

EINVOICING: THE INFLUENCE OF THE EU ON THE EXPANSION OF ELECTRONIC ADMINISTRATIVE SERVICES

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Abstract

The digital transformation poses major challenges for local authorities. In order to keep pace with modern development, various basic administrative procedures need to be digitized. The status of digitization in German municipalities demonstrates that they are reaching their limits. As administrative units are to be considered as an interface between society and state, the following paper will focus on this topic.

This paper reflects on the necessary expansion of eGovernment services in local authorities against a European background, with the aim of bringing together the European and municipal levels. The European Union (EU) has set itself the goal of contributing to the modernisation of digital public services and serving as a catalyst through various programs. This paper discusses to what extent the EU achieves its stated goal and whether its actions generate added value in local authorities by using eInvoicing as an example. With the Directive 2014/55/EU the EU set a standard, henceforth all European public administrations must be able to accept invoices in electronic format from their suppliers. The paper aims to demonstrate the significance of the above stated directive, with a specific focus on local authorities.

1. Introduction

The digital transformation particularly affects local authorities which are providing basic citizen services for the general public. They are strongly influenced by the change in the way tasks are performed, communication is held, and information is provided.

In the Federal Republic of Germany, local authorities are the lowest hierarchy level of government and represent the direct interface to the citizens. Within the framework of obligatory tasks, they execute laws and offer direct services to citizens, for example issuing passports, approving building permits or the registration of motor vehicles.

Through a successful digital transformation, administrative services can be offered independent of time and place. On the one hand, this fulfils the expectations of the population, on the other hand, it also has positive effects for the local authorities themselves, for example leading to reduction of administrative expenses and increasing efficiency. However, before the introduction of technological innovations can generate added value, local authorities face major challenges. High investment costs, a lack of expertise and isolated solutions make the transformation process more difficult for local authorities.

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In an EU-wide comparison, Germany comes off badly in terms of the dissemination and use of digital public services. [12] The major challenge for local authorities is therefore to overcome these and to push ahead with the digital transformation. A European background is rarely taken into consideration in the expansion of electronic administrative services by municipalities, but the European Union plays a significant role in promoting eGovernment. For example, the EU has set itself the goal of making electronic invoicing the standard in the public sector and fulfil a broad-scale adoption of eInvoicing by 2020. [13]

2. Influence of the European Union

The European Union exerts an undeniable influence on its Member States and their populations. European guidelines influence life and action on the ground, and it is local authorities whom are tasked with implementing European guidelines.

By means of primary Union law, which enjoys primacy of application and direct applicability, the European Union can exert a significant influence on its Member States. [16] The European secondary legislation can also be ascribed great importance. In the field of administration, directives and regulations dominate which by their nature have an impact on national legal systems and promote the Europeanisation of administrative action. [23]

Under Article 197 Treaty on the Functioning of the European Union (TFEU) [25] and Article 291 TFEU, the implementation of Union law is the responsibility of the Member States. The Member States can implement Union law directly (directly applicable Union law) or indirect. Indirect meaning, if a Union legal act first requires specification by the national legislator. [15] During the implementation phase Member States must adhere to certain normative requirements, which are intended to ensure the uniform application of Union law. [1] The principles of equivalence and effectiveness serve as a double barrier and ensure equal treatment and uniformity of Union law. [15]

The ‘Soweit-Formel’, developed by the European Court of Justice, states that: ”In so far as Community law, including its general principles, does not include common rules to this effect, the national authorities when implementing community regulations act in accordance with the procedural and substantive rules of their own national law,” [ECJ, 21.09.1983 - 205/82] On the basis of this institutional and procedural autonomy, the Member States have the right and the obligation to implement Union law with their own administrative organisation and their applicable administrative procedural law. [2] However, the ‘effet utile’ (principle of effectiveness), also developed by the European Court of Justice, must be observed, meaning that a standard should be interpreted and applied in a certain way that optimum effectiveness in terms of the objectives of the Treaty can be achieved. [20]

The limit of the EU's legal influence lies in the exclusive areas of competence of the Member States in which the EU may not act. Administrative procedural law and administrative organisation fall within this exclusive competence of the Member States. [20]

The EU can also gain influence through soft law reflecting in instruments without legal enforcement power. Although, the EU does not necessarily rely on soft law to achieve its regulatory objectives, it can use it to overcome regulatory barriers. Above all, the European Commission, which itself may only adopt implementing acts, can thus give weight to its objectives. [19]

In the context of digitization, the European Union, as the superordinate instance, can use its power by virtue of its legal status to create regulations that promote the expansion of electronic administrative services in the Member States' administrations.

3. eGovernment strategy of the European Union

The European Commission has set itself the goal of modernising the public sector. In particular, interoperable solutions are to be introduced to strengthen the internal market and prevent its fragmentation. [22] This should pave the way for cross-border electronic administration. The background for the EU is the realisation of a digital internal market. Together with the Member States, measures are to be taken to connect isolated digital services and thus make cross-border accepted services a reality. [24] The European Union expresses its objectives in the Digital Single Market Strategy and the current eGovernment Action Plan, which is updated every four years.

Regarding eInvoicing, the European Commission has declared that it is to become the standard in the public sector in Europe by 2020. The focus is on ensuring a coherent legal framework, promoting a common standard and creating an appropriate and flexible environment. [13] An electronic invoice means an invoice that has been issued, transmitted and received in a structured electronic format, which allows for automatic and electronic processing. [9]

As early as at the 2005 eGovernment Ministerial Conference in Manchester, the Member States agreed to focus initially on the standardisation and electronification of cross-border public procurement procedures in a Large-Scale Pilot project entitled 'Pan-European Public Procurement OnLine' (PEPPOL). With the aim of achieving new dimensions of European cooperation and finding a European way forward. [22] In the project, which was launched in 2008, electronic invoicing was considered as a partial package. [3] These so-called Large-Scale Pilots represent on the one hand a political commitment, which are half financed by the European Commission and half by the Member States, and on the other hand are model projects of strategic importance, which produce interoperable and reusable sub-services that can be used by the Member States' authorities as open source solutions. [24]

Building on this Large-Scale Pilot, in which interoperable eInvoicing specifications has been developed, the European Commission reaffirms in the European eGovernment Action Plan 2011-2015 the will to digitize all public procurement and electronic invoicing in a sustainable manner. [24] The European Commission also set up a European Multi-Stakeholder Forum on Electronic Invoicing. [5] The forum serves on the one hand to exchange experience and on the other hand to identify measures at Union level that could support the mass introduction of electronic invoicing. [13] Additionally, the European Commission has established the 'Connecting Europe Facility' (CEF) funding program that supports public entities in the implementation of eInvoicing.

After the European Commission has already implemented various strategies / measures for an increase in electronic invoicing, Directive 2014/55/EU will follow in 2014 to establish electronic invoicing as the predominant method. [9] According to Art. 3 (1) of Directive 2014/55/EU, the European Commission requests the European Committee for Standardization to draft a European standard for the semantic data model of the core elements of an electronic invoice. Under the Directive, the Member States' authorities are obliged to accept and process electronic invoices that comply with this standard by 18 April 2019 at the latest. [6] Although the content of this European standard (EN 16931) lies within the internal organisation of the Member States, uniformity is essential

for the cross-border functioning of electronic invoicing and for the achievement of the European Commission's objectives. [20]

4. eInvoicing in German public sector

With §4a Gesetz zur Förderung der elektronischen Verwaltung [10] and the Verordnung über die elektronische Rechnungsstellung im öffentlichen Auftragswesen [26], the German legislator has implemented the European requirements in national law. The regulation takes the European Standard into account and names XRechnung, a German format developed in the steering project of the IT Planning Council, as the preferred format, which is in conformity with the European standard. [8]

Furthermore, the IT Planning Council obliges the federal and state governments to offer PEPPOL as an access point if they provide a web service for the delivery of electronic invoices. [18] Since the project was completed in 2012, PEPPOL serves as a network providing a web services-based infrastructure for sending and receiving electronic invoices. [21]

The obligation of public entities to receive and process electronic invoices in the future applies initially only to federal authorities. For local authorities, the legal transpositions of the federal states are decisive, but the latest transposition deadline is 18 April 2020.

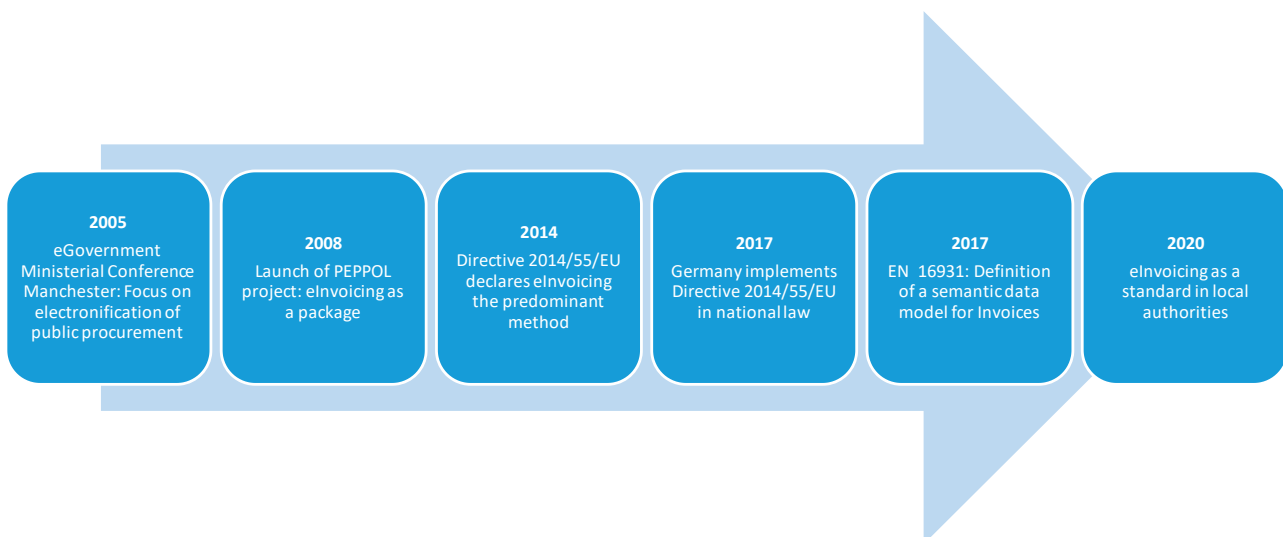


Figure 1: Timeline: Implementation of eInvoicing

In 2018, a study by ibi research Institute at the University of Regensburg showed that 39% of the local authorities had not yet taken any direct measures to implement the law at that time or will not complete the implementation on time. In contrast, around 43% of the municipalities surveyed expect electronic invoice processing to be introduced on time, although at this point in time 68% of the municipalities still printed out the digital invoice after receiving it. [17]

In operational terms, it is ultimately up to the local authorities to meet the implementation obligation. In addition to the technical requirements, they must create organisational prerequisites and, if necessary, adapt administrative processes in order to switch from paper-based to electronic invoicing and processing. Furthermore to the technical implementation and integration into the existing IT landscape, the local authorities cite the adaptation of process flows and the creation of acceptance within their organisation as the main challenges in introducing eInvoicing. [17]

There is no latest information on the implementation status available, but the introduction of eInvoicing should have progressed in municipalities in the meantime in order to meet the deadline of 18 April 2020.

5. Impact of the European strategy

First of all, it should be mentioned that local authorities have the possibility to monitor proceedings at European level or projects of the European Commission. Especially after the adoption of directives, which affect the municipal level, the municipalities can familiarise themselves with the subject even before the federal legislator implements the European requirements into national law and they are able to initiate their project planning with sufficient temporal advance.

With regard to the PEPPOL project, the municipalities had the opportunity to contribute their own experience and knowledge. The Free Hanseatic City of Bremen, for example, was involved in the project. [7] The preparatory work within the framework of PEPPOL led to the development of common specifications with the participation of public authorities, which can subsequently be used freely by the authorities concerned. The project has also resulted in a web service-based infrastructure for the transfer of data, which has been operated by the OpenPEPPOL organisation since 2012. [21] These Large-Scale Pilots can therefore be assigned a special role, as they promote the exchange between European authorities and the joint development of European standards. [24]

Within the framework of the 'Connecting Europe Facility' program, the 'PEPPOL eInvoicing for Government in Germany' project (PeGGy) was funded in Germany, which was implemented by the Hanseatic City of Bremen and two partners. The project served to pilot and disseminate the PEPPOL infrastructure and situate a best practice example for other administrations. The funding program 'Connecting Europe Facility' also offers trainings to help users of electronic invoicing to initiate, execute, and complete the implementation project. [11] As a further aid, the European Multi-Stakeholder Forum on Electronic Invoicing, established by the European Commission, published a checklist of support mechanisms for the successful adoption of eInvoicing solutions in 2018, in support to a guidance paper. [4]

If one reflects on handouts or recommendations of various German public authorities on the introduction of electronic invoicing, it is striking that they name the European Union merely as the place of origin of the Directive 2014/55/EU. The measures taken by the European Commission are rarely mentioned, for example the financial support provided by CEF and existing guidance papers or the opportunities for participation at European level within the framework of forums or projects. [e.g. 8] However, the EU initiatives have certainly led to the emergence of a broad public for the topic of eInvoicing. After the adoption of Directive 2014/55/EU, forums and other exchange formats were established in Germany, pilot projects were initiated and recommendations were published. The extent to which municipalities use the instruments provided by the European Commission or the PEPPOL infrastructure in their introduction processes remains to be determined in the context of further research.

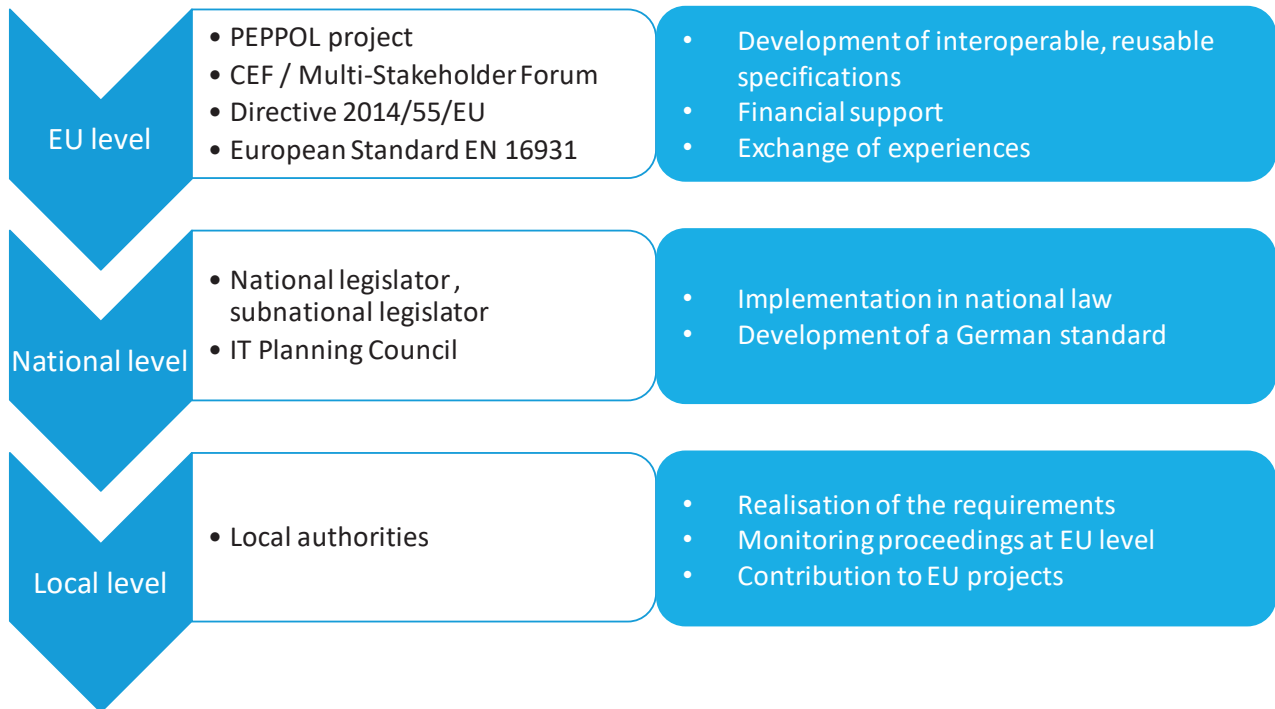


Figure 2: Implementing eInvoicing in the European multi-level system

For the municipalities, obstacles within the adoption of electronic invoicing are the technical implementation and integration into their existing IT landscape. [17] The European Commission has taken up this challenge and examined the technical perspective and created interoperable data models, standards and infrastructure, which can be used by public sector entities. However, the biggest obstacles for local authorities during the implementation process are the adaptation of process flows and the creation of acceptance in their own organisation. [17] The European Commission was only able to remove these obstacles to a limited extent by for instance creating a broad public for eInvoicing. For local authorities, the focus is not only on the technical implementation, but further on the procedural and cultural changeover. The Commission can use this insight its own for future digitization issues.

It is striking that the period between the first declaration of intent and the actual implementation lasted almost 15 years. The choice of the transposition period of four and a half years in the Directive 2014/55/EU was an extensive time period, and it is debatable if it meets today's expectations in a fast-developing global world. It is apparent, that the introduction of technological innovations in public authorities takes time, nevertheless could become shorter and shorter as digitisation progresses. Hence the time taken to introduce electronic invoicing is not be seen as a respective example.

Nevertheless, the result speaks for itself: electronic invoicing has arrived in German municipalities and will be introduced with a European standard in a large part of these municipalities on schedule. New and more efficient ways of cross-border electronic administration within the framework of a digital internal market have thus been opened.

6. Conclusion

The influence of the European Union on the expansion of electronic administrative services can be well illustrated using the example of eInvoicing. Legislative developments at the European level can clearly be seen as a major driver for the implementation of electronic invoicing in local authorities.

Through its initiatives and, above all, the Directive 2014/55/EU, the EU has triggered the introduction process and promoted the EU-wide acceptance of electronic invoices.

The European Union can make targeted use of the Europeanisation of administrative action to push its overriding goal of a functioning digital single market and promote the expansion of eGovernment services. Even if the EU does not have the competence to regulate administrative procedural law and administrative organisation in its Member States, it does have, on the basis of written and unwritten legal principles, an effective instrument of power which enables it to intervene in critical areas and ultimately to achieve the plans it has set itself in the field of eGovernment. It is apparent that the EU has different approaches to exerting influence on its Member States but compared to soft law instruments the EU's legislative competence is undoubtedly proving to be the most powerful instrument.

Although, the Member States and their governmental authorities are responsible for the implementation of the European requirements, the EU offers an exchange of best practices and technologies in advance and can contribute to the expansion of electronic administrative services by supporting the development of infrastructure or research on the effective use of eGovernment applications. Furthermore, the EU can support the Member States and their municipalities by financially promoting pilot projects. [14]

The embedding of local authorities in the implementation of Union law and their direct involvement can generate added value. The EU contributes to increasing the spread of eGovernment services, thus achieving its goal of a digital single market. At the same time, local authorities benefit from the requirements and ultimately the advantages of digitisation.

7. References

- [1] AUGSBERG, S., Europäisches Verwaltungsorganisationsrecht und Vollzugsformen, in: J.P. Terhechte (Hrsg.), *Verwaltungsrecht der Europäischen Union*, Baden-Baden 2011.
- [2] BERGMANN, J., Europäisches Verwaltungsrecht, in J. Bergmann (Hrsg.), *Handlexikon der Europäischen Union*. 5. Auflage, Baden-Baden 2015.
- [3] BREITENFELD, M. and ERTL, R., Der Einsatz elektronischer Medien im Vergaberecht, in: G. Laga [Hrsg.], *Handbuch E-Rechnungen und E-Procurement: Rechtliche und technische Rahmenbedingungen*, Wien 2018.
- [4] CEF DIGITAL, CEF eInvoicing Implementation Checklist Now Live, <https://ec.europa.eu/cefdigital/wiki/display/CEFDIGITAL/2018/09/20/CEF+eInvoicing+Implementation+Checklist+Now+Live> (20.01.2020).
- [5] COMMISSION DECISION of 2 November 2010 setting up the European Multi-Stakeholder Forum on Electronic Invoicing (e-invoicing), *Official Journal* C326, p. 13–15.
- [6] COMMISSION IMPLEMENTING DECISION (EU) 2017/1870 of 16 October 2017 on the publication of the reference of the European standard on electronic invoicing and the list of its syntaxes pursuant to Directive 2014/55/EU of the European Parliament and of the Council, *Official Journal* L266, p. 19-21.

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- [7] DER SENATOR FÜR FINANZEN DER FREIEN HANSESTADT BREMEN, Blaupause PEPPOL für öffentliche Auftraggeber in Deutschland, <https://www.e-rechnung.bremen.de/informieren-1464> (20.01.2020).
- [8] DEUTSCHER LANDKREISTAG, Handreichung zur Vorbereitung der elektronischen Rechnungsverarbeitung in der Kommunalverwaltung - Teil 2: Einführungsstrategie, Umsetzungsschritte, Praxisbeispiele, Berlin 2018.
- [9] DIRECTIVE 2014/55/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 16 April 2014 on electronic invoicing in public procurement, Official Journal L133, p.1-11.
- [10] E-GOVERNMENT-GESETZ vom 25. Juli 2013 (BGBl. I S. 2749), zuletzt geändert durch Artikel 15 des Gesetzes vom 20. November 2019 (BGBl. I S. 1626).
- [11] EUROPEAN COMMISSION, CEF eInvoicing Training Version 2.1 Component Offering Description, https://ec.europa.eu/cefdigital/wiki/download/attachments/82773402/CEF%20eInvoicing%20Training%20SOD%20V2_1.pdf?version=1&modificationDate=1538396915596&api=v2 (20.01.2020).
- [12] EUROPEAN COMMISSION, Digital Economy and Society Index Report 2019 - Digital Public Services, <https://ec.europa.eu/digital-single-market/en/desi> (13.01.2020).
- [13] EUROPEAN COMMISSION, European Commission wants broad-scale adoption of e-invoicing by 2020, IP/10/1645, https://ec.europa.eu/commission/presscorner/detail/en/IP_10_1645 (16.01.2020).
- [14] EUROPEAN PARLIAMENT, e-Government - Using technology to improve public services and democratic participation, http://www.europarl.europa.eu/thinktank/de/document.html?reference=EPRS_IDA%282015%29565890 (20.01.2020).
- [15] FRENZ, W., Handbuch Europarecht. Band 5 Wirkungen und Rechtsschutz, Berlin-Heidelberg 2010.
- [16] HERDEGEN, M., Europarecht. 18. Auflage, München 2016.
- [17] IBI RESEARCH AN DER UNIVERSITÄT REGENSBURG GMBH, E-Government im kommunalen Bereich - Ergebnisse einer Umfrage zu Payment- und Rechnungsprozessen in der kommunalen Verwaltung, <https://ibi.de/projekte/studie-e-government> (16.01.2020).
- [18] IT-PLANUNGSRAT, Entscheidung 2018/46 - Umsetzung der Richtlinie 2014/55/EU (elektronische Rechnungsstellung - E-Rechnung), https://www.itplanungsrat.de/SharedDocs/Sitzungen/DE/2018/Sitzung_27.html?pos=10 (16.01.2020).
- [19] KNAUFF, M., Der Regelungsverbund: Recht und Soft Law im Mehrebenensystem, Tübingen 2010.
- [20] LOHMANN, B. and WERRES, S., Die Richtlinie über die elektronische Rechnungsstellung bei öffentlichen Aufträgen, in: C. Rogall-Grote (Hrsg.), Leitfaden Elektronische Rechnung in

der öffentlichen Verwaltung - Grundlagen, Umsetzungsempfehlungen, Best Practices, Frankfurt am Main 2014.

- [21] PEDERSEN, K. W., WESSEL THOMASSEN, G., HODDEVIK, A. and CICIRIELLO, C., PEPPOL - Final Report, Oslo 2012.
- [22] REDING, V., E-Government - Eine europäische Perspektive, in: B. Wirtz (Hrsg.), E-Government, Wiesbaden 2010.
- [23] SCHMIDT-AßMANN, E., Das allgemeine Verwaltungsrecht als Ordnungsidee. Grundlagen und Aufgaben der verwaltungsrechtlichen Systembildung. 2. Auflage, Berlin-Heidelberg 2006.
- [24] STÄDLER, M., Elektronische Verwaltung in der EU - der europäische Rahmen, in: W. Schönemann, S. Weiler [Hrsg.], E-Government und Netzpolitik im europäischen Vergleich, Baden-Baden 2012.
- [25] TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION, Official Journal C326, p. 47-390.
- [26] VERORDNUNG ÜBER DIE ELEKTRONISCHE RECHNUNGSSTELLUNG IM ÖFFENTLICHEN AUFTRAGSWESEN DES BUNDES (E-Rechnungs-Verordnung – E-Rech-VO) vom 6. September 2017.