

Amendment 100**Antonius Manders**

on behalf of the PPE Group

Report**A9-0156/2024****Róza Thun und Hohenstein**Combating late payment in commercial transactions
(COM(2023)0533 – C9-0338/2023 – 2023/0323(COD))**Proposal for a regulation****Recital 11***Text proposed by the Commission**Amendment*

(11) Late payment constitutes a breach of contract which is financially attractive to debtors, due to low or no interest rates charged on late payment, or slow procedures for redress. A decisive shift to a culture of prompt payment, including one in which the exclusion of the right to charge interest for late payment is null and void, is necessary to reverse this trend and to discourage late payment. Consequently, contractual payment periods should be limited to 30 calendar days **both in B2B transactions and** G2B transactions, where the public authority is the debtor.

(11) Late payment constitutes a breach of contract which is financially attractive to debtors, due to low or no interest rates charged on late payment, or slow procedures for redress. A decisive shift to a culture of prompt payment, including one in which the exclusion of the right to charge interest for late payment is null and void, is necessary to reverse this trend and to discourage late payment, **while protecting contractual freedom.** Consequently, contractual payment periods should be limited to 30 calendar days **in** G2B transactions, where the public authority is the debtor. **At the same time, flexibility should be granted to undertakings so that they can benefit from freedom of contract and negotiate a longer payment period when it is necessary in particular to address the needs of certain business models and industry practices dealing with low rotation and seasonality of product categories. Such arrangements should be mutually beneficial for creditors and debtors. Electronic invoicing can be a helpful tool in this regard, shortening the payment period, as it would help creditors prove the date of receipt of the invoice in the case of any doubt or dispute.**

Or. en

Justification

Flexibility regarding the payment period in B2B commercial transactions should be preserved to reflect market realities and meet the needs of certain sectors. The absence of an upper limit on the payment period, along with the condition of fairness and equal benefits to both debtor and creditor, will encourage contractual parties to opt for the shortest necessary payment period and avoid unnecessary bureaucracy and complexity for companies.

17.4.2024

A9-0156/101

Amendment 101

Antonius Manders

on behalf of the PPE Group

Report

A9-0156/2024

Róza Thun und Hohenstein

Combating late payment in commercial transactions
(COM(2023)0533 – C9-0338/2023 – 2023/0323(COD))

Proposal for a regulation

Recital 11 a (new)

Text proposed by the Commission

Amendment

(11 a) It is necessary to acknowledge the existence of certain business models and industry practices, which require longer payment periods. This is particularly relevant for low-rotation and strong-seasonality product categories, for example cultural goods, including sectors engaged in the production, distribution and retail of books. Book retail has a unique organisation within the broader retail landscape, having developed over decades a balanced business model employing mutually beneficial and desirable long and flexible payment terms, with the main aim of providing a diverse offer of books that enriches European culture, as well as maintaining an efficient rotation cycle of books and a healthy cashflow for bookshops.

Or. en

17.4.2024

A9-0156/102

Amendment 102

Antonius Manders

on behalf of the PPE Group

Report

A9-0156/2024

Róza Thun und Hohenstein

Combating late payment in commercial transactions
(COM(2023)0533 – C9-0338/2023 – 2023/0323(COD))

Proposal for a regulation

Recital 14

Text proposed by the Commission

Amendment

(14) Public procurement can play a significant role in improving payment performance. Enhanced synergies should therefore be put in place between public procurement policies and rules and prompt payment objectives. Particularly in public construction works, subcontractors are often not paid on time by the main contractor, even when the contracting authorities or contracting entities have made the contractual payments to them, thus potentially creating a damaging domino-effect in the supply chain. It is therefore appropriate that contractors provide evidence to contracting authorities and contracting entities of payments to their direct subcontractors. **deleted**

Or. en

Justification

This regulation should not establish new rules for public procurement procedures that are already regulated by the Public Procurement Directives 2014/23/EU, 2014/24/EU, or 2014/25/EU. The introduction of new provisions, such as an obligation for contracting authorities to verify all payments to subcontractors, imposes unnecessary burdens without guaranteeing the desired prompt payment outcomes. Additionally, the issue of contractual confidentiality remains unresolved

17.4.2024

A9-0156/103

Amendment 103

Antonius Manders

on behalf of the PPE Group

Report

A9-0156/2024

Róza Thun und Hohenstein

Combating late payment in commercial transactions
(COM(2023)0533 – C9-0338/2023 – 2023/0323(COD))

Proposal for a regulation

Recital 27 a (new)

Text proposed by the Commission

Amendment

(27 a) In view of the need to enhance transparency and accountability in commercial transactions, and in line with the objectives of promoting responsible financial management and fair business practices, Member State enforcement authorities could use the reports disclosing payment practices laid down in the Corporate Sustainability Reporting Directive.

Or. en

Justification

This regulation should not establish new reporting obligations neither for companies nor for contracting authorities as this imposes unnecessary burdens without guaranteeing the desired prompt payment outcomes. However, Member States enforcement authorities could use the reports submitted in the framework of the Corporate Sustainability Reporting Directive in their enforcement activities.

17.4.2024

A9-0156/104

Amendment 104

Antonius Manders

on behalf of the PPE Group

Report

A9-0156/2024

Róża Thun und Hohenstein

Combating late payment in commercial transactions
(COM(2023)0533 – C9-0338/2023 – 2023/0323(COD))

Proposal for a regulation

Article 3 – paragraph 1

Text proposed by the Commission

1. In commercial transactions, the payment period shall not exceed 30 calendar days, from the date of the receipt of the invoice or an equivalent request for payment by the debtor, provided that the debtor has received the goods or services. ***This period shall apply both to the transactions between undertakings and between public authorities and undertakings. The same payment period shall also apply to the supply of non-perishable agricultural and food products on a regular and non-regular basis as referred to in Articles 3(1)(a), point (i), second indent and 3(1)(a), point (ii), second indent of Directive (EU) 2019/633, unless Member States provide for a shorter payment period for such products.***

Amendment

1. In commercial transactions, ***where the debtor is a public authority***, the payment period shall not exceed 30 calendar days, from the date of the receipt of the invoice or an equivalent request for payment by the debtor, provided that the debtor has received the goods or services ***in accordance with the contractual agreement. Where the date of the receipt of the invoice or the equivalent request for payment is uncertain, the payment period shall not exceed 30 calendar days from the date of receipt of the goods or services.***

In commercial transactions between undertakings, the payment period shall not exceed 30 calendar days from the date of the receipt of the invoice or an equivalent request for payment by the debtor, provided that the debtor has received the goods or services, unless otherwise expressly agreed in the contract and provided it is not grossly unfair to the creditor.

Or. en

Justification

Flexibility regarding the payment period in B2B commercial transactions should be preserved to reflect market realities and meet the needs of certain sectors. The absence of an upper limit on the payment period, along with the condition of fairness and equal benefits to both debtor and creditor, will encourage contractual parties to opt for the shortest necessary payment period and avoid unnecessary bureaucracy and complexity for companies.

17.4.2024

A9-0156/105

Amendment 105

Antonius Manders

on behalf of the PPE Group

Report

A9-0156/2024

Róza Thun und Hohenstein

Combating late payment in commercial transactions
(COM(2023)0533 – C9-0338/2023 – 2023/0323(COD))

Proposal for a regulation

Article 3 – paragraph 3

Text proposed by the Commission

3. Where the contract provides for a procedure of acceptance or verification, in accordance with paragraph 2, the maximum duration of that procedure shall not exceed 30 calendar days from the date of receipt of the goods or services by the debtor, even if such goods or services are supplied prior to the issuance of the invoice or an equivalent request for payment. In this case, the debtor shall initiate the procedure for acceptance or verification immediately upon reception from the creditor of the goods and/or the services that are the object of the commercial transaction. The payment period shall not exceed 30 calendar days after such procedure has **taken** place.

Amendment

3. Where the contract provides for a procedure of acceptance or verification, in accordance with paragraph 2, **for the purposes of this Regulation**, the maximum duration of that procedure shall not exceed 30 calendar days from the date of receipt of the goods or services by the debtor, even if such goods or services are supplied prior to the issuance of the invoice or an equivalent request for payment, **unless otherwise expressly agreed in the contract, within the limits of national law, and provided it is not grossly unfair to the creditor**. In this case, the debtor shall initiate the procedure for acceptance or verification immediately upon reception from the creditor of the goods and/or the services that are the object of the commercial transaction. The payment period shall not exceed 30 calendar days after such procedure has **been concluded or after receipt of the invoice, or an equivalent request for payment, if the latter takes place later**.

Or. en

Justification

To support the objective of this regulation, the default maximum duration for the acceptance or verification procedure should not exceed 30 days. Nevertheless, to ensure full conformity of goods or services with the contract or the law, contractual flexibility should be permitted within the limits of national law, when expressly agreed upon in the contract, and provided it is not grossly unfair to the creditor, especially in the case of particularly complex contracts.

AM\P9_AMA(2024)0156(100-107)EN.docx

PE760.676v01-00

17.4.2024

A9-0156/106

Amendment 106
Antonius Manders
on behalf of the PPE Group

Report
Róza Thun und Hohenstein
Combating late payment in commercial transactions
(COM(2023)0533 – C9-0338/2023 – 2023/0323(COD))

A9-0156/2024

Proposal for a regulation
Article 4

Text proposed by the Commission

Amendment

Article 4

deleted

Payments to subcontractors in public procurement

1. For public works contracts falling within the scope of Directives 2014/23/EU, 2014/24/EU, 2014/25/EU, and 2009/81/EC⁵⁶ of the European Parliament and of the Council, contractors shall provide evidence to contracting authorities or contracting entities within the meaning of those Directives that, where applicable, they have paid their direct subcontractors involved in the execution of the contract within the deadlines and under the conditions set out in this Regulation. The evidence may take the form of a written declaration by the contractor and shall be provided by the contractor to the contracting authority or contracting entity prior to, or at the latest together with, any request for payment.

2. Where the contracting authority or contracting entity has not received the evidence as provided for in paragraph 1 or has information of a late payment by the main contractor to its direct subcontractors, the contracting authority or contracting entity shall notify the enforcement authority of its Member State thereof without delay.

AM\P9_AMA(2024)0156(100-107)EN.docx

PE760.676v01-00

⁵⁶ Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC.

Or. en

Justification

This regulation should not establish new rules for public procurement procedures that are already regulated by the Public Procurement Directives 2014/23/EU, 2014/24/EU, or 2014/25/EU. The introduction of new provisions, such as an obligation for contracting authorities to verify all payments to subcontractors, imposes unnecessary burdens without guaranteeing the desired prompt payment outcomes. Additionally, the issue of contractual confidentiality remains unresolved.

17.4.2024

A9-0156/107

Amendment 107

Antonius Manders

on behalf of the PPE Group

Report

A9-0156/2024

Róza Thun und Hohenstein

Combating late payment in commercial transactions
(COM(2023)0533 – C9-0338/2023 – 2023/0323(COD))

Proposal for a regulation

Article 20 – paragraph 3

Text proposed by the Commission

Amendment

3. Commercial transactions carried out after the date of application of this Regulation shall be subject to the provisions of the present Regulation, **including when** the underlying contract has been concluded before that date.

3. Commercial transactions carried out after the date of application of this Regulation shall be subject to the provisions of the present Regulation, **unless** the underlying contract has been concluded before that date.

Or. en

Justification

Given the complexity of supply chains and the payment terms that have already been agreed in current contracts, the Late Payment Regulation should allow for sufficient transition time and should apply to new contracts. It would create significant administrative burden for businesses if applied retroactively to existing contracts from its date of entry into application.