

Commercial transactions: combating late payment

2023/0323(COD) - 23/04/2024 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 459 votes to 96, with 54 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council on combating late payment in commercial transactions.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amends the proposal as follows:

Scope and application

The aim of this Regulation is to combat late payment in commercial transactions, in order to ensure the proper functioning of the internal market, thereby fostering the competitiveness of undertakings and in particular SMEs.

Members wish to specify that the Regulation should not apply to payments resulting from purchases, sales, deliveries, commissions or agency operations contributing to the manufacture of books, as well as for the supply of paper and other consumables dedicated to the printing, binding or publishing of books in their special position as slow-moving, cultural products, where the payment terms are defined by agreement between the concerned parties.

Payment periods

In commercial transactions, the payment period should not exceed **30 calendar days**, from the date of the receipt of the invoice or an equivalent request for payment by the debtor, provided that the debtor has received the goods or services in accordance with contractual agreement. Where the date of the receipt of the invoice or the equivalent request for payment is uncertain, the payment period should not exceed 30 calendar days from the date of receipt of the goods or services. This period should apply both to the transactions between undertakings and between public authorities and undertakings.

In commercial transactions between undertakings, where expressly agreed in the contract, the payment period may be extended **up to 60 calendar days**. In transactions between undertakings for the purchase of slow moving or seasonal goods, the payment period may be extended up to **120 calendar days** from the date of the receipt of the invoice or an equivalent request for payment by the debtor, provided that the debtor has received the goods.

Member States should introduce appropriate measures to improve public authorities payment practices towards undertakings by introducing measures to ensure that an undertaking which is a creditor is able to obtain upon request to the public authority, which has not paid the amount due within the maximum payment period, the **offsetting** of the amount due against any outstanding amount that the creditor has towards the same public authority.

Interest for late payment

It should not be possible for the creditor to waive its right to obtain interest for late payment when the debtor is a public authority or a large undertaking. Where the conditions are satisfied, interest for late payment should start accruing from the day following the expiry of contractual or statutory payment period.

Compensation for recovery costs

Members considered that where interest for late payment becomes payable, a flat fee compensation for recovery costs should be automatically due by the debtor to the creditor and should amount to a fixed sum of EUR 50, per every single commercial transaction of a value between 0 and EUR 1 500, EUR 100 per every single commercial transaction of a value between 1 501 and EUR 15 000, and EUR 150 per every single commercial transaction above EUR 15 000.

Null and void contractual terms and practices

The following contractual terms and practices should be null and void, and in any case should be prohibited: (i) excluding or limiting the right of the creditor to make assignments of the credit to third parties for the purpose of accessing financing services; make use of an executive order of payments issued by a court; (ii) preventing or postponing the moment of sending the invoice by the debtor; (iii) prohibiting, excluding or limiting the assignment of receivables to relevant financial institution; (iv) using means of payment altering payment terms.

Transparency and awareness raising

Member States should, where appropriate, use professional publications, promotion campaigns or any other functional means to increase awareness of the remedies for late payment among undertakings.

Recovery procedures for unchallenged claims

Creditors should obtain an enforceable title, including through an expedited procedure and irrespective of the amount of debt, within **60 calendar days** of the lodging of the action or application at the court or other competent authority, provided that the debt and the procedure are not disputed.

Complaints

The complainant may submit a complaint to the enforcement authority anonymously or identify any information for which it requests confidentiality. Where an enforcement authority considers that there are sufficient grounds for acting on a complaint, it should initiate, conduct and conclude an investigation of the complaint within **90 days** after the receipt of the complaint.

The Commission should make a standard EU complaint form available for the enforcement authorities of the Member States.

Reporting obligations

Contracting authorities, as referred to Directive 2014/24/EU, should report on a yearly basis on their payment practices.

European Observatory of late payments

Members proposed that the Commission should set up an Observatory of Late Payment at the latest by the date of application of this Regulation. The Observatory should monitor payment as well as late payment

practices within the Union in order to collect and share expertise, best practices and identify potential harmful practices, as well as effectiveness of enforcement authorities in carrying out their tasks. The Observatory should be chaired by the Commission and should be composed of representatives of relevant experts and stakeholders.