Commerce: late payment in commercial transactions

1998/0099(COD) - 13/12/1999

The committee adopted the report (codecision procedure, second reading) by Mr Simon Francis MURPHY (PES, UK) amending the Council·s common position concerning the proposal for a directive on combating late payments in commercial transactions. The committee adopted a number of compromise amendments, which focused on the following points: (1) the committee wanted to ensure that the public authorities in the Member States should also have to guarantee prompt payment. Member States should ensure that invitations to tender and public procurement contracts contain precise details of the payment periods and deadlines applied by the contracting authorities. In particular, time limits should be fixed for the completion of pre-payment administrative formalities; (2) Member States should ensure that adequate and effective means exist to prevent the continued use of terms which are grossly unfair to the creditor. The report pointed out that the existence of such means would make it possible for SMEs to act collectively through their representative bodies and restore more equitable conditions in cases where the orders come from large companies; (3) Member States should also ensure that the seller retains title to durable or capital goods if a retention title clause has been agreed. ·Retention of title· means the agreement that the seller remains the owner of the goods in question until the price has been paid in full. Once the default date has passed without the buyer having made the payment, the seller may claim that the goods be returned to him; (4) finally, the committee wished to determine the damages, incurred through late payment, for which the creditor will be entitled to claim compensation from the debtor. They include the cost of the creditor·s bank loans, the administrative costs of recovery within the creditor·s business, as well as the costs of recovery through debt recovery agencies or through court proceedings.