European Commission - Press release

Late payment: Commission urges 4 Member States to comply with the Late Payment Directive to protect SMEs in their commercial relations

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Commissioner Elżbieta **Bieńkowska**, responsible for Internal Market, Industry, Entrepreneurship and SMEs, said: *"Late payments are a major burden for Europe's companies, especially small ones. Being able to rely on timely remuneration from their contractors allows businesses to do their job and deliver for their customers and employees. By asking Member States to respect the rules on late payments, we are protecting businesses and helping EU's competitiveness."*

Late payments have a negative impact on businesses by affecting their liquidity and cash flow, complicating their financial management and preventing them from growing. The Late Payments Directive equips creditors with strengthened rights by putting in place time limits for payments by businesses and public authorities when procuring goods or services. When payment deadlines are not met, it entitles businesses to fair compensation. To discourage a culture of late payments, public administrations play a particularly important role in setting an example in promptly and transparently paying their suppliers.

The Commission is requesting an action from Member States due to the following:

- **Greece:** new legislation removing creditors' rights to interest and compensation (a complementary letter of formal notice);
- **Italy:** excessively late payment by public authorities (a reasoned opinion);
- **Slovakia:** excessively delayed payments in the public health sector (a letter of formal notice);
- **Spain**: legislation systematically extending the statutory payment term by 30 days (a letter of formal notice).

Through these actions, the Commission is ensuring that Member States:

- properly apply the Directive;
- are accountable and transparent regarding the payment behaviour of the public authorities; and
- create a reliable business environment for enterprises, all of which will result in a decisive shift towards a culture of prompt payment.

These 4 Member States now have two months to notify the Commission of measures taken to remedy the situation. Alternatively, the European Commission may decide to refer Italy, which receives a reasoned opinion, to the Court of Justice of the EU.

The Commission has also decided to close a case against **Portugal** since the country has brought its national law into line with the Directive.

Background

Payments in commercial transactions between economic operators or between economic operators and public authorities are frequently made later than agreed. In some Member States, payments by public authorities can on average take up to 130 days (and even up to 500 days in certain sectors). Moreover, rights of economic operators to be paid are in some cases further violated by making payments conditional, for example, on the creditor's renunciation to claim interest for late payment as well as compensation for recovery charges. Small and medium-sized enterprises (SMEs), which do not have the same financial strength as bigger companies, are more vulnerable to the effects of late payment, especially in times of economic downturn.

The Late Payment Directive (Directive 2011/7/EU), which had to be transposed into national law by 16 March 2013, recasts a previous directive (Directive 2000/35/EU), and puts in place stricter measures to discourage a culture of late payments**.** Public authorities now have to pay for the goods and services that they procure within 30 days or, exceptionally, within 60 days. In business-to-business (B2B) transactions, this limit is 60 days unless expressly agreed otherwise. In case of payments made later than agreed, creditors are automatically entitled to claim interest for late payment (at the rate of at least 8% above the European Central Bank reference rate) and €40 minimum as compensation for every unpaid invoice, plus all other expenses for recovery costs.

On 26 August 2016, the Commission adopted a Report on the implementation of this Directive (COM(2016)534). Overall, the implementation of the Directive is positive. The Directive has contributed to raise the issue of late payment high in national economic reform and political agendas. As regards payments from the public sector, payment delays are in average 10 days shorter compared to the situation before the entry into force of the Directive. Some Member States are even undertaking additional efforts to foster a culture of "prompt payment". The Report nonetheless identified that further progress with the implementation of the Directive is still needed.

For More Information

- On the key decisions of the December infringements package, please refer to the full MEMO/17/234.

- On the general infringements procedure, see MEMO/12/12(an info graph).

- On theEU infringements procedure.

IP/17/239