# The Transposition of the EU's 2010 Electronic Invoicing Directive by EU Member States and the Resulting Legal Landscape

By Phillip Schmandt & Stefan Engel-Flechsig

In June 2010, the European Union amended the prior VAT Directive (Directive 2006/112/EC) by adopting Directive 2010/45/EU (as amended, the VAT Directive). The 2010 amendment is entitled "On the Common System of Value Added Tax as Regards the Rules on Invoicing to Promote and Further Simplify Invoicing Rules by Removing Existing Burdens and Barriers."[1] Among the many changes in the amended VAT Directive were new rules regarding electronic invoicing in the European Union. The VAT Directive allows for the adoption of new measures to prove the "authenticity of origin" and "integrity of content" of an electronic invoice. Proving the "authenticity of origin" of an electronic invoice means proving it was actually sent from the person claiming to be the sender. Proving the "integrity of content" of an electronic invoice means proving its contents have not been altered.

The recitals of the VAT Directive adopt a principle known as the "equal treatment between paper and electronic invoices"—that is, the same process for paper invoices can be applied for electronic invoices without increasing the administrative burden on paper invoices.[2] The recitals also explain that the aim of the VAT Directive is to promote the uptake of electronic invoicing by creating the freedom of choice for the taxpayer in determining what system will be used to ensure the authenticity of origin, integrity of content and legibility of the electronic invoice.[3]

## INTRODUCTION

Sending and receiving electronic invoices prepared in Extensible Mark-up Language (XML) allows the invoice to be automatically created by the sender's software system and to be automatically consumed and acted upon (once approved) by the sender's software systems.[4] Electronic invoices prepared in XML are often referred to as "structured"

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electronic invoices while other electronic invoices, such as PDF's, are referred to as "unstructured." These automatic processes reduce the costs of preparing, reviewing, and paying invoices, as well as eliminating the potential for human errors, promising great increases in productivity if adopted on a widespread basis. Under the prior 2001 and 2006 EU VAT Directives, the authenticity and integrity of electronic invoices generally had to be proven by means of two specified technologies—either advanced electronic signatures with or without qualified certificates or electronic data interchange (EDI) with an additional agreement on security of transmission.

These technologies proved challenging to the wide spread adoption of electronic invoicing. EDI may be appropriate for large business enterprises, but due to its expense it is not very appropriate for communications to or from small to medium size enterprises. Advanced electronic signatures, meanwhile, are simple to apply, but they only work well if the sender and the receiver use the exact "language" of XML and the same configurations of software to electronically consume the business documents. That is rarely the case. There are hundreds of XML languages, each designed for a particular industry or business need and even two parties using the same language are likely to configure them differently so there computer systems will balk when seeing the new configuration.

Often an XML document needs to be converted from one format to another format in order for the receiver's systems to be able to automatically "read" the electronic invoice produced by the sender's systems. The process of converting the invoice from one format to another "breaks" the advanced electronic signature. Some third parties offer to perform the conversion to the format required by the receiver and then apply their own advanced electronic signature to the electronic invoice—but that introduces added cost and friction in allocating liability between the third party provider and the sender if there is ever a problem with the signed invoice. That additional cost and friction tends to dissuade many from switching to XML invoices and leaves them preferring the postage stamp or fax.

It was this dilemma that caused the European Union to approve new rules for electronic invoices in 2010.

## OBJECTIVES OF THE EU REGARDING ELECTRONIC INVOICING

The laws passed by Member States transposing the prior 2001 and 2006 VAT Directives had produced a disjointed set of requirements. This created complexity for trading parties wishing to use electronic invoicing solutions, especially for enterprises operating across borders or "intra-community". The patchwork of legal requirements also raised concerns for non-European companies wishing to trade in the EU.

After promulgating the amended VAT Directive in 2010, the European Commission published a document entitled "Reaping the Benefits of Electronic Invoicing for Europe" which summarized the problem to be solved as follows:[5]

> …To the detriment of consumers and enterprises alike, the existing rules that govern e-invoicing in Europe are still fragmented along national lines and most of the potential of e-invoicing is still untapped. What is more, exchanging e-invoices is still too complex and costly, in particular for SMEs [small to medium enterprises]. While 42 % of large enterprises say they receive or send e-invoices, adoption rate among SMEs remain at a lower level (22 %). As a result the average market penetration of e-invoicing remains rather low in Europe and is currently estimated at around 5 % of all invoices annually exchanged for Business to Business relations…

Accordingly, the goal is to have structured electronic invoicing established as the predominant method of invoicing in Europe by 2020. Other objectives of the new VAT Directive include:

- To ensure legal certainty and a clear technical environment for e-invoices to facilitate mass adoption;
- To encourage and promote the development of open and interoperable e-invoicing solutions based on a common standard, paying particular attention to the needs of SMEs; and
- To support the uptake of e-invoicing by setting up organizational structures, such as national e-Invoicing fora and a European Multi-Stakeholder Forum.[6]

## THE NEW 2010 EU ELECTRONIC INVOICING DIRECTIVE

The new VAT Directive continues to allow parties to use EDI or advanced electronic signatures, but also introduces for the first time, the hint of a promise of an EU-wide methodology of proving authentication and integrity that is technologically neutral. The new directive allows authenticity and integrity of the invoice to be determined by means of "business processes." The full text of Article 233 of the new VAT Directive reads as follows, with the key new clause in bold:

> Article 233
>
> The authenticity of the origin, the integrity of the content and the legibility of an invoice, whether on paper or in electronic form, shall be ensured from the point in time of issue until the end of the period for storage of the invoice.
>
> Each taxable person shall determine the way to ensure the authenticity of the origin, the integrity of the content and the legibility of the invoice. *This may be achieved by any business controls which create a reliable audit trail between an invoice and a supply of goods or services*.(emphasis added)
>
> "Authenticity of the origin" means the assurance of the identity of the supplier or the issuer of the invoice.
>
> "Integrity of the content" means that the content required according to this Directive has not been altered.
>
> Other than by way of the type of business controls described in paragraph 1, the following are examples of technologies that ensure the authenticity of the origin and the integrity of the content of an electronic invoice:
>
> a. an advanced electronic signature within the meaning of point (2) of Article 2 of Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures*, based on a qualified certificate and created by a secure signature creation device, within the meaning of points (6) and (10) of Article 2 of Directive 1999/93/EC;
>
> b. electronic data interchange (EDI), as defined in Article 2 of Commission Recommendation 1994/820/EC of 19 October 1994 relating to the legal aspects of electronic data interchange, where the agreement relating to the exchange provides for the use of procedures guaranteeing the authenticity of the origin and integrity of the data.

By allowing the use of "any business controls" that create a reliable audit trail between an invoice and a supply of goods or services, the EU seemingly went from a very restrictive regime on proving authenticity and integrity of an electronic invoice to a very liberal regime where all trading partners can choose the means that best suit them and their audit processes. However, from a practical perspective this is not necessarily the case. A directive of the European Union, unlike an EU regulation, is not self-executing and requires that each member state adopt legislation implementing the directive. This second step allows for considerable leeway and nuances to be introduced by the member states. Some member states, wary of tax fraud, were considered to be hostile to any loosening of the rules regarding electronic invoices.

The Directive recognizes the obligation for invoices to accurately reflect actual supplies of goods and services and therefore requires that the authenticity of the origin, the integrity of the content and the legibility of invoices are insured from their issue until the end of the period of storage. This can be achieved through business controls that provide a reliable audit trail between the invoice and the supply, and that assure the identity of the supplier or issuer of the invoice (authenticity of origin), that the VAT details (the invoice content required by the VAT Directive) on the invoice are unchanged (integrity of content) and that the invoice is legible.

The use of business controls creating a reliable audit trail between the invoice and the supply can be used to ensure the authenticity of origin, integrity of content and legibility for all invoices, whether paper or electronic.

Other than business controls, advanced electronic signatures based on a qualified certificate and created by a secure signature creation device or electronic data interchange (EDI) are examples of how the authenticity of the origin and integrity of the content of electronic invoices can be ensured through specific technologies. They provide a guarantee for businesses to ensure that the authenticity of the origin and the integrity of the content are met, and as such provide legal certainty. However, they are only examples and other technologies or procedures may be used.

The new Invoicing Directive 2010 is also guided by another major tax principle, which allows the taxpayer to determine the most appropriate technology or process:

> Each taxable person shall determine the way to ensure the authenticity of the origin, the integrity of the content and the legibility of the invoice. This may be achieved by any business controls which create a reliable audit rail between an invoice and a supply of goods or services.[7]

The European Commission's Taxation and Customs Union (DG Taxud) has published "Explanatory Notes" that provide practical and informal guidance on how the VAT Directive is to be applied on the basis of the views of DG Taxud. They were published before most member states had transposed the VAT Directive and they do not represent the views of the Commission nor is the Commission bound by any of the views expressed. Nevertheless, they can provide helpful guidance in interpreting the VAT Directive.[8]

## EU MULTI-STAKEHOLDER FORUM ON ELECTRONIC INVOICES

In order to assist EU Member States in transposing the VAT Directive and establishing a common approach towards electronic invoicing thereafter, the European Commission launched a EU Multi-Stakeholder Forum on electronic invoices. The Commission called for the creation of the Forum through its "Reaping the Benefits of Electronic Invoicing" communication.[9]

The Forum's tasks were defined as being:

- To assist the Commission in the monitoring of the development of the e-invoicing market and the e-invoicing adoption level in industry and services sectors across the Member States,
- To bring about an exchange of experience and good practice that facilitates the emergence of inter-operable e-invoicing solutions,
- To point out problems encountered in particular as regards cross-border transactions and propose appropriate solutions, and
- To support and monitor work leading to the adoption of a e-invoice standard data model.

The Forum is composed of 63 members, two members per national multi-stakeholder forum, six members of European associations representing consumers, small, and medium-sized enterprises (SME's) and large corporations and one representative from each of the European Committee for Standardization (CEN), the European Central Bank (ECB) and the Article 29 Data Protection Working Party.[10] In addition, each EU Member State was requested to create its own national forum on electronic invoicing in order to better participate in the EU—wide Forum and to disseminate the works of the EU—wide Forum to subject matter experts within that Member State.

The Reaping the Benefits communication assigned four tasks to the Forum:

- Task 1: Assist the Commission in the monitoring of the development of the e-invoicing market and the e-invoicing adoption level in industry and services across the Member States;
- Task 2: Bring about an exchange of experiences and good practices that facilitates the emergence of interoperable e-invoicing solutions;
- Task 3: Point out problems encountered in particular as regards cross-border transactions and propose appropriate solutions;
- Task 4: Support and monitor work leading to the adoption of an e-invoice standard data model.

Since its launch in 2011, the Forum has turned out as a unique resource for collecting information on electronic invoices on various aspects in each of the member states in the EU. The Forum has delivered, approved, and published interim reports for all four of its activities in 2012[11] and is planning to deliver its final reports at the end of 2013.

Activity 3 of the Forum works to identify, analyze, and recommend policy options and initiatives to solve the remaining cross-border barriers to the exchange of e-invoices.

Specific topics that have been addressed include:

- Difficulties in the transposition of the revised VAT Directive. The Forum's representatives should raise issues identified by their National Fora and business community; and
- Other legal or regulatory obstacles (outside VAT), which prevent the uptake of eInvoicing; and
- Recommendations for the resolution of the identified issues should be delivered in September 2012.

The interim report of Activity 3 on regulatory issues is available as a public document.[12]

## TRANSPOSITION IN EU MEMBER STATES OF THE NEW 2010 ELECTRONIC INVOICING DIRECTIVE

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A directive of the European Union, unlike an EU regulation, is not self-executing and requires that each member state adopt legislation implementing the directive. This second step allows for considerable leeway and nuances to be introduced by the member states. Some member states, wary of tax fraud, were considered to be hostile to any loosening of the rules regarding electronic invoices.

The member states were allowed until 1 January 2013 to transpose the directive and adopt legislation implementing Article 233 of the VAT invoice.

The following section examines whether the transposition process has adopted uniform and predictable rules for electronic invoicing in the European Union. A summary of most of the member state's legislation is below, followed by a summary of the overall EU landscape under those national laws.

### AUSTRIA

On 1 January 2013, Austria adopted its E-invoicing VAT Tax Regulation (E-Rechnung-Umsatzsteuerverordnung), amending its 1994 VAT Act (Umsatzsteuergesetz 1994 (UStG 1994)) and its prior Tax Amendment Act of 2012 (Abgabenänderungsgesetzes 2012 (AbgÄG 2012).

Original copies of that legislation are available (German only) via the following Web links:

The "Umsatzsteuerrichtlinien 2000, Rz 1564c ff" is available here:

*https://findok.bmf.gv.at/findok/link?gz=%22BMF-010219%2F0288-VI%2F4%2F2012%22&gueltig=20121219&segid=%22219969.9.110+20.12.2012+07%3A29%3A56%3A23%22.*

The "Abgabenänderungsgesetz 2012, BGBl. I Nr. 112/2012" is available here:

*http://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA_2012_I_112/BGBLA_2012_I_112.pdf.*

The "E-Rechnung-UStV, BGBl. II Nr. 516/2012" is available here:

*http://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA_2012_II_516/BGBLA_2012_II_516.pdf.*

The Austrian law allows proving the authenticity and integrity of an electronic invoice by EDI and advanced electronic signatures, as well as two other means:[13]

1. If the trader uses an in-house control method by which a reliable audit trail between the invoice and the delivery or other services is provided; and
2. If the electronic invoices are transmitted by means of a Business Service Portal (not defined)

or the Pan-European Public Procurement OnLine (PEPPOL) is used.

The possibility of using a business service portal opens a wide possibility of other means to prove authenticity and integrity of an electronic invoice, albeit at the cost of using a third party intermediary to transmit messages (and presumably charge a fee).

Austria has also issued VAT Guidelines (Umsatzsteuerrichtlinien) which are available at the following Web link (German only):

*https://findok.bmf.gv.at/findok/link?gz=%22BMF-010219%2F0288-VI%2F4%2F2012%22&gueltig=20121219&segid=%2219969.9.110+20.12.2012+07%3A29%3A56%3A23%22.*

This document provides guidance regarding the use of business controls and explains that the in-house business controls as follows: "An internal control procedure is a monitoring procedure, which the seller provides the matching of the invoice with its claim for payment or the contractor receiving the performance to the matching the invoice with his obligation to pay." One example of such a control is the manual comparison of an invoice with other business documents, such as an order, contract, or delivery receipt.

## CZECH REPUBLIC

The Czech Republic adopted Amendment no. 502/2012 of the Law no. 235/2004 on 19 December 2012, which was promulgated on 31 December 2012 to be effective 1 January 2013.

That amendment is available here:

*http://www.mfcr.cz/cps/rde/xbcr/mfcr/Legislativa_zakon_502-2012_meni_zakon_235-2004-o_dani_z_DPH.pdf.*

The Czech legislation does not define an invoice, whether electronic or paper. Instead it refers to a "Tax Document" and provides in Section 26, Part 2 of the amended legislation as follows: "A Tax Document can be in either paper or electronic form. A Tax Document is in electronic form if it is issued and received in an electronic way. A receiver of an electronic Tax Document must agree to the usage of the document in electronic form."

In § 34 part 3 of the amending legislation it is stated as follows: "Assurance of authenticity of origin of a Tax Document and integrity of its content can be achieved by control mechanisms or processes forming a credible link between a Tax Document and respective delivery." More specific details are mentioned in the Ministry of the Finance's material "methodological guidelines" no. 14/2012 to the invoicing rules in relation to implementation of the Directive EU/45/2010 to the VAT Law, part 7.4. Those guidelines were not available to the authors at time of publication.

## DENMARK

Denmark transposed the VAT Directive by adopting supplemental legislation on 27 March, 2012, which is available here: *https://www.retsinformation.dk/forms/R0710.aspx?id=142583*. Denmark's original legislation that was amended in March 2012 is available here: *https://www.retsinformation.dk/forms/R0710.aspx?id=141153*

Denmark imposes the obligation of proving authenticity of origin and integrity of content equally on paper and electronic invoices without differentiating between them. Section 45 of the amended legislation provides: "A company must ensure authenticity of origin, integrity of content and legibility of paper and electronic invoices from the date of issue until the end of the storage period."

Sub-part 2 of Section 45 further provides:

> The company should determine how the company will ensure authenticity of origin, integrity of content and legibility of invoices. The company's security can be achieved by any kind of self-regulation of the company in accordance with the accounting law and this Order that creates a reliable audit trail between the invoices that the company issues, and the supply of goods or services that the company makes.

Denmark does not provide specific examples of security measures to be used to ensure authenticity of origin and integrity of content, but the intent of the legislation appears designed to provide significant leeway for taxable entities. The question is whether

Danish tax authorities will in practice permit such leeway. Denmark does not, however, provide a "safe haven" of using advanced electronic signatures or EDI as they make no reference to any technological solutions whatsoever.

The language of Denmark's legislation indicates that any company employing generally acceptable accounting principles (GAAP) would satisfy the requirements for demonstrating the authenticity of the origin and integrity of the content of an invoice.

## FINLAND

Finland adopted its VAT Act (399/2012) on 29 June 2012, which became effective 1 January 2013. Act 399/2012 is available at:

> *http://www.finlex.fi/fi/laki/alkup/2012/20120399?search%5Btype%5D=pika&search%5Bpika%5D=399%2F2012.*

The Section 209d of the Finnish VAT Act defines an electronic invoice simply and broadly as "Electronic invoice means an invoice that is given and received in electronic form."

Section 209d continues to provide a broad grant of authority to use business controls. The Act requires the trader to ensure authenticity of origin and integrity of content during the storage period of the invoice and provides that: "This can be done by a business choosing business controls, which can reliably verify the connection between the invoice and the goods or services are sold."

The Finnish Tax Administration (Vero Skatt) has guidance available here:

> *http://www.vero.fi/en-US/Precise_information/Value_added_tax/Required_VAT_details_showing_on_invoices/VAT_details_to_set_out_on_sales_invoices%2815591%29.*

This guidance allows for a fairly liberal method of matching the invoice with an underlying document to reliably demonstrate the connection between the invoice and the goods or services sold:

> As an alternative, the invoice can simply refer to a contract, order, or product catalog delivered to buyer—this substitutes for descriptions of quantity and nature of goods, or descriptions of extent and nature of services.
>
> There is usually no need for an exact specification on the extent of services rendered as long as the invoice contains sufficient indications as to what is being supplied. Example: In the business of renting out goods, it is sufficient just to set out the time period when the seller rendered the service, i.e. the renting dates to be invoiced.

Finland does not provide a specific safe harbor for the use of advanced electronic signatures or EDI and is therefore completely technologically agnostic in its approach.

## FRANCE

Directive 2010/45/EC was transposed into internal French law on 29 December 20120 by adoption of Article 62 of the loi n° 1510 du 29 décembre 2012 de finances rectificative pour 2012, which is available here:

> *http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000026857857&dateTexte=&categorieLien=id.*

France defines an electronic invoice in the Art. 289 of the Code Général des Impôts as follows: "An electronic invoice is an invoice or a series of invoices generated, transmitted, received and stored electronically in a format that ensures the integrity and authenticity of its content from its issuance until the expiration of the storage period."[14]

Article 62 of the amended legislation provides that: "The electronic invoices are sent and received in any electronic form whatsoever. They take the place of original invoices for the purposes of section 286 (the original VAT legislation) and this section."

The amended French legislation allows the taxpayer to demonstrate authenticity of origin and integrity of content by three methods:

1. Electronically using any technical solution other than those provided for in paragraphs 2 and 3, or in paper form, when documented and permanent

controls are put in place by the company and used to establish a reliable audit trail between the invoice issued or received and the underlying goods or services;
2. By using the procedure defined as an advanced electronic signature in Article 233 of Directive 2006/112/EC; or
3. In the form of a structured message in a standard agreed between the parties, which can be read by a computer and can be processed automatically and unambiguously, under conditions laid down by decree.

France's legislation closely resembles the VAT Directive, as it allows the safe havens of EDI and advanced electronic signatures, while permitting business controls as an alternative.

## GERMANY

Germany transposed Directive 2010/45 in 2011, by revising § 14 of Germany's Federal VAT Legislation on 1st November 2011 (UStG), which is available here:

*http://dejure.org/gesetze/UStG/14.html.*

The tax guidelines can be found here:

*http://www.ferd-net.de/upload/BMF-Schreiben_Umsatzsteuer_02-07-2012.pdf.*

Article 14.4, Section 2 of the UStG defines an electronic invoice as:

> An electronic invoice within the meaning of [German VAT law] is an invoice which is issued and received in an electronic format. The invoice issuer is free to determine how he transmits an invoice—subject to approval of the invoice recipient; electronic invoices can be transmitted, for example, by e-mail (with image or text document annex) or de-mail[15] (see de-mail Act of 28 4 2011, Federal Law Gazette I p. 666), computer fax or Fax Server, via Web download or via EDI. Standard telefax or computer fax/fax server to standard telefax is considered a paper invoice.

The new German law allows the use of certain business controls to authenticity of the origin and integrity of the content of the invoice as the main and overarching principle. Article 14.4, Section 6 provides that

> [a]n internal control procedure meets the requirements of article 14, paragraph 1 UStG, if there is a reliable audit trail, through which a link between the invoice and the underlying performance can be made. This audit trail can be established, for example, through a manual matching of the invoice with existing business documents (e.g. copy of the purchase order, order, purchase, delivery, transfer or payment voucher). No technical procedures are prescribed, which companies must use on a mandatory basis. The internal control procedures are not subject to any separate documentation requirements. However, the taxpayer is still obliged to prove that the legal obligations and requirements for tax deduction are fulfilled.

In addition and only on an optional base, the German law provides that the authenticity of the origin and integrity of the content of the invoice may be established by means of qualified electronic signature or EDI: Examples of technologies that ensure the authenticity of the origin and the integrity of the content in an electronic invoice, are a qualified electronic signature (§ 2 No. 3 SigG) or the qualified electronic signature with service provider accreditation (§ 2 No. 15 SigG), and on the other hand the electronic data interchange (EDI) according to article 2 of the recommendation 94/820/EC of 19 10 1994 about the legal aspects of electronic data interchange (OJ EC 1994, L 338 p. 98), when the use of procedures is provided in the agreement on the exchange of these data, which ensure the authenticity of the origin and integrity of data (§ 14 para 1 and 2 UStG) (Article 14.4, Section 7).

As German law specifies that the internal control procedures are not subject to any separate documentation requirements, a company using general accounting principles qualifies for demonstrating authenticity and integrity of an invoice using business controls.

**IRELAND**

Ireland transposed the VAT Directive by adopting the European Union (Value-Added Tax) (VAT) Regulations 2012 (S.I. No. 354 of 2012) and VAT (Amendment) Regulations 2012 (S.I. No. 458 of 2012). The Regulations became effective on 1 January 2013 and are available here:

> *http://www.irishstatutebook.ie/pdf/2012/en.si.2012.0354.pdf.*

> *http://www.revenue.ie/en/practitioner/law/statutory/si-458-2012.pdf.*

Those regulations do not define an electronic invoice *per se*, but rather identify when they are permitted:

> An invoice or other document issued in electronic format by an accountable person is deemed to be so issued for the purposes of subsection (1), if—(a) each such invoice or other document is issued and received by prior agreement between the person who issues the invoice or other document and the person who is in receipt of that invoice or document, and (b) the electronic system used to issue or receive any such invoice or other document conforms with such specifications as are required by regulations. (Section 66(2) of the Regulations)

Regulation 21(2) requires the electronic system to be capable of:

> [P]roducing, retaining and storing, and making available to an officer of the Commissioners on request, electronic records and messages in such form and containing such particulars as may be required in accordance with Chapters 2 and 7 of Part 9 and section 124(7) of the Act and Regulations made under that Act, (b) causing to be reproduced in paper or electronic format any electronic record or message required to be produced, retained or stored in accordance with Chapters 2 and 7 of Part 9 and section 124(7) of the Act and Regulations made under that Act, and (c) maintaining electronic records in such manner that allows their retrieval by reference to the name of the person who issues or receives the message or the date of the message or the unique identification number of the message.

Regulation 21(4)(b) require the system to be able to: "reproduce any such electronic record or message in paper or electronic format, including details required to be retained and stored under subparagraph (a), on request by an officer of the Commissioners and in such format as specified by the officer at the time of the request." Interestingly, the Irish Regulations make no reference to the use of advanced electronic signature or EDI and are drafted in a manner that could be interpreted to make the use of business controls mandatory:

> (2A) (a) An accountable person who issues or receives an invoice or other document under this Chapter, and for the purposes of section 84(1), shall apply business controls to each such invoice or other document to ensure—(i) the authenticity of the origin of that invoice or other document, (ii) the integrity of the content of that invoice or other document, and (iii) that there is a reliable audit trail for that invoice or other document and the supply of goods or services as described therein.
>
> (b) The accountable person shall furnish evidence of the business controls used to comply with paragraph (a) as may be required by the Revenue Commissioners and such evidence shall be subject to such conditions as may be specified in regulations (if any).

However, a guidance note makes the following clarification:

> In general, electronic invoicing systems currently in use, which comply with the existing electronic invoicing rules (section 66(2) of the VATCA 2010 and Regulation 21 of the 2010 VAT Regulations), shall be regarded as complying with these new rules for electronic invoicing.

That Guidance Letter is available here:

*http://www.revenue.ie/en/tax/vat/leaflets/invoicing-rules-010113.pdf.*

**ITALY**

Italy transposed the VAT Directive by means of its Law of 24 December 2012 n. 228 entitle "Provisions for the preparation of the annual budget and multi-state (Law of stability '2013)", published in Official Gazette no. 302 of 29 December 2012—Ordinary Supplement and available here:

*http://def.finanze.it/DocTribFrontend/getArticoloDetailFromResultList.do?id={0EF0D0B4-4877-421A-9F7F-74842FD06E41}&FROM_SEARCH=true&codiceOrdinamento=300010000325000&numeroArticolo=Articolo%201-com325&idAttoNormativo={972C181C-26BE-44EC-9A06-0A5E7315E9DE}.*

Sub-paragraph (d) of the 2012 law amends Article 21(1) of Italy's VAT legislation to provide that an electronic invoice is "an invoice that was issued and received in any electronic format, in accordance with this legislation, but subject to acceptance by the recipient." In addition, Article 21(3) of Italy's VAT legislation was also amended to provide:

> The taxable person shall ensure the authenticity of the origin, the integrity of the content and the legibility of the invoice from the date of issue until the end of its retention period; authenticity of the origin and integrity of the content may be guaranteed through systems of business controls to ensure a reliable connection between the invoice and the sale of goods or the provision of services attributable to it, or by applying the qualified electronic signature of the digital issuer or by electronic transmission of EDI systems data or other technologies able to guarantee the authenticity of the origin and integrity of data.

Italy therefore allows the use of business controls as well as "other technologies" to authenticity of the origin and integrity of the content of the invoice but no further guidance is offered.

**NETHERLANDS**

The Netherlands adopted the Act of 15 March 2012 amending the Law on VAT Tax of 1968 Relating to New Invoicing Rules (implementing Directive invoicing rules). The Rules became effective 1 January 2013 and are available here:

*https://zoek.officielebekendmakingen.nl/stb-2012-115.html.*

The Dutch rules define an electronic invoice as "an invoice containing the data required under this [VAT] Act that is issued and received electronically." (Article 35d). Their Rules also state that electronic invoices are subject to acceptance by the customer (Article 35b, Section 1).

Article 35b, Section 2, of the Dutch Rules essentially repeats Article 233 of the VAT Directive verbatim and therefore contains the "safe harbor" for advanced electronic signatures and EDI, while also permitting the use of any business controls that "create a reliable audit trail between an invoice and a supply." There is no further guidance or explanation regarding the use or implementation of business controls.

**POLAND**

Poland transposed the VAT Directive by adopting the Regulation of the Minister of Finance of 20 December 2012 Regarding the Transmission of Invoices in Electronic Format, Storage Rules, and Procedure for Disclosure to Tax Inspection Body (Polish Republic Gazette 29 December 2012, Item 1528), available here (the Electronic Invoicing Regulation):

*http://www.dziennikustaw.gov.pl/du/2012/1528/1.*

In addition Poland adopted a separate Regulation of the Minister of Finance amending the regulation on the tax return for some taxpayers, invoicing, terms of the storage of invoices, and the list of goods and services, which are not applicable for exemption from taxes on goods and services of 11 December 2012 (Polish Republic Gazette, 18 December 2012, Item

1428). Both regulations came into effect on 1 January 2013 and are available here:

> *http://www.dziennikustaw.gov.pl/du/2012/1428/1.*

Subpart (1) of Section 4 of the Polish Electronic Invoicing Regulation provides that "Invoices can be sent in electronic form, in any electronic format, provided the authenticity, integrity and legibility of the invoice content is ensured."

Subpart (3) of Section 4 of the Polish Electronic Invoicing Regulation provides that "The authenticity of the origin, the integrity of the content and legibility of the invoice can be provided by any business controls which establish a reliable audit trail between an invoice and delivery of goods or provision of services."

Subpart (4) of Section 4 of the Polish Electronic Invoicing Regulation provides that, except for reliance on business controls, there are only two methods to demonstrate authenticity of the origin and integrity of the content of the invoice and it adds some particular requirements to those two methods that are not witnessed elsewhere:

> Except for the use of business controls referred to in Subpart 3, the authenticity of origin and integrity of the content of the invoice shall be ensured in particular, in the case of the use of:
>
> 1. a secure electronic signature as defined in art. 3 point 2 of the Electronic Signature Act of 18 September 2001 (Journal of Laws No. 130 item 1450 as amended), verified using a valid qualified certificate, or
> 2. electronic data interchange (EDI) in accordance with the agreement concerning the European model of electronic data interchange if the concluded agreement, concerning that interchange, foresees the application of procedures guaranteeing the invoice authenticity of origin and its data integrity.[16].

Accordingly in Poland use of an advanced electronic signature must be a qualified advanced electronic signature and if the parties are using EDI, they must do so in accordance with the EU's model electronic data interchange agreement.

**ROMANIA**

Romania transposed the VAT Directive by means of Government Decision no. 1071 of 6 November 2012 Modifying the Implementation Rules of the Fiscal Code, which was published in the Official Gazette of November 8, 2012 nr.753. It is available here:

> *http://static.anaf.ro/static/10/Anaf/legislatie/HG_1071_2012.pdf.*

This amended Romania's main VAT legislation, which is Government Ordinance no. 15/2012, dated 23 August 2012, which modifies the Romanian Fiscal Code. That legislation is available here:

> *http://static.anaf.ro/static/10/Anaf/legislatie/OG_15_2012.pdf.*

Section 3 of Article 29 of Government Ordinance No. 15/2012 defines an electronic invoice as: "an electronic invoice is an invoice that contains the information required by the present article and was issued and received in electronic format."

The Government Decision No. 1071/12 amends Paragraph 76(1) of the Fiscal Code to provide that the electronic format of the invoice is to be selected by the taxpayer and that "XML" and "PDF" are examples of acceptable electronic formats. This makes Romania unique in explicitly recognizing the XML format.

The Romanian regulation recognizes the concept of business controls and introduces the recognition that the business controls required to authenticity of the origin and integrity of the content of the invoice should be "reasonable" and may vary depending on the nature of the taxpayer and the transactions:

> In the context of art. 155 para. (24) of Fiscal Code, business controls means the process by which a taxable person assures to a reasonable extent the identity of the supplier/issuer of the invoice, the integrity of the content and the legibility of the invoice from the moment of issue until the end of the storage period. The business controls should be appropriate to the size/activity type of the taxable person and should take into consideration the number and value of transactions, as well as the number

> and type of suppliers/customers, and, if case may be, any other relevant factors. An example of a business control is the matching of supporting documents.(emphasis added)

This again makes Romania unique as it adopted the flexibility of business controls recommended by the VAT Directive.

Article 28 of the Government Decision No. 1071/12 also recognizes advanced electronic signatures and EDI as means of authenticity of the origin and integrity of the content of the invoice.

Section 5 of Article 28 of the Government Decision No. 1071/12 provides:

> The integrity of the content of an invoice for the purposes of art. 155 para. (24) Tax Code is to be established both by the supplier / provider and the recipient, if it is taxable. Each independently can choose the method by which to fulfill this obligation or both may agree to ensure the integrity of their content, for example by means of technologies such as EDI or advanced electronic signature. A taxpayer may elect to apply, for example, controls which create a reliable audit trail between an invoice and delivery/service or to use technology to ensure the integrity of the content of a specific invoice. Integrity of the content of an invoice is not related to the electronic invoice format, but the invoice format can be converted to another format other than that it was issued in order to adapt it to the recipient's own computer system or due to changes in technology that may occur over time.

**SLOVAKIA**

Slovakia adopted its legislation on October 1, 2012 and it is available here:

> *www.zbierka.sk/sk/predpisy/246-2012-z-z.p-34800.pdf.*

Section 71(1)(b) defines an electronic invoice broadly: "an electronic invoice is an invoice that contains data required by [this Act] and is issued and accepted in any electronic format."

Section 71(3) states that each taxable person is responsible for ensuring the authenticity of the origin and integrity of the content of the invoice and states that this may be demonstrated through business controls, EDI or advanced electronic signatures. Section 71(3) is very similar in content and form to Article 233 of the VAT Directive.

**SPAIN**

Spain transposed the VAT Directive by adopting a regulation on VAT and invoicing, by Royal Decree 1619/2012, which was published in the Official State Gazette on 1 December 2012 and became effective 1 January 2013. The regulation can be found here:

> *http://www.boe.es/diario_boe/txt.php?id=BOE-A-2012-14696.*

Spain's regulations contain lengthy recitals explaining the purpose behind the regulations and the benefits of harmonizing electronic invoicing rules throughout Europe by following the VAT Directive. Those recitals go on to enshrine the principle, also contained in the recitals of the VAT Directive, of "equal treatment" of electronic and paper invoices:

> In addition to ensuring the proper functioning of the internal market, the main objectives pursued by the [VAT] directive are to reduce administrative burdens for taxpayers, ensuring equal treatment between paper invoices and electronic invoices, facilitate economic transactions and contribute to legal certainty for economic operators in the implementation of these regulations.
>
> In addition, the new regulation on invoicing provides a strong impetus to adopt electronic invoicing, fulfilling the purpose contained in the EU Directive on the principle of equal treatment for paper invoices and electronic invoices, as a tool to reduce costs and make companies more competitive.
>
> Moreover, and as mentioned in Directive 2010/45/EU, these regulations provide that the paper or electronic invoices must reflect

> the actual business operations that correspond to document and ensure taxpayers will provide this certainty until maturity without, however, imposing any requirement that may result in the imposition of new administrative burdens for entrepreneurs or professionals.
>
> Thus, the taxable person shall ensure the authenticity, integrity and legibility of invoices issued or retained by usual business controls in its business or professional activity.
>
> This equal treatment of paper invoices and electronic thus extends the possibilities for the taxpayer to issue invoices electronically without the need to use any a particular technology.
>
> However, to ensure legal certainty for taxpayers who were already using electronic data interchange (EDI) and electronic signatures, the regulation expressly recognizes that such technologies, which are no longer mandatory, guarantee the authenticity of the origin and content integrity of electronic invoices.

The Regulations also provide that taxpayers may apply for pre-approval from the tax authorities regarding alternative methods used to authenticity of the origin and integrity of the content of the invoice. "Likewise, in order stated, taxpayers may continue to notify the State Tax Administration Agency, prior to use, the means they consider to ensure the above conditions, in order to be, where appropriate, validated by thereof."

Articles 8, 9, and 10 of the new regulations address electronic invoicing and determining the authenticity and integrity of electronic invoicing.

Article 9 defines an electronic invoice as simply an "invoice that meets the requirements of this Regulation and that has been issued and received in electronic format."

Article 8, Sub-part 3 provides that "The authenticity of the origin and integrity of the content of the invoice, whether on paper or electronic, shall be ensured by any mode of proof recognized by law."

In particular, the authenticity of origin and integrity of the content of the invoice may be ensured by the usual business controls of the business or professional activities of the taxpayer.

Authorities should allow business controls that create a reliable audit trail to establish the necessary connection between the invoice and the delivery of goods or services that it documents.

Article 10 provides that the authenticity of the origin and integrity of the content of the invoice may be determined by any means allowed in Subpart 8 (business controls) or by means of EDI or an advanced electronic signature. In addition, Article 10 allows for the to be determined by "other means which the parties have notified the State Tax Administration Agency prior to use and which have been validated by it."

The submission of a proposed "other means" to the Tax Agency of Spain can be performed here:

> *https://www.agenciatributaria.gob.es/AEAT.sede/tramitacion/IZ31.shtml.*

**SWEDEN**

Sweden transposed the VAT Directive by adopting new VAT legislation amending the Swedish Code of Statutes 1994:200, which became effective 1 January 2103. That legislation is available here:

> *http://www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Mervardesskattelag-1994200_sfs-1994-200/?bet=1994:200.*

Chapter 1, Section 17a of Sweden's new VAT legislation defines an electronic invoice as "An electronic invoice is an invoice pursuant to this § 17 issued and received in an electronic format. Act (2012:342)."

The new VAT legislation makes no specific reference to either business controls, advanced electronic signatures or EDI. While the legislation offers no specific guidance, this silence is probably best understood as imposing minimal obligations with regard to electronic invoices and appears to be the manifestations of Sweden's acceptance of the "equal treatment" principle. By not providing special rules for electronic invoices it is made clear they are to be treated no differently from paper invoices.

This conclusion is drawn from the proposal submitted by the Ministry of Finance in favor of adopting the new legislation which contains several recitals indicating that authenticity of the invoice and integrity of the content should be determined based on Sweden's existing accounting laws. ("New Invoicing Rules for VAT" Prop 2011/12:94 page 80, issued March 16 2012).

Section 13 of the Prop 2011/12:94 also offers this additional guidance:

> An important part of the new Invoicing Directive is to promote electronic billing. The Directive aims to harmonize and simplify rules relating to electronic invoices, and to provide for equal treatment between paper and electronic invoices....
>
> Under current rules in Article 233 of the VAT Directive electronic invoices are as a rule accepted by Member States, provided that the authenticity of origin and integrity of the content is ensured by an advanced electronic signature or by an electronic data interchange (EDI). The general rule regarding electronic invoices is thus that certain technical security solutions will be used to achieve these requirements. Under the new amended Invoicing Directive, implementing the new Article 233 as amended, the same rules in principle apply to paper and electronic invoices with respect to ensuring the authenticity and integrity of the content.
>
> Under the new rule, the authenticity of the origin, the integrity and legibility of an invoice, whether it be a paper invoice or an electronic invoice, must be guaranteed from the date of issue until the retention period expires. Every trader should determine for themselves how these requirements shall be ensured. Under the Directive this can be achieved by means of administrative controls creating a reliable audit trail between an invoice and a supply or services. In addition to administrative controls, electronic signatures and EDI are examples of technologies that ensure the authenticity and integrity of the content.
>
> Prop 2011/12:94 can be found here:
>
> *http://www.regeringen.se/sb/d/15677/a/188722.*

**UNITED KINGDOM**

The United Kingdom transposed the VAT Directive by adopting Regulation 2012 No. 2951, entitled the Value Added Tax (Amendment) (No. 3) Regulation 2012, which is available here:

> *http://www.legislation.gov.uk/uksi/2012/2951/regulation/2/made*

This amends the Value Added Tax Regulations of 1995, as amended in 2003 to address electronic invoicing by Regulation 2003 No. 3220, The Value Added Tax (Amendment) (No. 6) Regulations 2003, and available here:

> *http://www.legislation.gov.uk/uksi/2003/3220/regulation/5/made#text%3D%22electronic%20invoice%22*

The 2003 amendments had previously restricted electronic invoices to those where the authenticity of the origin and integrity of the content of the invoice were demonstrated by either an advanced electronic signature, EDI or "where the document relates to supplies of goods or services made in the United Kingdom, such other means as may be approved by the Commissioners in any particular case."

The 2012 amendments delete all three requirements and simply provide that: "[i]n this regulation "electronic invoice" means an invoice that contains the particulars required by regulation 14 and which has been issued and received in any electronic format." The sole requirement is that the recipient must accept the invoice in its electronic form. This makes the UK agnostic to the selection of advanced electronic signatures, EDI or business controls as neither are specifically mentioned in the Regulation.

The UKs HM Revenue & Customs has issued an "Electronic Invoicing" Guidance, which is available here:

> *http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?_nfpb=true&_pageLabel=pageVAT_ShowContent&propertyType=document&id=HMCE_PROD_010205*

The guidance document makes clear that advanced electronic signatures and EDI continue to be regarded as technological "safe havens" for guaranteed acceptability, while also making clear that reasonable business controls will be equally recognized.

The guidance is structured in FAQ style and contains the following explanation:

> What other systems can I use?
>
> We are prepared to accept electronic invoicing where the authenticity of the origin and integrity of the invoice data are guaranteed by means other than the use of electronic signatures or EDI for supplies made in the UK, as long as you are able to impose a satisfactory level of control over the authenticity and integrity of your invoice data. Examples of this control include:
>
> security of networks/communication links;
> access controls; and
> message transfer protocols (for example, http-s).

And it offers this assurance that business controls requirements will not not be onerous or normally involve any additional costs other than good customary business practices:

> Protecting the authenticity and integrity of invoices
>
> You must be able to ensure the authenticity and integrity of your invoice data during the transfer between trading partners.
>
> To minimise burdens on business, we will not be over-prescriptive in specifying the detailed forms that such control may take. Where possible, we prefer instead to rely on good business practice or businesses' own controls.

Section 4.4 of the guidance document offers this warning for cross border invoices, which reveals the apparent suspicion that other member states will not be adequately transposing the VAT Directive:

> Please note that some tax authorities in other Member States may not accept invoicing where the authenticity of the origin and integrity of the invoice data are guaranteed using these means. If your customers won't be able to use your invoices as evidence that you have made a taxable supply to them, they may not be willing to do business with you.

## SUMMARY

The details provided above can be summarized in these charts, which the authors emphasize are based on their personal, often subjective, assessment and should not be relied upon. Readers should only rely upon the actual text of their member state's legislation:

| Issue | Austria | Czech Republic | Denmark | Finland | France | Germany | Ireland |
|---|---|---|---|---|---|---|---|
| Legislation specifically authorizes use of business controls | X | X | X | X | X | X | X |
| Legislation specifically allows "safe haven" of advanced electronic signature and EDI | X | | | | X | X (qualified electronic signature) | X |
| Legislation specifically allows other means to demonstrate authenticity and integrity | X (business service portal or PEPPOL) | | | | | X (email or Web download) | |

*Continued*

| Issue | Austria | Czech Republic | Denmark | Finland | France | Germany | Ireland |
|---|---|---|---|---|---|---|---|
| Legislation suggests that no other controls should be required other than GAAP or similar accounting principles | | | X | X | | X | |
| Legislation provides specific guidance on processes that qualify for "business controls" | X (manual comparison of business documents) | X (but unavailable at time of printing) | | X (invoice can simply refer to a contract, order or catalog) | | | |
| **Issue** | **Italy** | **Netherlands** | **Poland** | **Romania** | **Slovakia** | **Spain** | **United Kingdom** |
| Legislation specifically authorizes use of business controls | X | X | X | X | X | X | X |
| Legislation specifically allows "safe haven" of advanced electronic signature and EDI | X | X | X (qualified electronic signature and if using EDI must use the model EU EDI Agreement) | X | X | X | |
| Legislation specifically allows other means to demonstrate authenticity and integrity | X (other technologies) | | | X (PDF format) | | As pre-approved by Tax Authorities | |
| Legislation suggests that no other controls should be required other than GAAP or similar accounting principles | | | | X | X | X | X |
| Legislation provides specific guidance on processes that qualify for "business controls" | | | | X Specifically authorizes conversion of invoice format | | | |

The current state of the transposition of the amended VAT Directive indicates that, despite the variety of unique terms adopted by the member states, there is nevertheless near uniform adoption of laws authorizing the use of business controls for the purpose of establishing the authenticity of the origin and integrity of the content of electronic invoices.

EU Member States have followed the VAT Directive very closely. No member state insists that e-invoices be based on advanced electronic signatures or EDI, as existed prior to the transposing of the VAT Directive. Those technologies continue to be recognized by all EU Members States as available options, while the overarching principle is the principle of "business controls." All member states have recognized the principle that the taxpayer can select the appropriate technology or process to guarantee the "authenticity of the origin" and the "integrity of the content" of e-invoices.

The EU Commission has been working closely with the Member States to ensure a common understanding of the new e-invoicing rules in order to help achieve a consistent and coherent transposition of the Directive 2010/45/EU. The publication of the additional Explanatory Notes in all languages of Members States has been very supportive in achieving the same understanding in all EU jurisdictions.

The regulatory and audit practice will now show how successful the new regulatory environment for electronic invoices in the EU will be and if the EU Commission is able to support their political objective, to make structured electronic invoicing the predominant format for invoicing by 2020.

In the event there is not a significant increase in electronic invoicing in the foreseeable future, the authors suggest that tax authorities follow the example of Finland, Sweden, UK, and Romania and (1) make explicit that following GAAP or similar accounting principles satisfies, without anything further, the business controls requirement, (2) specifically authorize the conversion of the electronic format, and (3) make clear that for smaller taxpayers and invoices for smaller amounts more flexible and lenient rules are allowed.

Last but not least, the battle is not over: apart from legislation on VAT, e-invoicing is embedded in a patchwork of legal requirements which cover rules on accounting, auditing, protection of personal data, archiving and customs. While VAT is generally considered a key hurdle, it is necessary to identify if these other legal rules constitute further barriers to the uptake of e-invoicing within the EU.

## NOTES

1. Directive 10858/10/EC amending Directive 2006/112/EC, adopted 23 June 2010 *http://register.consilium.europa.eu/pdf/en/10/st10/st10858.en10.pdf*
2. *Id.* at recitals (8) and (9)
3. *Id.* at recitals (9) and (10)
4. A portion of an XML invoice using the language format of the Petroleum Institute for Data Exchange (PIDX) may, for example, look something like this:

```
-<pidx:Pricing> -<pidx:UnitPrice> <pidx:MonetaryAmount>9.35
</pidx:MonetaryAmount> <pidx:UnitOfMeasureCode>EA
</pidx:UnitOfMeasureCode> <pidx:CurrencyCode>USD
</pidx:CurrencyCode> </pidx:UnitPrice> </pidx:Pricing>
-<pidx:Tax> <pidx:TaxTypeCode>StateSalesTax
</pidx:TaxTypeCode> <pidx:TaxExemptCode>NonExempt
</pidx:TaxExemptCode> <pidx:TaxRate>6.25</pidx:TaxRate>
-<pidx:TaxAmount> <pidx:MonetaryAmount>4.97
</pidx:MonetaryAmount> <pidx:CurrencyCode>USD
</pidx:CurrencyCode> </pidx:TaxAmount> </pidx:Tax>
-<pidx:Tax> <pidx:TaxTypeCode>CountyParishSalesTax
</pidx:TaxTypeCode> <pidx:TaxExemptCode>NonExempt
</pidx:TaxExemptCode> <pidx:TaxRate>.5</pidx:TaxRate>
-<pidx:TaxAmount> <pidx:MonetaryAmount>.4
</pidx:MonetaryAmount> <pidx:CurrencyCode>USD
</pidx:CurrencyCode> </pidx:TaxAmount> </pidx:Tax>
```

5. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS, Reaping the benefits of electronic invoicing for Europe, 2nd December 2010, COM (2010) 712. The document is available here: *http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0712:FIN:en:PDF* (Reaping the Benefits).
6. *Id.*
7. Art. 233, 2nd paragraph.
8. The Explanatory Notes can be found here: *http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/traders/invoicing_rules/explanatory_notes_en.pdf*.
9. *See supra* Reaping the Benefits, at note 7.
10. For updates and minutes of the meeting see the website: *http://ec.europa.eu/internal_market/payments/einvoicing/index_en.htm#maincontentSec1*.
11. *See* Website DG Markt: *http://ec.europa.eu/internal_market/payments/einvoicing/index_en.htm#maincontentSec1*.
12. *http://ec.europa.eu/internal_market/payments/einvoicing/index_en.htm#maincontentSec1*.
13. Readers are cautioned that all translations are performed by the authors using their own abilities or translation software. For specific legal advice readers should refer to the original text of the legislation in its native tongue.
14. Art. 289 Code général des impôts: "VI.—Les factures électroniques sont émises et reçues sous une forme électronique quelle qu'elle soit. Elles tiennent lieu de factures d'origine pour l'application de l'article 286 et du présent article. Leur transmission et mise à disposition sont soumises à l'acceptation du destinataire."
15. "De-mail" is the registered email service which is certified according to certain specific security requirements and accepted for formal email communication between governmental services and citizens/enterprises; *see* legislation here: *www.gesetze-im-internet.de/bundesrecht/de-mail-g/gesamt.pdf*.
16. *See* European Commission Recommendation 1994/820/EC, available here: *http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31994H0820:en:HTML*.