to in paragraph 1 and, if necessary, request the revision of the European standard concerned.

4. The decision referred to in point (a) of paragraph 1 of this Article shall be adopted in accordance with the advisory procedure referred to in Article 5a(2).

5. The decision referred to in point (b) of paragraph 1 of this Article shall be adopted in accordance with the examination procedure referred to in Article 5a(3).

Amendment 32

Proposal for a directive Article 3 b (new)

Text proposed by the Commission

Amendment

Article 3b

Maintenance and further development of the European standard

The Commission may request the relevant European standardisation organisation to revise the European standard for the semantic data model for the key components of an electronic invoice. It shall make such a request in accordance with the procedure referred to in Article 3(1). The deadlines provided for in Article 3(1) shall not apply. The Commission shall, in its request, determine the

deadline for the adoption of the revised European standard.

Amendment 33

Proposal for a directive Article 3 c (new)

Text proposed by the Commission

Amendment

Article 3c

Amendment of the requirements for the European standard

The Commission shall be empowered to adopt delegated acts in accordance with Article 5b in order to amend the requirements set out in Article 3(1) and in the Annex to this Directive, for the European standard for the semantic data model for the key components of an electronic invoice.

Amendment 34

Proposal for a directive Article 4

Text proposed by the Commission

Amendment

Member States shall ensure that contracting authorities and contracting entities ***do not refuse to receive*** electronic invoices which comply with the European standard whose reference has been published pursuant to Article 3(2).

Member States shall ensure that contracting authorities and contracting entities ***are able to receive and to process*** electronic invoices which comply with the European standard ***for the semantic data model for the core section of an electronic invoice*** whose reference has been published pursuant to Article 3(4). ***A refusal may not be justified solely on the***

grounds that the invoice does not comply with other technical requirements.

Amendment 35

Proposal for a directive Article 4 a (new)

Text proposed by the Commission

Amendment

Article 4a

Data protection

1. Applicable Union and national law on data protection shall be unaffected by this Directive. Such law shall also apply to electronic invoicing.

2. Insofar as there is no provision to the contrary in Union or national law and without prejudice to appropriate protective measures in accordance with Article 13 of Directive 95/46/EC, personal data may be used exclusively for the purpose of electronic invoicing or purposes compatible with it.

3. Member States shall ensure, without prejudice to appropriate protective measures in accordance with Article 13 of Directive 95/46/EC, that arrangements for the publication, for transparency and accounting purposes, of personal data gathered in connection with electronic invoicing are in line with the purpose of such publication and with the principle of the protection of privacy.

Justification

Based on the recommendations of the European Data Protection Supervisor in its opinion of 11 November 2013.

Amendment 36

Proposal for a directive Article 5

Text proposed by the Commission

Amendment

This Directive is without prejudice to the provisions of Council Directive 2006/112/EC. ***deleted***

Justification

The chosen wording is unclear. Instead, the article which gives rise to a contradiction between the two legal acts should specify which act takes precedence in the specific context. The general reference to the VAT Directive will be incorporated into the recitals and article 3, paragraph 2.

Amendment 37

Proposal for a directive Article 5 a (new)

Text proposed by the Commission

Amendment

Article 5a

Committee procedures

(1) The Commission shall be assisted by the committee established under Regulation (EU) No 1025/2012 of the European Parliament and of the Council^{11b}.

(1a) That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

(2) Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 of the European Parliament and of the Council shall apply^{11c}.

(3) Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

^{11b} *OJ L 316, 14.11.2012, p. 12.*

^{11c} *OJ L 55, 28.2.2011, p. 13.*

Amendment 38

Proposal for a directive Article 6

Text proposed by the Commission

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by **48** months following the entry into force at the latest. They shall forthwith ***communicate to*** the Commission ***the text of those provisions.***

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Amendment

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by ***[51]*** months following the entry into force ***of this directive]*** at the latest. They shall ***immediately inform*** the Commission ***thereof.***

Member States may provide that these laws, regulations and administrative provisions shall apply to sub-central government authorities and contracting entities from the first day of the 67th month following the date of entry into force of the directive.

When Member States adopt those provisions, they shall contain a reference to this Directive or ***shall*** be accompanied by such reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive. ***The Commission shall inform the other Member States thereof.***

Amendment 39

Proposal for a directive Article 7

Text proposed by the Commission

The Commission shall review the effects of this Directive on the internal market and on the uptake of electronic invoicing in public procurement and report thereon to the European Parliament and the Council by 30 June **2023**. Where appropriate, the report shall be accompanied by a *legislative proposal*.

Amendment

The Commission shall review the effects of this Directive on the internal market and on the uptake of electronic invoicing in public procurement and report thereon to the European Parliament and the Council by 30 June **2021**. Where appropriate, the report shall be accompanied by a *cost-benefit analysis relating to the need for further action*.

Amendment 40

Proposal for a directive Annex (new)

Text proposed by the Commission

Amendment

Annex

Requirements to be met by the semantic data model: key components of the electronic invoice

- 1. The date of issue;*
- 2. a sequential number, based on one or more series, which uniquely identifies the invoice;*
- 3. the VAT identification number referred to in Article 214 of Directive 2006/112/EC under which the taxable person supplied the goods or services;*
- 4. the customer's VAT identification number, as referred to in Article 214 of Directive 2006/112/EC, under which the customer received a supply of goods or services in respect of which he is liable for payment of VAT, or received a supply of goods as referred to in Article 138 of*

Directive 2006/112/EC;

5. the full name and address of the taxable person and of the customer;

6. the quantity and nature of the goods supplied or the extent and nature of the services rendered;

7. the date on which the supply of goods or services was made or completed or the date on which the payment on account referred to in points 4 and 5 of Article 220 of Directive 2006/112/EC was made, in so far as that date can be determined and differs from the date of issue of the invoice;

8. the taxable amount per rate or exemption, the unit price exclusive of VAT and any discounts or rebates if they are not included in the unit price;

9. the VAT rate applied;

10. the VAT amount payable, except where a special arrangement is applied under which, in accordance with Directive 2006/112/EC, such a detail is excluded;

11. in the case of an exemption or where the customer is liable for payment of VAT: reference to the applicable provision of Directive 2006/112/EC, or to the corresponding national provision, or any other reference indicating that the supply of goods or services is exempt or subject to the reverse charge procedure;

12. in the case of supplies of new means of transport carried out in accordance with the conditions specified in Article 138(1) and (2)(a) of Directive 2006/112/EC: the details referred to in Article 2(2)(b) of Directive 2006/112/EC;

13. in the case of the application of a special rule for travel agencies: reference to Article 306 of Directive 2006/112/EC or to the corresponding national provisions or another reference to the act that this

rule was applied:

14. in the case of the application of special arrangements to second-hand goods, works of art, collectors' items and antiques: reference to Article 313, 326 or 333 of Directive 2006/112/EC or to the corresponding national provisions or another reference to the act that one of these arrangements was applied:

15. where the taxable person is a tax representative within the meaning of Article 204 of Directive 2006/112/EC: VAT identification number within the meaning of Article 214 of Directive 2006/112/EC, full name and address of the tax representative.

EXPLANATORY STATEMENT

I: Introduction:

The proposal for a directive aims to facilitate interoperability in electronic invoicing in public procurement.

This is a most welcome aim.

The proposal constitutes a further step on the road to paper-free public administration. The use of electronic invoicing in public procurement should, like the promotion of electronically-based procurement procedures, be supported. In its decision of 20 April 2012, Parliament highlighted the danger of a fragmentation of the market as a result of the growing number of national provisions governing electronic invoicing and pointed to the need for interoperable solutions. The Council also stressed, in its recent Conclusions, the importance and urgency of making progress with a user-friendly digital internal market, where electronic invoicing in public procurement would also be used.

There are numerous incompatible standards on electronic invoicing in the individual Member States, and this causes problems for cross-border invoicing in such areas as public procurement. Many Member States and large enterprises have developed technical solutions based on their own or on national standards; however, these are not compatible with other Member States' solutions.

The many different requirements, standards, networks and rules governing electronic invoicing are excessively complex for enterprises and give rise to legal uncertainty, as it cannot be assumed that an electronic invoice will be accepted in another Member State. The absence of a common European standard forces enterprises to comply with a different standard for each market. This leads to an increase in operating costs and subsequently to higher prices.

II: Directive

The current difficulties constitute an obstacle to market access which should be removed. The lack of interoperability between the different systems means that enterprises prefer to avoid cross-border procurement procedures; the result is less competitiveness and a negative impact on the functioning of the internal market.

The various technical solutions arrived at by the Member States make the problem of interoperability more acute. The aim of this proposal to solve the problems of interoperability in cross-border invoicing by developing a European standard, in accordance with the legal basis of Article 114 TFEU, represents a targeted measure to facilitate cross-border invoicing. Since the Directive does not impose a binding European standard but provides for linking of the national standards by means of the new standard, and since interoperability cannot be achieved at national level, there will be no violation of the principles of proportionality and subsidiarity.

The Directive does not require complete harmonisation of the national systems for electronic invoicing. These should be maintained, and the development of national data models should not be impaired.

1) The Directive provides that the Commission shall, in line with Standardisation Regulation 1025/2012/EC, instruct the European Standardisation Organisation to draw up a new European standard for a semantic data model for electronic invoicing.

The aim of the European standard for a semantic data model is to bring the different national standards into line with each other. This will enable the communication and classification of the content of invoices (terms and their meanings) between the different systems of electronic invoicing to take place.

This in turn will enable contracting authorities and contractors in public procurement procedures to exchange invoices at minimal cost and with minimal complexity.

2) The Directive also provides that the Member States will ensure, four years after it comes into force, that contracting authorities and contracting entities are able to process electronic invoices which conform to the European standard. Application of the standard should simply oblige the receiver of an invoice to accept and process it. The issuer of an invoice will be free to decide whether and on the basis of what standard to issue an electronic invoice or send a paper invoice.

Member States should provide the contracting authorities and contracting entities with all the support they need in applying the new European standard. Plans should also be made for training for enterprises and in particular for SMEs, as these are best placed to benefit from the simplifications introduced by the Directive.

III: Amendments

The procedure to draw up the new European standard is based on Regulation 1025/2012/EU on European standardisation. This states that the requirements governing standards must be laid down in the relevant harmonisation legislation of the Union. The proposal for a directive does not, however, contain any requirements for the content of the standard which would form the basis for applying standardisation procedures. It would not be reasonable for the legislator to approve a mandate without specific requirements regarding content.

Accordingly, the core elements of electronic invoices are specified in the new annex, along the lines of the provisions of the VAT Directive.

A period of 30 months for the standard to be set up should also be stipulated.

Following that, the practicability and user-friendliness of the standard will be assessed in a test period to find out, in particular, if it works, is easy to use and can be installed at minimal cost by contracting authorities and contracting entities. The agreement of the Member States must also be obtained.

Only then should publication in the Official Journal of the EU take place.

The Commission should be empowered by means of implementing acts to maintain and safeguard the standard in future and to specify how it can be mapped to suitable technical formats.

The implementation deadline of the Directive should be linked to the publication of the standard. In order to allow sufficient time for the necessary technical, organisational and financial adjustments, it would be advisable to provide for a phased implementation period of 18 months for central government authorities and 36 months for sub-central contracting

authorities.

PROCEDURE

Title	Electronic invoicing in public procurement			
References	COM(2013)0449 – C7-0208/2013 – 2013/0213(COD)			
Date submitted to Parliament	26.6.2013			
Committee responsible Date announced in plenary	IMCO 4.7.2013			
Committee(s) asked for opinion(s) Date announced in plenary	ECON 4.7.2013	EMPL 4.7.2013	ENVI 4.7.2013	ITRE 4.7.2013
Not delivering opinions Date of decision	ECON 10.9.2013	EMPL 11.9.2013	ENVI 11.7.2013	ITRE 8.7.2013
Rapporteur(s) Date appointed	Birgit Collin-Langen 25.9.2013			
Discussed in committee	30.9.2013	4.11.2013	16.12.2013	
Date adopted	17.12.2013			
Result of final vote	+: –: 0:	32 0 0		
Members present for the final vote	Pablo Arias Echeverría, Preslav Borissov, Birgit Collin-Langen, Lara Comi, António Fernando Correia de Campos, Vicente Miguel Garcés Ramón, Małgorzata Handzlik, Malcolm Harbour, Philippe Juvin, Toine Manders, Hans-Peter Mayer, Phil Prendergast, Mitro Repo, Robert Rochefort, Zuzana Roithová, Heide Rühle, Christel Schaldemose, Andreas Schwab, Catherine Stihler, Róza Gräfin von Thun und Hohenstein, Bernadette Vergnaud, Barbara Weiler			
Substitute(s) present for the final vote	Jürgen Creutzmann, Ildikó Gáll-Pelcz, Emma McClarkin, Roberta Metsola, Konstantinos Poupakis, Sylvana Rapti, Olle Schmidt, Jutta Steinruck, Marc Tarabella, Kerstin Westphal			
Date tabled	6.1.2014			