



UNION EUROPEENNE DE L'ARTISANAT ET DES PETITES ET MOYENNES ENTREPRISES  
EUROPÄISCHE UNION DES HANDWERKS UND DER KLEIN- UND MITTELBETRIEBE  
EUROPEAN ASSOCIATION OF CRAFT, SMALL AND MEDIUM-SIZED ENTERPRISES  
UNIONE EUROPEA DELL' ARTIGIANATO E DELLE PICCOLE E MEDIE IMPRESE

## LATE PAYMENTS

The question of late payments has been a concern of UEAPME for a decade. Although the precise nature of the problem varies from member state to member state, there has been a wide support from all the organisations for measures that would encourage prompt payments. It has to be underlined that late payments do not only undermine the EU objectives of growth, competitiveness and employment, but also act as a significant obstacle to the single market for SMEs. This is because of the costs and uncertainties that late payments create.

UEAPME has welcomed the European Commission's approach on this and, at the time of the approval of the directive 2000/35, UEAPME strongly welcomed it and expressed the wish that the Commission would continue to monitor the European late payments situation through extensive studies and other means.

Therefore, UEAPME welcomes the present study launched by the EU Commission.

SMEs suffer more than larger firms from late payments. Large businesses owe more money to SMEs than SMEs owe to them. SMEs have in fact a weaker negotiating position compared to larger organisations. Additionally, smaller businesses usually do not have the expertise and resources to commit to debt collection that larger organisation have at their disposal. Another major reason why smaller businesses tend to be owed more than they owe, is that there is much less scope for them to obtain generous credit terms - larger firms, on the other hand, can use their negotiating strength to obtain much more favourable payment terms. The impact of late payments on SMEs performances is also likely to be more damaging.

### **Problems**

After the implementation of directive 2000/35, problems relating to late payments still exist. It appears that all the sectors are affected by the issue, but the construction, agriculture and manufacturing industries seem to be particularly affected.

The problem of late payments also exists in B2C contracts. Therefore, we would like to raise the attention of the Commission on a possible extension of the scope of the directive to include B2C relationships.

The main problems SMEs have to face concern the length and costs of the claims and the problem to add interest rates. Very often, in fact, SMEs have the weaker position in the

contract. The other party is their major client and they do not dare to ask for interests. In some cases, even judges do not award interests automatically. Therefore we suggest that interest rates would be applicable automatically in case of late payments. In this case enterprises would not have the necessity to apply them as they are legally imposed.

Moreover, in Ueapme opinion, it would be interesting to foresee a provision defining delays after a certain maximum number of days as abusive. The abuse could involve an automatic sanction. The National sectoral federations should set the delay autonomously.

### **Transposition of the directive**

In some countries the directive is not correctly applied.

In Italy, for instance, the decree that transposes the directive 2000/35 on late payments

- Excludes from its scope the sector of public procurements for works.
- Excludes contracts that have as an exclusive or main object the supply of goods or the provision of services in exchange of the payment of a price.

If it is true that in the directive 2000/35 does not mentioned directly the works contracts, it is also true that article 50 of the Treaty says that “...*services shall be considered "services" within the meaning of this Treaty where they are normally provided for remuneration, in so far as they are not governed by the provisions relating to freedom of movement for goods, capital and persons. "Services" shall in particular include: (a) activities of an industrial character...*”

### **National implementation and statistics**

For questions concerning the national implementation and statistics, please refer to some national surveys made by our national organisation in annexe.

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