

EU Late Payments Directive

BACKGROUND

Directive 2011/17 on combating late payments was adopted over a decade ago with the goal of speeding up payments of invoices in business-to-business transactions, thereby protecting Small and Medium Enterprises in particular (SMEs) from situations in which waiting too long for the payment of an invoice could negatively impact their cash flow. Under the current rules, businesses must pay invoices within a maximum of 60 days, unless otherwise expressly agreed in the contract; and provided that the terms are not grossly unfair to the creditor. Public authorities must pay for the goods and services they buy within 30 days, with some exceptions.

KEY DATES

19/10/2022	New EU Commission Work Programme
12/09/2023	Commission proposal published
14/09/2023	First Council meeting with preparatory bodies
02/10/2023	File referred to IMCO, European Parliament

On 12 September 2023, in the context of a series of initiatives to address the needs of Europe's SMEs (SME Relief package), the European Commission published the proposal. The new rules would repeal the 2011 directive on late payments and would replace it with a regulation. The proposed new regulation aims to combat late payments in commercial transactions, by tackling payment delays, an unfair practice that compromises the cash flow of SMEs and hampers the competitiveness and resilience of supply chains.

The proposal introduces a stricter maximum payment limit of 30 days, eliminates ambiguities and addresses the legal gaps in the current directive.

The proposed text also ensures an automatic payment of accrued interest and compensation fees and introduces new enforcement and redress measures to protect companies against bad payers. The rapporteur is Róża Thun und Hohenstein (Poland). More information in the Commission's Q&A [here](#).

RELEVANCE FOR CONSULTING ENGINEERS

In the EU, on average, one out of two invoices in commercial transactions are paid late (or not at all). Late payments increase in times of crisis and economic turmoil. SMEs, which rely on regular and predictable streams of cash to operate, are more vulnerable to the risk of being paid late and to its damaging effects. Late payments are very widespread in the construction sector and in public procurement in general, where public entities take a very long time to pay their contractors.