



LEGAL WHITE PAPER

International Compliance

Legal requirements international eInvoicing

European Union
& Selected Countries Worldwide

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- Optimize processes



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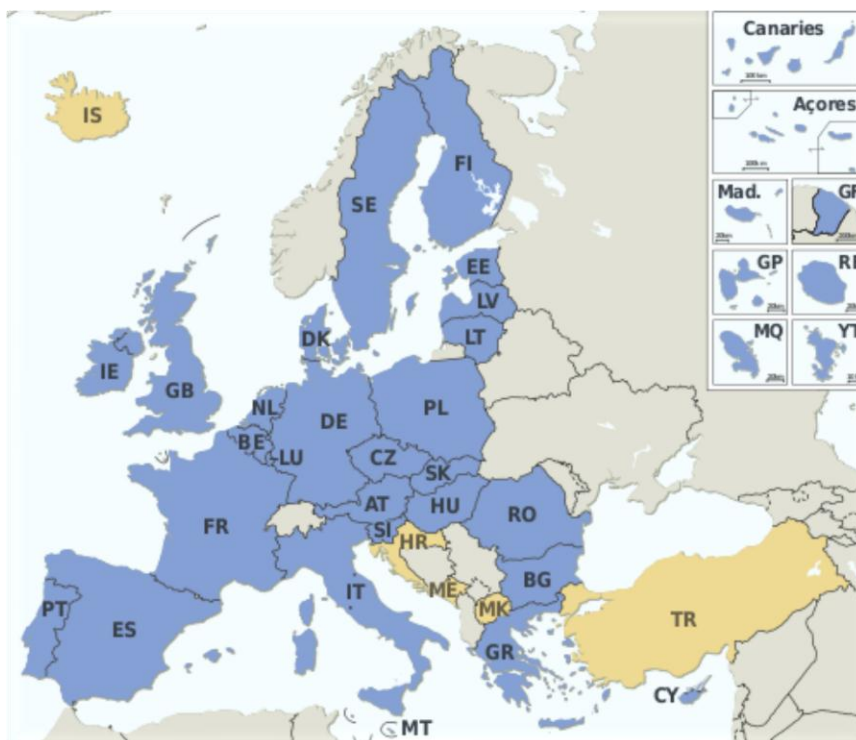
2. Legal requirements eInvoicing and archiving in the European Union



Today 27 countries are members of the European Union (EU). Iceland (IS), Croatia (HR), Macedonia (MK), Montenegro (ME) and Turkey (TR) have already applied for a membership in the European Union, but it is not foreseeable if and when these candidates will be members of the European Union.

The European Union has set up different directives to harmonize the daily business processes in the European Union. The European directives build the legal framework for the legal regulations and laws in the European countries. The European countries must implement the European directives into their national laws. Based on these European directives and national laws, companies have the chance to put in place legally compliant, cross-national business processes.

One of the most important business processes, which has been regulated by the European Union, is the “electronic invoicing”. In December 2001 the European Parliament had put in place the first “Invoicing Directive” (Council Directive 2001/115/EC) to achieve a legally binding eInvoicing framework for all European Union Countries. The directive was amended by the EU Council Directive 2006/112/EC. All member states were requested to implement the regulations of the Council Directive 2006/112/EC into their nation “Value Added Tax” Laws. Up to now most of them have adopted the EU Council Directive 2006/112/EC.



Members (and candidates) of the European Union; Jan. 2011

The EU Council Directive 2006/112/EC is still valid and defines two methods to secure the integrity and authenticity of electronic invoices.

- EDI (Electronic Data Interchange) based on an EDI-Standard, which secures integrity and authenticity, and an EDI-Contract between the invoice sender and recipient
- Electronic signatures

Since the highest level of security is implemented by a qualified electronic signature, today all member states accept qualified electronic signatures to guarantee the authenticity and integrity of an electronic invoice. Therefore today the **qualified signature can be used as an internationally standardized technological instrument** to fulfill the legal requirements within all member states.

On 13/Jul/2010 the EU Council published a new EU Council Directive 2010/45/EU (which is amending the EU Directive 2006/112/EC). The new EU Council Directive 2010/45/EU must be adopted by the member states latest up to 31/Dec/2012. Just a few have already implemented it into their national laws.

The new Council directive defines three methods to secure the integrity and authenticity of an electronic invoice:

- EDI (Electronic Data Interchange) based on an EDI-Standard an EDI-Contract between the invoice sender and recipient
- Electronic signatures
- Business Controls

In case all member states will adopt the new regulation and change their national Value Added Tax laws, it's not defined at all, how these "Business Controls" must be implemented in the different countries. Today it is already clear, that the invoice sender and invoice recipient must prove the authenticity and integrity of an electronic invoice for the whole storage period, if he uses such a "Business Control". It's also for sure, that the "Business Controls" will not be standardized in the European Countries. That means, that the different countries will accept different kinds of "Business Controls". Therefore companies will not be able to use one internationally standardized "Business Control Process" to transmit electronic invoices without any risk of being non-compliant. A typical "One Solution fits all" – approach for European-wide acting companies will not be possible by implementing "business controls".

Companies should keep in mind, that „Business controls“ will not be certified by the national finance agencies.

The following table gives an overview, in which four main categories all countries of the European Union can be split today according to the legal requirements in each country (EDI not considered). Afterwards the legal requirements for electronic invoicing and archiving are shown in detail for each country of the European Union in 27 spreadsheets.

Categories/accepted methods to proof integrity and authenticity of electronic invoices in the European Union (Oct. 2011):

accepted → qualified signatures not accepted → business controls	accepted → qualified signatures → advanced signatures not accepted → business controls	accepted → qualified signatures → business controls	accepted → qualified signatures → advanced signatures → business controls
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EU-Country	EU Council Directive 2006/112/EC adopted	EU Council Directive 2010/45/EU adopted	Qualified signature accepted	“Business Controls” accepted	Special notes
Austria	YES	NO	YES	NO	
Belgium	YES	NO	YES	YES	
Bulgaria	YES	NO	YES	YES	
Cyprus	YES	NO	YES	YES	
Czech Republic	YES	NO	YES - mandatory	NO	
Denmark	YES	NO	YES	YES	
Estonia	YES	NO	YES	YES	
Finland	YES	NO	YES	YES	
France	YES	NO	YES	NO	
Germany	YES	YES	YES - mandatory	YES	
Greece	YES	NO	YES	NO	Secure signature creation device
Hungary	YES	NO	YES	NO	Qualified time stamp mandatory
Ireland	YES	NO	YES	YES	

EU-Country	EU Council Directive 2006/112/EC adopted	EU Council Directive 2010/45/EU adopted	Qualified signature accepted	“Business Controls” accepted	Special notes
Italy	YES	YES	YES - mandatory	YES	Time stamp mandatory
Latvia	YES	NO	YES - mandatory	NO	
Lithuania	YES	NO	YES - mandatory	NO	
Luxembourg	YES	NO	YES	NO	
Malta	YES	NO	YES	YES	
Netherlands	YES	NO	YES	YES	
Poland	YES	NO	YES - mandatory	NO	
Portugal	YES	NO	YES	NO	
Romania	YES	YES	YES - mandatory	YES	
Slovak Republic	YES	NO	YES	NO	
Slovenia	YES	NO	YES - mandatory	NO	
Spain	YES	NO	YES - mandatory	NO	
Sweden	YES	NO	YES	YES	
United Kingdom	YES	NO	YES	YES	

Date / last modification: Jan., 2012

2.10 Germany



Germany is a member of the European Union (EU). The country has implemented the EU Council Directive 2006/112/EC into the national laws.

Germany also complies with the newest regulations of the European Council and has fully adopted the EU Council Directive 2010/45/EU of 13/Jul/2010 (which is amending the EU Directive 2006/112/EC).

In addition the German Ministry of Finance has put in place numerous laws and regulations for the transmission and archiving of electronic invoices.



Germany	Requirements	Legal basis	Special notes
eInvoicing			
Electronic Invoicing allowed	YES	1) German Value Added Tax Law 2) German Tax Simplification Law [20/Dec/2010]	
Prior approval required	YES	Regulation of the German Ministry of Finance [29/Jan/2004]	Conduct implying an intend is sufficient
Guarantee of authenticity and integrity required	YES	1) German Value Added Tax Law 2) German Tax Simplification Law [20/ Dec/2010]	
Electronic signatures allowed for guarantee of authenticity and integrity	YES	1) German Value Added Tax Law 2) German Tax Simplification Law [20/Dec/2010] 3) EU Council Directive 2010/45/EU [13/Jul/2010]	
Special certificates required	YES – Qualified electronic Signature	1) German Value Added Tax Law 2) German Tax Simplification Law [20/Dec/2010] 3) German Signature Law [23/May/2001] 4) German Signature Regulation [15/Nov/2010]	Information for other countries must be approved by the German Federal Network Agency (Federal Network Agency) / Manufacturer Declaration

SAMPLE

Information for other countries available on request

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Germany	Requirements	Legal basis	Special notes
		5) European Signature Directive 1999/93/EC	required)
Other methods besides signatures and EDI (e.g. "internal controls") can be used to guarantee the authenticity and integrity	YES	1) German Value Added Tax Law 2) German Tax Simplification Law [20/Dec/2010] 3) EU Council Directive 2010/45/EU [13/Jul/2010]	Methods not specified; it's up to the finance department to accept the individual process or not
EDI allowed	YES	1) German Value Added Tax Law 2) German Tax Simplification Law [20/Dec/2010]	
Guarantee of authenticity and integrity required by use of EDI technologies	YES	1) German Value Added Tax Law 2) German Tax Simplification Law [20/Dec/2010] 3) Tax Bureaucracy Reduction Law [01/Jan/ 2009]	EDI contract between invoice sender and recipient mandatory
Outsourcing allowed	YES	Regulation of the German Ministry of Finance [29/Jan/ 2004]	
Signature verification required for input tax deduction	YES	German GDPdU (Regulation of the German Ministry of Finance; Principles for Data Access and Verifiability of Digital Documents) [16/Jul/2001]	Signature verification report must be stored together with the signed invoice
Data conversion allowed	YES	German GDPdU (Regulation of the German Ministry of Finance; Principles for Data Access and Verifiability of Digital Documents) [16/Jul/2001]	Original file and converted file must be stored; both files must be linked by an index
Archiving			
Average storage period	10 – 12 years	1) German GDPdU (Regulation of the German Ministry of Finance; Principles for Data Access and Verifiability of Digital Documents) [16/Jul/2001] 2) GoBS (German Bookkeeping); HBG (German Commercial Code); ABG (German Fiscal Code)	Depending on the duration of the auditing process

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Germany	Requirements	Legal basis	Special notes
Storage outside the country allowed	YES	AO (German Fiscal Code)	Approval of tax authority required
Electronic storage allowed	YES	German GDPdU (Regulation of the German Ministry of Finance; Principles for Data Access and Verifiability of Digital Documents) [16/Jul/2001]	
Automated auditable archiving required	YES	German GDPdU (Regulation of the German Ministry of Finance; Principles for Data Access and Verifiability of Digital Documents) [16/Jul/2001]	

Date / last modification: Oct. 2011

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3. Requirements in countries outside European Union

Outside the European Union doesn't exist any global or regional framework or directive, which regulates electronic invoicing processes for all countries worldwide. If companies are going to set up global eInvoicing processes, they have to consider the different national requirements.

But, many countries in the world have already put in place national laws and directives. These laws and directives make it mandatory to secure the integrity and authenticity of electronic invoices. As far as electronic signatures are a worldwide known and in various countries standardized technology to secure the integrity and authenticity of any kind of electronic data, electronic

signatures are a common tool to fulfill the legal requirements in many countries of the world. Using electronic signatures, companies have the chance to fulfill the legal requirements in numerous countries with only one technology. This makes processes easier and cheaper and helps to ensure the compliance of the eInvoicing processes.



Nevertheless, the national legal requirements for global eInvoicing processes should be evaluated. For some countries additional or totally different technologies must be put in place besides electronic signatures to create a legally compliant eInvoicing process.



For example Switzerland, a European Country – but no member of the European Union (EU) – has implemented a special Swiss Signature Law. Therefore Switzerland requires special Swiss certificates for the signature process of electronic invoices. Additional requirements must also be considered. If a company uses a service provider for the generation of the electronic signature with a Swiss certificate it is mandatory for Switzerland, that the signature service provider has a subsidiary in Switzerland and is registered in the Swiss commercial register.

Outside Europe some countries (e.g. Argentina, Brazil, Chile, Colombia, Mexico) require, that the integrity and authenticity of eInvoicing processes is secured and have implemented their own national eInvoicing processes. In these countries a country specific authorization, e.g. by a token or certificate, is mandatory. The eInvoicing process has to follow national requirements and must be implemented in a dedicated way for each company.



The following summary gives an overview of major legal requirements for eInvoicing processes in Canada, Hong Kong, Israel, Mexico, Norway, Switzerland and USA. Further details are explained in the following chapters.

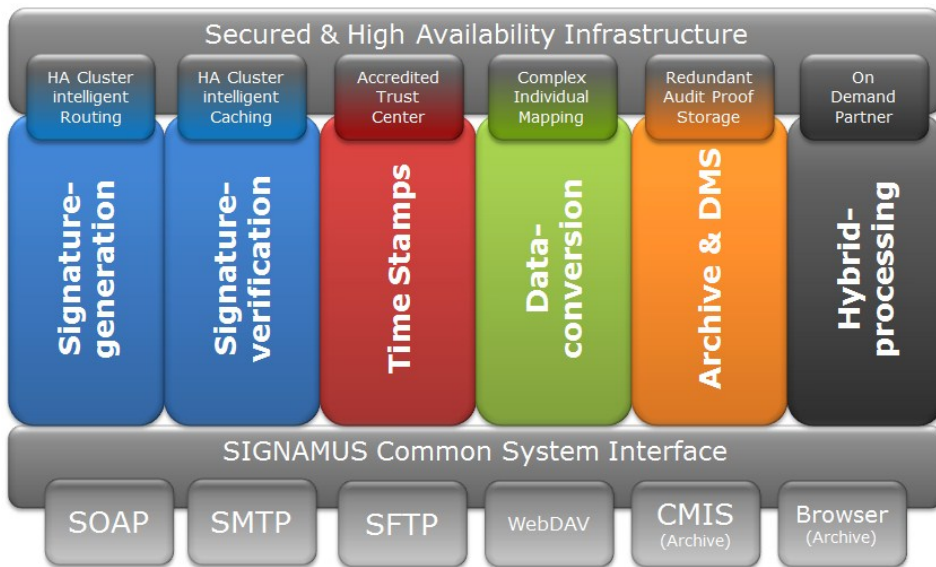
Country	Guarantee of authenticity and integrity required	Qualified signature accepted	Special notes
Canada	YES	YES	
Hong Kong	YES	YES	
Israel	YES	YES - mandatory	Special national requirements apply
Mexico	YES	YES - mandatory	Special national requirements apply
Norway	YES	YES	
Switzerland	YES	YES - mandatory	Special national requirements apply
USA	YES	YES	

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We can do more than just eInvoicing



- **Secure**
- **Simple**
- **Legal**
- **Reduce costs**
- **Optimize processes**



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The SIGNAMUS eInvoicing signature service is just one of many SIGNAMUS services. In addition to this international compliant service, you may also use and combine additional services as needed.

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- **Imaging:** Preparation of electronic data in human-readable formats, e.g. PDF with your logo and layout
- **Data conversion:** Faster and more accurate data exchange with structured, machine readable data, e.g. for invoices and orders
- **Other Services:** Introducing eInvoicing takes some time and paper will stay for a while. We take care for digital and paper A/R invoicing in one step. Just send all invoicing data to us and we take care for sending out your digital and paper invoices — and motivating your clients migrating into the digital world!

About us

Security & Compliance* from the specialist AuthentiDate

Compliance in the sense of company actions refers to the regular, proper, and ethically correct behavior of all responsible parties; especially by the company management.

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SIGNAMUS is a cloud service of AuthentiDate www.authentidate.de/en one of the global leading providers of fully compliant Cloudservice signature services.

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