Electronic invoicing in public procurement

2013/0213(COD) - 11/03/2014 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 646 votes to 25, with 5 abstentions, a legislative resolution on the proposal for a directive of the European Parliament and of the Council on electronic invoicing in public procurement.

Parliament adopted its position at first reading following the ordinary legislative procedure. The amendments adopted in plenary are the result of a compromise between Parliament and Council.

Scope: the amended text stipulated that obstacles to cross-border trade deriving from the co-existence of several legal requirements and technical standards on electronic invoicing and from the lack of interoperability should be removed or reduced.

However, this **Directive should not apply to electronic invoices issued as a result of the performance of contracts falling within the scope of Directive 2009/81/EC** 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, where the procurement and performance of the contract are declared to be **secret** or must be accompanied by special security measures, and provided that the Member State has determined that the essential interests concerned cannot be guaranteed by less intrusive measures.

Establishment of a European standard: the Commission should 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 should be technologically neutral and should comply with at least the following **criteria**:

- it is compatible with relevant international standards on electronic invoicing;
- it has regard to the need for personal data protection;
- 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.

Test phase: under the responsibility of the Commission, the standard should be **tested as to its practical application for an end user**. The Commission shall submit a report on the outcome of the test to the European Parliament and the Council. Where a test phase 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 That publication shall be completed by three years following the entry into force of the Directive.

Formal objections to the European standard: the amended text introduced the possibility for a Member State or the European Parliament to raise such objections and inform the Commission thereof, with a detailed explanation, and the Commission shall decide:

- 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;

- 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.

Maintenance and development of the European standard: in order to take into account technological developments and to ensure full and on-going 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. To do so, it should make a request to the relevant European standardisation organisation.

Core elements of an electronic invoice: Parliament stipulated in the body of the text of the Directive the core elements of the electronic invoice. These are:

- process and invoice identifiers;
- the invoice period;
- seller, buyer, payee and seller's tax representative information;
- contract reference;
- delivery details;
- payment instructions;
- allowance or charge information;
- invoice line item information;
- invoice totals;
- VAT breakdown.

Data protection: it is stated that this Directive should be without prejudice to applicable Union and national law on data protection. Personal data obtained for the purpose of electronic invoicing may be used only for that purpose or for purposes compatible with it.

Transposition: Member States should **adopt, publish and apply** the laws, regulations and administrative provisions necessary to comply with this Directive at the latest **54 months** after its entry into force. They may postpone the application 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.