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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

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

- ○ Bulgarian
- ○ Croatian
- ○ Czech
- ○ Danish
- ○ Dutch
- ◉ English
- ○ Estonian
- ○ Finnish
- ○ French
- ○ German
- ○ Greek
- ○ Hungarian
- ○ Irish
- ○ Italian
- ○ Latvian
- ○ Lithuanian
- ○ Maltese
- ○ Polish
- ○ Portuguese
- ○ Romanian
- ○ Slovak
- ○ Slovenian
- ○ Spanish
- ○ Swedish

* I am giving my contribution as

- ○ Academic/research institution
- ○ Business association
- ○ Company/business
- ○ Consumer organisation
- ○ EU citizen
- ○ Environmental organisation
- ○ Non-EU citizen
- ○ Non-governmental organisation (NGO)
- ◉ Public authority

- ( ) Trade union
- ( ) Other

* First name

Miriam

* Surname

Salomons

* Email (this won't be published)

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* Scope

- (•) International
- ( ) Local
- ( ) National
- ( ) Regional

* Organisation name

255 character(s) maximum

Ministry of Economic Affairs and Climate Policy

* Organisation size

- ( ) Micro (1 to 9 employees)
- ( ) Small (10 to 49 employees)
- ( ) Medium (50 to 249 employees)
- (•) Large (250 or more)

Transparency register number

255 character(s) maximum

Check if your organisation is on the transparency register. It's a voluntary database for organisations seeking to influence EU decision-making.

* 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.

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- Mozambique
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- Saint Pierre and Miquelon
- Saint Vincent and the Grenadines
- Samoa
- San Marino
- São Tomé and Príncipe
- Saudi Arabia
- Senegal
- Serbia
- Seychelles
- Sierra Leone
- Singapore
- Sint Maarten
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- Slovenia
- Solomon Islands
- Somalia
- South Africa
- South Georgia and the South Sandwich Islands
- South Korea
- South Sudan
- Spain
- Sri Lanka
- Sudan
- Suriname

- Bhutan
- Bolivia
- Bonaire Saint Eustatius and Saba
- Bosnia and Herzegovina
- Botswana
- Bouvet Island
- Brazil
- British Indian Ocean Territory
- British Virgin Islands
- Brunei
- Bulgaria
- Burkina Faso
- Burundi
- Cambodia
- Cameroon
- Canada
- Cape Verde
- Cayman Islands
- Central African Republic
- Chad
- Chile
- China
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- Greenland
- Grenada
- Guadeloupe
- Guam
- Guatemala
- Guernsey
- Guinea
- Guinea-Bissau
- Guyana
- Haiti
- Heard Island and McDonald Islands
- Honduras
- Hong Kong
- Hungary
- Iceland
- India
- Indonesia
- Iran
- Iraq
- Ireland
- Isle of Man
- Israel
- Italy
- Myanmar/Burma
- Namibia
- Nauru
- Nepal
- Netherlands
- New Caledonia
- New Zealand
- Nicaragua
- Niger
- Nigeria
- Niue
- Norfolk Island
- Northern Mariana Islands
- North Korea
- North Macedonia
- Norway
- Oman
- Pakistan
- Palau
- Palestine
- Panama
- Papua New Guinea
- Paraguay
- Svalbard and Jan Mayen
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- Taiwan
- Tajikistan
- Tanzania
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- Tokelau
- Tonga
- Trinidad and Tobago
- Tunisia
- Türkiye
- Turkmenistan
- Turks and Caicos Islands
- Tuvalu
- Uganda
- Ukraine
- United Arab Emirates
- United Kingdom

- Clipperton
- Cocos (Keeling) Islands
- Colombia
- Comoros
- Congo
- Cook Islands
- Costa Rica
- Côte d'Ivoire
- Croatia
- Cuba
- Curaçao
- Cyprus
- Czechia
- Democratic Republic of the Congo
- Denmark
- Jamaica
- Japan
- Jersey
- Jordan
- Kazakhstan
- Kenya
- Kiribati
- Kosovo
- Kuwait
- Kyrgyzstan
- Laos
- Latvia
- Lebanon
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- Qatar
- Réunion
- Romania
- Russia
- Saint Barthélemy
- Saint Helena Ascension and Tristan da Cunha
- Saint Kitts and Nevis
- Saint Lucia
- United States
- United States Minor Outlying Islands
- Uruguay
- US Virgin Islands
- Uzbekistan
- Vanuatu
- Vatican City
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- Zimbabwe

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. **Fo r 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

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

- [x] 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
- [x] Existing rules are not properly enforced
- [x] 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'	○	○	◉	○	○
* Provisions on payment terms, particularly in business to business (B2B) transactions	○	◉	○	○	○
* Provisions on the interest rate for late payments	○	◉	○	○	○
* Provisions on the EUR 40 compensation fee to recuperate internal costs	◉	○	○	○	○

* **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 /Don't know
* Strengthening the current EU provisions by introducing a maximum fixed payment term for all B2B commercial transactions	○	○	○	○	◉
* Laying down provisions that clearly identify when a contractual clause or practice relating to payment is 'unfair' to the creditor	○	◉	○	○	○

Question 5b

IMPROVING ENFORCEMENT OF THE LAW

	Very positive	Positive	Neutral	Negative	No opinion /Don't know
* Setting up national enforcement bodies that act upon complaints by companies, while keeping the complainant’s identity confidential	○	○	○	○	◉
* Putting in place national bodies that can carry out inspections on their own initiative and have sanctioning powers, including administrative fines	○	○	○	○	◉
* Putting in place the means for alternative dispute resolution, such as arbitration and mediation, and facilitating SMEs' access to them	○	○	◉	○	○

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	○	◉	○	○	○
* 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	○	◉	○	○	○
* Setting up a permanent European Observatory of payments managed by the Commission to monitor payment performance and trends in payments	○	○	◉	○	○

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	○	○	○	○	◉
* Setting-up a new EU standard for e-invoicing	○	○	○	○	◉
* Removing barriers to factoring (including e-factoring)	◉	○	○	○	○
* Fostering the integrated payments into digital invoicing	○	○	○	○	◉
* Improving availability of programmes dedicated to foster digital skills in particular in SME workforces	○	◉	○	○	○
* Incentivising adoption of key digital technologies such as AI and cloud by SMEs	○	○	○	◉	○

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	○	◉	○	○	○
* Laying down minimum common criteria of compliance, monitoring and sanctioning, for voluntary prompt payment codes	○	○	○	◉	○

Question 5f

If you want to report other impacts, please specify

1000 character(s) maximum

Question 5d proposes removing barriers to factoring (including e-factoring). We would like the European Commission to consider the option of removing barriers to prohibition of pleding too. Pledge prohibitions are problematic to SMEs, as they cannot use outstanding claims as collateral to obtain a loan. By removing this prohibition, businesses gain more room to finance their activities.

* **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.

- [x] 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?

1000 character(s) maximum

Please see the attachment for some additional explanation on the viewpoint of the Dutch Ministry of Economic Affairs and Climate Policy with regards to the revision of the Late Payment Directive

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)

Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

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/Additional_explanation_on_the_position_of_the_Dutch_Ministry_of_Economic_Affairs_and_Climate_Poli

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

- ( ) Yes
- (•) No

Contact

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