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Late payments – update of EU rules

Fields marked with * are mandatory.

Introduction

This consultation is part of the European Commission preparation for the revision of the Late Payment Directive (Directive 2011/7/EU). The directive lays down obligations concerning payment terms in commercial transactions between businesses (B2B) or between public authorities and businesses (G2B).

In general, payment terms shall not exceed 30 days. In limited cases, some public authorities can pay their suppliers within a maximum of 60 days. In commercial transactions between businesses payment terms of more than 60 days can be negotiated as long as they are not 'grossly unfair' to the creditor. The directive also lays down provisions on late payment interest and compensation. These include a flat rate compensation of at least EUR 40 per invoice, to which the creditor is entitled when the payment is received later than the deadline agreed in the contractual or legal payment term

For the purposes of this questionnaire:

- **Payment term** refers to the time limit for payment agreed in the contract or any other form of agreement between the parties (this can be expressed in days or months, for example).
- **Payment delay** is the time that exceeds the payment term.
- **Payment period** is the sum of the payment term and payment delay.

You can find more information at: https://single-market-economy.ec.europa.eu/smes/sme-strategy/late-payment-directive_en (https://single-market-economy.ec.europa.eu/smes/sme-strategy/late-payment-directive_en)

This consultation aims to collect information on the following aspects of late payments:

- the main features of payment terms used by businesses;
- interested parties' experiences of unfair payment practices;
- interested parties' views on and experiences of the handling of disputes about payment delays;
- interested parties' views on possible policy measures to combat late payments;
- interested parties' views on the possible impact of policy measures to combat late payments;
- the impact of late payments on interested parties.

About you

*Language of my contribution

English

*I am giving my contribution as

Business association

***First name**

Afonso

***Surname**

Brito

***Email (this won't be published)**

a.brito@fiec.eu

Organisation name255 character(s) maximum*

FIEC - European Construction Industry Federation

***Organisation size**

Micro (1 to 9 employees)

Transparency register number*255 character(s) maximum*

Check if your organisation is on the transparency register

(http://ec.europa.eu/transparencyregister/public/homePage.do?redir=false&locale=en). It's a voluntary database for organisations seeking to influence EU decision-making.

92221016212

***Country of origin**

Please add your country of origin, or that of your organisation.

This list does not represent the official position of the European institutions with regard to the legal status or policy of the entities mentioned. It is a harmonisation of often divergent lists and practices.

Belgium

The Commission will publish all contributions to this public consultation. You can choose whether you would prefer to have your details published or to remain anonymous when your contribution is published. **For the purpose of transparency, the type of respondent (for example, 'business association, 'consumer association', 'EU citizen') country of origin, organisation name and size, and its transparency register number, are always published. Your e-mail address will never be published.** Opt in to select the privacy option that best suits you. Privacy options default based on the type of respondent selected

***Contribution publication privacy settings**

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

Anonymous

Only organisation details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published as received. Your name will not be published. Please do not include any personal data in the contribution itself if you want to remain anonymous.

Public

Organisation details and respondent details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published. Your name will also be published.

I agree with the personal data protection provisions (<https://ec.europa.eu/info/law/better-regulation/specific-privacy-statement>)

Part 1 - General questions

Late payments account for one in four bankruptcies in the EU. Fewer than 40% of commercial transactions between businesses are paid on time. The European Commission is seeking your views about how to combat this problem.

***Question 1**

How has the EU Late Payment Directive contributed to more timely payments in commercial transactions since 2011?

- Very positively
- Somewhat positively
- Neutrally
- Rather negatively
- Very negatively

***Question 2**

What causes late payment?

Please tick all the applicable answers

- Paying late is a form of financing at no cost to the debtor
- Lack of money to pay own suppliers
- Paying on time is not incentivised/rewarded
- Late payments are a vicious circle (a company is paid late and then pays late in return)
- Companies are not aware of the specific rules on payments
- Existing rules are not clear
- Existing rules are not properly enforced
- Small companies have to accept terms set by bigger players, otherwise they lose their clients
- Lack of access to financial training /credit management tools
- Lack of access to information about the payment discipline of your client (e.g. credit checks)
- Other reason

Question 3

How would you rate the clarity of the following provisions of the EU directive and, therefore, how they are applied in practice?

	Very clear	Rather clear	Rather unclear	Very unclear	Don't know
*Provisions on the terms 'unfair' or 'grossly unfair'	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Provisions on payment terms, particularly in business to business (B2B) transactions	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Provisions on the interest rate for late payments	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Provisions on the EUR 40 compensation fee to recuperate internal costs	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

***Question 4**

Currently, the EU directive sets the maximum payment terms for **public authorities** at **30 days** or, in very exceptional circumstances, at 60 days.

Businesses must pay their invoices within **60 days** unless they expressly agree otherwise, and provided it is not 'grossly unfair'.

What is your opinion of the payment terms between businesses (B2B)?

- Should remain unchanged
- Should be capped at 30 days without exceptions - for all B2B transactions
- Should be capped at 60 days without exceptions – for all B2B transactions
- Should be capped at 30 days for payments from large companies to SMEs only, not between SMEs
- Should be capped at 60 days for payments from large companies to SMEs only, not between SMEs
- Should allow for specific payment terms for certain sectors
- Other opinion

Question 5

What will be the likely impact of the following measures on your situation?

Question 5a

MAKING THE LAW STRONGER

	Very positive	Positive	Neutral	Negative	No opinion/D on't know
*Strengthening the current EU provisions by introducing a maximum fixed payment term for all B2B commercial transactions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
*Laying down provisions that clearly identify when a contractual clause or practice relating to payment is 'unfair' to the creditor	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Question 5b

IMPROVING ENFORCEMENT OF THE LAW

	Very positive	Positive	Neutral	Negative	No opinion/D on't know

*Setting up national enforcement bodies that act upon complaints by companies, while keeping the complainant's identity confidential	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Putting in place national bodies that can carry out inspections on their own initiative and have sanctioning powers, including administrative fines	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Putting in place the means for alternative dispute resolution, such as arbitration and mediation, and facilitating SMEs' access to them	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

Question 5c**IMPROVING THE TRANSPARENCY OF THE PAYMENT BEHAVIOUR**

	Very positive	Positive	Neutral	Negative	No opinion/Don't know
*Ensuring better transparency of payment behaviour of businesses by including (good/bad) payment performance in credit ratings	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Ensuring better transparency of payment behaviour by making it compulsory for large businesses to publish regularly information about average payment terms negotiated with suppliers, average time taken to pay suppliers, payment of interests and compensations	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Setting up a permanent European Observatory of payments managed by the Commission to monitor payment performance and trends in payments	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

Question 5d**CREATING A BETTER FRAMEWORK FOR THE UPTAKE OF DIGITAL PAYMENT TOOLS**

	Very positive	Positive	Neutral	Negative	No opinion/Don't know
*Making e-invoicing mandatory in B2B transactions	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Setting-up a new EU standard for e-invoicing	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Removing barriers to factoring (including e-factoring)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Fostering the integrated payments into digital invoicing	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Improving availability of programmes dedicated to foster digital skills in particular in SME workforces	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

* Incentivising adoption of key digital technologies such as AI and cloud by SMEs	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
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Question 5e**IMPROVING RESILIENCE AND PREPAREDNESS OF COMPANIES AGAINST LATE PAYMENT**

	Highly positive	Positive	Neutral	Negative	No opinion/Don't know
* Improving the provision of training on credit management and financial literacy, and facilitating companies' access to it	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Laying down minimum common criteria of compliance, monitoring and sanctioning, for voluntary prompt payment codes	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Question 5f

If you want to report other impacts, please specify

1,000 character(s) maximum

***Question 6**

If the current rules (e.g the current EU Late Payment Directive) remain unchanged (see above for a description of the main elements of the directive), how will this affect the financial situation of companies?

- Very negatively
- Somewhat negatively
- Remain unchanged
- Somewhat positively
- Very positively
- Don't know

***Question 7**

The smaller the business, the more vulnerable it is to the negative effects of late payment. This question seeks your views on introducing measures to protect SMEs (especially self-employed people and micro and small businesses) from the risk of late payments and on providing relief. What kind of measures should be considered?

Please tick all the options that you find appropriate

- In the case of uncontested invoices, public authorities should pay micro and small enterprises and self-employed people in less than 30 days.
- Public authorities should put in place mechanisms to verify that main contractors are complying with the rules on prompt payment when paying subcontractors, in particular when a subcontractor is an SME.
- Public authorities should offset an SME' tax, and social security debts against any outstanding amounts that they owe to SMEs because of late payment
- Other

Question 8

What other aspects could a revision of the Late Payment Directive improve?

1,000 character(s) maximum

It is essential that Public Administrations pay on time. Late payments by Public Administrations affect negatively the liquidity and financial situation of companies. Public Administrations should be exemplary since their practices have an impact in the whole value chain.

In certain Member States, public works companies, mainly SMEs, which work mainly with the public sector, are subject to late payments which are not covered by the Directive nor by national legislation.

Question 9

You may upload below any document which you would like to share in relation to the revision of the Late Payment Directive

(maximum file size 1 MB)

***If you are a company, please tick yes to open a specific set of questions**

Yes

No

Contact

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