Commerce: late payment in commercial transactions

1998/0099(COD) - 16/12/1999 - Text adopted by Parliament, 2nd reading

In adopting the report by Mr. Simon MURPHY (PES, UK), the European Parliament approves the Council's common position subject to a number of amendments. The European Parliament wishes to re-establish the time limit at the end of which interest is due to be paid to 21 days rather than the 30 days following the date of receipt of invoice that the Council had sought. Besides interest on late payment, the creditor should also be in a position to demand from the debtor the compensation of the losses caused by the late payments, including charges from loans or overdrafts, the administrative costs of recovery within the creditor's business, the costs of recovery through debt recovery agencies and the costs of recovery through court proceedings. The European Parliament requests that the Member States ensure that there are adequate and effective means introduced in order to prevent the continued use of terms which are grossly unfair. These means shall include provisions whereby persons or organisations representing the interests of small and medium-sized enterprises may take action according to the national law concerned before the courts or before competent administrative bodies. The European Parliament has also re-introduced provisions concerning the retention of title and the transparency of public procurement contracts. These contracts should in particular carry specific measures on the period of payment, the default dates and deadlines applied by the contracting authorities. The Parliament requests that Member States ensure that the default date for the payment of contractual debts by the contracting authorities does not go beyond 45 calendar days except where the value of the contract exceeds EUR 100 000, in which case the maximum default date shall be 60 calendar days. All creditors shall be entitled to interest from the contracting authority on any amount outstanding when the default date has passed. Lastly, Member States shall ensure that a retention of title, irrespective of the amount of the debt, can be obtained in the 60 calendar days (instead of 90 days) of the lodging of the creditor's action or application, provided that the debt or aspects of the procedure are not disputed.