

Directive 2014/55/EU of the European Parliament and of the Council of 16 April 2014 on electronic invoicing in public procurement (Text with EEA relevance)

Article 1

Scope

This Directive shall apply to electronic invoices issued as a result of the performance of contracts to which Directive 2009/81/EC, Directive 2014/23/EU, Directive 2014/24/EU or Directive 2014/25/EU applies.

This Directive shall not apply to electronic invoices issued as a result of the performance of contracts falling within the scope of Directive 2009/81/EC, where the procurement and performance of the contract are declared to be secret or must be accompanied by special security measures in accordance with the laws, regulations or administrative provisions in force in a Member State, and provided that the Member State has determined that the essential interests concerned cannot be guaranteed by less intrusive measures.

Article 2

Definitions

For the purposes of this Directive, the following definitions shall apply:

- (1) 'electronic invoice' means an invoice that has been issued, transmitted and received in a structured electronic format which allows for its automatic and electronic processing;
- (2) 'core elements of an electronic invoice' means a set of essential information components which an electronic invoice must contain in order to enable cross-border interoperability, including the necessary information to ensure legal compliance;
- (3) 'semantic data model' means a structured and logically interrelated set of terms and their meanings that specify the core elements of an electronic invoice;
- (4) 'syntax' means the machine readable language or dialect used to represent the data elements contained in an electronic invoice;
- (5) 'syntax bindings' means guidelines on how a semantic data model for an electronic invoice could be represented in the various syntaxes;
- (6) 'contracting authorities' means contracting authorities as defined in point 17 of Article 1 of Directive 2009/81/EC, Article 6(1) of Directive 2014/23/EU and point (1) of Article 2(1) of Directive 2014/24/EU;
- (7) 'sub-central contracting authorities' means sub-central contracting authorities as defined in point (3) of Article 2(1) of Directive 2014/24/EU;
- (8) 'central purchasing body' means central purchasing body as defined in point (16) of Article 2(1) of Directive 2014/24/EU;
- (9) 'contracting entities' means contracting entities as defined in point 17 of Article 1 of Directive 2009/81/EC, Article 7(1) and (2) of Directive 2014/23/EU and Article 4(1) of Directive 2014/25/EU;

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- (10) ‘international standard’ means an international standard as defined in point (a) of Article 2(1) of Regulation (EU) No 1025/2012;
- (11) ‘European standard’ means a European standard as defined in point (b) of Article 2(1) of Regulation (EU) No 1025/2012.

Article 3

Establishment of a European standard

1 The Commission shall request that the relevant European standardisation organisation draft a European standard for the semantic data model of the core elements of an electronic invoice (the ‘European standard on electronic invoicing’).

The Commission shall require that the European standard on electronic invoicing complies at least with the following criteria:

- it is technologically neutral,
- it is compatible with relevant international standards on electronic invoicing,
- it 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,
- it is consistent with the relevant provisions of Directive 2006/112/EC,
- it allows for the establishment of practical, user-friendly, flexible and cost-efficient electronic invoicing systems,
- it takes into account the special needs of small and medium-sized enterprises as well as of sub-central contracting authorities and contracting entities,
- it is suitable for use in commercial transactions between enterprises.

The Commission shall request that the relevant European standardisation organisation provide a list with a limited number of syntaxes which comply with the European standard on electronic invoicing, the appropriate syntax bindings and guidelines on transmission interoperability, in order to facilitate the use of such standard.

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

As part of the work to develop the standard by the relevant European standardisation organisation, and within the timeline identified in paragraph 2, the standard shall be tested as to its practical application for an end user. The Commission shall retain overall responsibility for the testing and shall ensure that, during the performance of the test, special account be taken of the respect for the criteria of practicality, user-friendliness and possible implementation costs in accordance with the second subparagraph of paragraph 1. The Commission shall submit a report on the outcome of the test to the European Parliament and the Council.

2 Where the European standard on electronic invoicing, 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 the fifth subparagraph of paragraph 1 has been completed, the Commission shall publish the reference to the standard in the *Official Journal of the European Union*, together with the list of a limited number of syntaxes drawn up in accordance with the request referred to in paragraph 1. That publication shall be completed by 27 May 2017.

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Article 4

Formal objections to the European standard

1 Where a Member State or the European Parliament considers that the European standard on electronic invoicing and the list of syntaxes do not entirely satisfy the requirements set out in Article 3(1), it shall inform the Commission thereof with a detailed explanation, and the Commission shall decide:

- a to publish, not to publish, or to publish with restriction the references to the European standard on electronic invoicing and the list of syntaxes 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 on electronic invoicing and to the list of syntaxes concerned in, or from, the *Official Journal of the European Union*.

2 The Commission shall publish on its website information on the European standard on electronic invoicing and the list of syntaxes that have 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, shall request the revision of the European standard on electronic invoicing or list of syntaxes concerned.

4 The decisions referred to in point (a) and point (b) of paragraph 1 of this Article shall be adopted in accordance with the examination procedure referred to in Article 10(2).

Article 5

Maintenance and further development of the European standard and the list of syntaxes

1 In order to take into account technological developments and to ensure full and ongoing interoperability in electronic invoicing in public procurement, the Commission may:

- a update or revise the European standard on electronic invoicing;
- b update or revise the list of syntaxes published by the Commission in the *Official Journal of the European Union*.

2 Where the Commission decides to undertake the action referred to in point (a) of paragraph 1, it shall make a request to the relevant European standardisation organisation. That request shall be made in accordance with the procedure referred to in Article 3(1) without applying the deadlines provided for therein.

3 Article 4 shall apply to any update or revision undertaken in accordance with point (a) of paragraph 1.

4 Where the Commission decides to undertake the action referred to in point (b) of paragraph 1, it shall do so either in accordance with the examination procedure referred to in Article 10(2) or by making a request to the relevant European standardisation organisation. Such request shall be made in accordance with the procedure referred to in Article 3(1) without applying the deadlines provided for therein.

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Article 6

Core elements of an electronic invoice

The core elements of an electronic invoice are, inter alia:

- (a) process and invoice identifiers;
- (b) the invoice period;
- (c) seller information;
- (d) buyer information;
- (e) payee information;
- (f) seller's tax representative information;
- (g) contract reference;
- (h) delivery details;
- (i) payment instructions;
- (j) allowance or charge information;
- (k) invoice line item information;
- (l) invoice totals;
- (m) VAT breakdown.

Article 7

Receipt and processing of electronic invoices

Member States shall ensure that contracting authorities and contracting entities receive and process electronic invoices which comply with the European standard on electronic invoicing whose reference has been published pursuant to Article 3(2) and with any of the syntaxes on the list published pursuant to Article 3(2).

Article 8

Data protection

1 This Directive is without prejudice to applicable Union and national law on data protection.

2 Subject to any provisions to the contrary in Union or national law and without prejudice to the exemptions and restrictions set out in Article 13 of Directive 95/46/EC, personal data obtained for the purpose of electronic invoicing may be used only for that purpose or for purposes compatible with it.

3 Without prejudice to the exemptions and restrictions set out in Article 13 of Directive 95/46/EC, Member States shall ensure that arrangements for the publication, for transparency

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and accounting purposes, of personal data gathered in connection with electronic invoicing are consistent with the purpose of such publication and with the principle of the protection of privacy.

Article 9

Use of electronic invoices for VAT purposes

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

Article 10

Committee procedure

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

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

Article 11

Transposition

1 Member States shall adopt, publish and apply the laws, regulations and administrative provisions necessary to comply with this Directive at the latest by 27 November 2018. They shall forthwith communicate the text of those measures to the Commission.

2 By way of derogation from paragraph 1, Member States shall, not later than 18 months after the publication of the reference of the European standard on electronic invoicing in the *Official Journal of the European Union*, adopt, publish and apply the provisions necessary to comply with the obligation contained in Article 7 to receive and process electronic invoices.

Member States may postpone the application referred to in the first subparagraph with regard to their sub-central contracting authorities and contracting entities until 30 months after publication of the reference of the European standard on electronic invoicing in the *Official Journal of the European Union* at the latest.

Upon publication of the reference to the European standard on electronic invoicing, the Commission shall publish in the *Official Journal of the European Union* the final date for the bringing into force of the measures referred to in the first subparagraph.

3 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.

Article 12

Review

The Commission shall review the effects of this Directive on the internal market and on the uptake of electronic invoicing in public procurement and shall submit a report thereon to the European Parliament and to the Council within three years of the time

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limit for the maximum postponement set for sub-central authorities in the second subparagraph of Article 11(2). Where appropriate, the report shall be accompanied by an impact assessment relating to the need for further action.

Article 13

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 14

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 16 April 2014.

For the European Parliament

The President

M. SCHULZ

For the Council

The President

D. KOURKOULAS