

WRITTEN QUESTION E-3121/09  
by Nikolaos Vakalis (PPE-DE)  
to the Commission

Subject: Late payment to SMEs by public authorities

Article 5 of the proposal for the revision of Directive 2000/35/EC on combating late payment in commercial transactions (COM(2009)126/4), which the Commission submitted on 8 April 2009 in the context of the political commitments made in the Small Business Act, requires public authorities to effect payment for all goods and services supplied by SMEs under public contracts within 30 days. However, Article 5, paragraph 4, provides for an exemption from that deadline where 'it is specifically agreed between the debtor and the creditor and is duly justified in the light of particular circumstances [...]'.

SMEs are currently facing huge liquidity problems and the cost to the public authorities of paying on time is relatively small compared with the general benefit to the market. Moreover, payment deadlines are not normally a subject for negotiation between firms and public authorities when public contracts are awarded (see the Commission's impact assessment SEC(2009) 315/2 and 316/2).

1. Does the Commission consider that the public authorities awarding the contracts and the SMEs supplying the goods and services have equal bargaining power?
2. How does it justify this generally and vaguely formulated exemption from the abovementioned harmonised deadline for payment by public authorities?
3. In any event, and irrespective of the particular circumstances which might justify any exemption from the 30-day payment deadline, could the Commission consider introducing a maximum payment deadline under the proposed directive so that it is not left to the discretion of the contracting parties?