

**Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council on electronic invoicing in public procurement'**

COM(2013) 449 final — 2013/0213 (COD)

(2014/C 67/15)

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On 4 July 2013, the European Parliament and, on 30 September 2013, the Council decided to consult the European Economic and Social Committee, under Article 114 of the Treaty on the Functioning of the European Union, on the

*Proposal for a directive of the European Parliament and of the Council on electronic invoicing in public procurement*

COM(2013) 449 final — 2013/0213 (COD).

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 2 October 2013.

At its 493rd plenary session, held on 16 and 17 October 2013 (meeting of 16 October), the European Economic and Social Committee adopted the following opinion by 130 votes to 2 with 3 abstentions.

## 1. Conclusions and recommendations

1.1 The European Economic and Social Committee (EESC) welcomes the proposed directive as an attempt to standardise electronic invoicing data, and supports the idea that a data model should be established by CEN, the European standardisation body.

1.2 Given today's fragmented market, in which steps to achieve the widespread use of electronic invoicing have been taken individually, using such differing criteria that that electronic invoices cannot be exchanged on the cross-border market, the creation of a European standard is an essential tool for the development of the single market and an important step in eliminating existing barriers to market participation.

1.3 In December 2010, the Commission presented a Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions entitled *Reaping the benefits of electronic invoicing for Europe* <sup>(1)</sup>, on which the Committee had the opportunity to deliver an opinion <sup>(2)</sup>.

1.4 The recommendations of the expert group on electronic invoicing, set up by the Commission to look at the obstacles preventing swifter adoption of electronic invoicing in the European Union (EU) referred to the "adoption by all actors within both the private and public sector of a common invoice content standard and data model – the UN/CEFACT Cross-Industry Invoice (CII) v.2". It should be noted that most

respondents during the public consultation agreed with this and with other recommendations made in the report. These data, as well as other specifications (CWA 16356 and CWA 16562 and the financial invoice based on the methodology provided by ISO 20022), are included in this proposal, and the EESC welcomes the inclusion of such specifications, which are the outcome of lengthy work by experts.

1.5 However, the EESC is both surprised and disappointed that no reference is made to a deadline for CEN to submit the proposed European standard for a semantic data model of the basic electronic invoice. Setting a deadline is provided for in Article 10(1) of Regulation (EU) No 1025/2012 of the European Parliament and of the Council, and yet the proposed directive ignores this aspect altogether, failing to reflect the importance and urgency of establishing this standard.

1.6 Furthermore, on the subject of deadlines, the Committee wishes to express its concern that the proposed directive provides for a transposition period of 48 months. This excessively long deadline is not only at odds with the target set for transition to e-procurement by 2016; it is also inappropriate given the reality of the situation and current technological advances, and even with regard to the wishes of traders. This could lead to the gap between EU Member States in this respect growing wider, and consequently to a two-speed Europe. This deadline could even cause further market access barriers until the directive is fully adopted by all Member States. Significant progress has been made in the field of electronic invoicing, even in countries experiencing a severe economic and financial crisis, such as Italy and Portugal, which proves that this important project can be achieved within a shorter timeframe. It would be both possible and desirable to shorten the deadlines.

<sup>(1)</sup> COM(2010) 712 final.

<sup>(2)</sup> OJ C 318, 29.10.2011, p. 105.

1.7 As has been argued previously by the EESC <sup>(3)</sup>, standardisation and systems interoperability are essential to the success of the electronic invoicing project and to the development of the internal market that it is intended to achieve; it is therefore becoming increasingly urgent to address the current fragmented state of the market. Furthermore, the deadline of ten years proposed for analysing the results of implementation of the Directive on the Internal Market and on the adoption of electronic invoicing is inappropriate and quite inconsistent with the speed at which technological developments occur in a market where obsolescence is the norm.

1.8 The proposed directive confines itself merely to ensuring that "the authorities and contracting entities do not refuse to receive electronic invoices which comply with the European standard" established by CEN. A lot of work has been done, involving considerable investment in human and financial resources. The Committee wonders whether this would not justify the broader aim of a real standardisation of procedures and the universal acceptance by all stakeholders, both private and public, of the model that is developed for electronic invoicing. This aim would actually serve the ambitions of developing the single market and of achieving a paperless public administration.

1.9 The EESC supports the widespread use of electronic invoicing. However, its potential will only be realised if systems are interoperable, thereby enabling documents to be exchanged. The public procurement market is required to show a greater degree of transparency and rigour than other markets; it should thus serve as an example of good practice and have a knock-on effect on other markets. Electronic invoicing in public procurement and the adoption of "straight through" procurement procedures are urgent and desirable. The EESC therefore wishes to reiterate its support and its desire to see "straight through" electronic procurement become a reality as soon as possible, as it has stated in its opinion on the subject <sup>(4)</sup>.

1.10 The basic standards for electronic invoices have already been studied, in particular under the PEPPOL (Pan-European Public Procurement Online) project <sup>(5)</sup>, funded by the European Commission and which published its Final Report in November 2012. On the basis of the work carried out by the CEN Workshop BII (Business Interoperability Interfaces for Public Procurement in Europe), the PEPPOL project has drawn up a number of Business Interoperability Specifications (BIS), such as the specifications for an electronic invoice model, which garnered broad consensus among PEPPOL consortium members. The Committee calls for use to be made of the work already done, which goes beyond merely defining electronic invoicing data, as in fact appears to be the wish of the consortium's participants. This will prevent or minimise the risk of work being redone and of resources being wasted on new studies and even of investments being duplicated by Member

States and economic operators who then see their solutions, which were created on the basis of the results that were obtained, become obsolete.

1.11 As the European market consists mainly of Small and Medium-sized Enterprises (SMEs), the EESC recommends that their interests be safeguarded by adopting a solution that is affordable and easy for all users to take up, in terms of both cost and the technology used. This will be a genuine step towards eliminating existing barriers to SMEs' market participation. Only then, will the desired trickle-down effect have any real impact, with this initiative potentially becoming an important milestone for achieving significant savings in monetary and human resources, combating fraud and tax evasion, and shortening payment periods.

1.12 The Committee also recommends, as it has already noted <sup>(6)</sup>, that account be taken of the needs and interests of consumers, as only those with an understanding of information technologies are likely to reap the real benefits of electronic procurement. Widespread training will have to be provided in the fields of Information and Communication Technologies (ICT).

1.13 Also with regard to consumers, the Committee reiterates its concern to safeguard the interests of people with disabilities. Care must be taken to ensure that the document is designed to provide universal access and considers the special needs of people with disabilities, in line with the rules of non-discrimination on grounds of disability enshrined in Article 21 of the Charter of Fundamental Rights of the European Union and the United Nations Convention on the Rights of Persons with Disabilities, as ratified by the European Union.

## 2. Background

2.1 The proposed directive aims to address a gap in the legislation needed in order to achieve a paperless administration. This is a priority for the Digital Agenda, one of the Europe 2020 Strategy's flagship initiatives.

2.2 The Commission believes that a directive is the appropriate and proportionate instrument for the desired goal, as it obliges the Member States to achieve a certain objective while giving them the freedom to decide how this should be done.

2.3 Modernising public administration was selected as one of the five priorities of the Commission's Annual Growth Survey in 2012 and 2013. Reform of the public procurement system, the digitisation of public administration, reduction of the administrative burden and greater transparency are factors for growth, bringing public administration into the modern era and making it more efficient, with environmental and economic benefits estimated to total EUR 2,3 billion.

<sup>(3)</sup> JO C 318 de 29.10.2011, p. 105.

<sup>(4)</sup> E-procurement. (See page 96 of this Official Journal).

<sup>(5)</sup> Grant Agreement number: 224974.

<sup>(6)</sup> JO C 318 de 29.10.2011, p. 105.

2.4 Although various e-invoicing methods and e-procurement platforms do exist, they are not yet commonly used in most Member States, with electronic invoicing only accounting for between 4 and 15 % of all invoices issued or received. Clearly, therefore, the electronic internal market is not working.

2.5 Furthermore, the formats used for e-invoicing and public procurement platforms vary considerably among themselves and are sometimes even incompatible, which forces economic operators to comply with new invoicing requirements in the different Member States in which they wish to participate in public procurement procedures, thus incurring high adaptation costs. This constitutes a barrier to the free market, discouraging some economic operators from taking part in public procurement procedures.

2.6 The establishment of a European standard for electronic invoicing and the consequent interoperability of invoicing systems, as well as the standardisation of "straight through" electronic procurement procedures, are important steps towards eliminating current barriers to competition.

2.7 The 2010 Evaluation Report on the 2004 Action Plan for Electronic Public Procurement (7), accompanying the Green Paper on expanding the use of e-procurement in the EU (8), advises the Commission to work on minimising the risks of a decentralised and fragmented approach and highlights some important points to consider:

- provision of a supportive legal environment: more legal changes may be needed to clarify and define the obligations relating to the creation and operation of such platforms, e.g. legislation related to electronic signatures, e-invoicing and VAT;

- a more pragmatic approach, where appropriate, to technical issues: to ensure balance between operating costs, the sophistication of platforms and the security that is offered. Certain limits to "straight through e-procurement" have also been identified, such as difficulties in using automated evaluation approaches to complex purchases and the absence of a time-stamping system which is accepted throughout the EU;

- greater support for administrative simplification and organisational change: to support the Member States in combating the inertia shown by operators and contracting authorities. Within this policy, steps should be taken to introduce better monitoring systems at both the national and European levels;

- the lack of standardisation in e-procurement procedures: with countries currently developing such procedures individually, economic operators currently face – and will continue to face in the near future – different platforms using different techniques, inevitably creating barriers to access and greater difficulties in developing the tasks of each one. Although a single system is neither desirable nor intended, the existence of common core features is important, as this would facilitate interoperability and universal access;

- improved access and wider inclusion: action may be necessary to ensure that e-procurement is available to all interested parties, including SMEs.

### 3. Gist of the proposal

3.1 The directive aims to establish a European standard for a semantic data model (9) of the core electronic invoice (10) that is technologically neutral, ensuring the protection of personal data in accordance with Directive 95/46/EC.

3.2 The model should be drawn up by the relevant European standardisation body, which is the European Committee for Standardisation.

3.3 The directive does not set a deadline either for the request by the Commission to the standardisation body or for the submission of proposals by that body. This is important, and would be desirable.

3.4 Member States are asked to ensure that both contracting authorities and contracting entities accept electronic invoices, provided they comply with the European standard that is established.

3.5 Member States are asked to transpose the directive within a deadline of 48 months, enacting any national laws or regulations necessary for the purpose.

3.6 30 June 2023 is the date set for presenting the report assessing the directive's impact on the internal market and for the adoption of electronic invoicing in public procurement to the European Parliament and the Council. This follow-up study is of paramount importance and monitoring tools should be developed to assess the impact of the measure's adoption, both in terms of the costs incurred in implementing it and of the savings generated by its use.

(9) 'Semantic data model' means a structured and logically interrelated set of terms and meanings that specify the content exchanged in electronic invoices.

(10) 'Core electronic invoice' means a subset of information contained in an electronic invoice that is essential to enable cross-border interoperability, including the necessary information to ensure legal compliance.

(7) SEC(2010) 1214 final.

(8) COM(2010) 571 final.

#### 4. Comments

4.1 Some Member States have already implemented the electronic invoicing system or will be doing so, making it compulsory to issue invoices through computerised invoicing systems. In Portugal, for example, issuing invoices through computerised invoicing systems, duly certified by the national tax authority, is compulsory for all economic operators, except those whose annual turnover is less than EUR 1 500 000 or who issue fewer than 1 000 invoices per year.

E-procurement has been mandatory in Portugal since 2009. Sweden, Denmark and Finland also require electronic invoicing for some public procurement procedures. In Austria and Italy, electronic invoicing is currently being brought in and, in Italy, will become mandatory as of 2014.

4.2 A survey carried out by the Portuguese Public Procurement Association for the INCI (Institute of Building and Real Estate), published in January 2011, makes a number of suggestions for improving electronic procurement procedures, and this analysis should be taken into account when developing the European public procurement and electronic invoicing models. The study highlights the importance of standardising the workings of the platforms and of greater interoperability between the platforms and other services, in addition to simplifying the mechanisms and requirements for electronic signatures.

4.3 For the contractor, the potential advantages of electronic invoicing in public procurement are:

- the dematerialisation of documents, with the resultant environmental impact reduction (in terms of both paper consumption and the environmental footprint created by mail deliveries), opportunity costs and operational costs;
- ease of access to procurement procedures, both national and cross-border, through purpose-built electronic platforms, alleviating the difficulties caused by distance from the location of the procurement procedure, either within the country or beyond its borders. In this regard, EU-level standardisation could facilitate access, removing barriers to participation in procurement procedures by mitigating the difficulties caused by distance;
- a reduction in participation costs, making it possible to open up the market to more businesses, especially SMEs;

4.4 For the contracting entity, the potential advantages of electronic invoicing in public procurement include:

- reduction of red tape, opportunity costs, and environmental impact;
- faster procedures for deliveries, invoice processing and payment procedures;
- greater transparency and rigour in public procurement;
- ease in auditing the process;
- greater efficiency in public administration by generating a knock-on effect on other areas in which procedures will be dematerialised;
- promoting the best use of financial resources, which is essential, given the crisis that Europe is currently experiencing.

4.5 The potential disadvantages include the following:

- substantial investments have already been made, by both Member States and economic operators, in the various existing systems. Much of the software and even the hardware will conceivably have to be adapted, and the cost of this could be significant. In this regard, the only criticism that can be made of the standardisation now being sought is that it is long overdue, consequently allowing each Member State to move at its own speed;
- security of the data that is exchanged: although platforms are now much more reliable, information leaks can apparently still occur;
- dependence on third-party services: telecom operators and managers of electronic platforms;
- a further potential disadvantage of electronic invoicing is that its widespread use could result in greater difficulties of access for people with disabilities, unless their specific needs are safeguarded, with guarantees for universal access, equal opportunities and non-discrimination against people with disabilities.

Brussels, 16 October 2013.

*The President*  
of the European Economic and Social Committee  
Henri MALOSSE