

Regulation on Combating Late Payment in Commercial Transactions

Policy Brief

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Summary: Late payments are a major problem for businesses in the EU, especially SMEs. They are caused by a number of factors, including the imbalance of power between large buyers and small suppliers. The current EU legal framework is not effective enough at preventing late payments or helping businesses to recover compensation. The European Commission is working on a revision of the Late Payment Directive, which aims to improve the payment discipline of all businesses and protect companies from the negative effects of late payments.

Key Words: Late payments, SMEs, Payment Discipline, EU Legal Framework, Revision

Introduction

Late payments are a major problem for businesses in the EU, especially SMEs. This is because businesses at times have to wait for long periods to be paid for goods and services they have already provided. This can put a strain on their cash flow and consequently their ability to pay other creditors.

There are a number of factors that contribute to late payments, including:

- **Unfair payment terms:** Large buyers imposing long payment terms on their suppliers, which can make it difficult for small businesses to survive.
- **Lack of enforcement:** The current EU legal framework on late payments is not effective enough at deterring businesses from paying their suppliers late.

The European Commission has proposed a Late Payment Regulation, which aims to:

- Improve the payment discipline of businesses: The new Regulation will set shorter binding payment terms and a framework for businesses to apply compensation for late payments.
- Protect companies from the negative effects of late payments: The new Regulation will provide more support for businesses that are struggling to get paid on time.



Scope

This Regulation applies to payments made between businesses (B2B) or between businesses and public authorities (P2B). This regulation does not apply to payments made to consumers, payments made as compensation for damages, or payments that can be cancelled or delayed due to insolvency or restructuring proceedings.



Payment Periods

This Regulation is designed to protect businesses from late payments, which can have a significant impact on their cash flow. By ensuring that businesses are paid promptly, this regulation helps to create a more competitive and fair economy by:

- Ensuring that the payment period for commercial transactions shall not exceed 30 calendar days from the date of receipt of the invoice or an equivalent request for payment by the debtor, provided that the debtor has received the goods or services. This applies to both transactions between undertakings and between public authorities and undertakings.

The proposed Regulation will simplify matters with a uniform and binding approach to combating late payment, applicable to companies of all sizes, with no exceptional treatment for SMEs.



Interest for Late Payment

The Regulation stipulates that if a debtor pays late, they must pay interest to the creditor, unless they are not responsible for the delay. Interest is automatically due, even if the creditor

does not send a reminder. The creditor must have fulfilled its contractual obligations, and the debtor must have received the invoice.

Interest for late payment starts accruing from the last of the following two events:

- the debtor receives the invoice or an equivalent request for payment
- the debtor receives the goods or services

Interest accrues until the full amount due is paid.



Summary of the Proposed Changes within the Late Payment Regulation

- **Reduced payment terms:** The maximum payment term for commercial transactions between public authorities and businesses will be reduced from 60 days to 30 days.
- **No more extensions:** Contracting parties will no longer be able to extend payment terms unless it is "grossly unfair" to the creditor.
- **Automatic interest for late payments:** Debtors will be automatically obliged to pay late payment interest on overdue amounts. Creditors will no longer be able to waive their right to claim interest.
- **New enforcement and redress measures:** Member states will be required to designate enforcement authorities to monitor compliance and enforce the Regulation.

These changes are designed to protect creditors from late payments and make it easier for them to get paid on time. This will help to improve cash flow for businesses and create a more competitive economy.

Links to more information: https://single-market-economy.ec.europa.eu/smes/sme-strategy/late-payment-directive_en

Disclaimer: This is a policy brief to create awareness about the legislative proposal and for information purposes. It is not an official position of the Malta Business Bureau.

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