

New rules for combating late payments in commercial transactions

According to figures from Graydon, in Belgium there are 9.15 billion euros of unpaid invoices outstanding. Companies pay their invoices on average 54 days after receipt, while government authorities take an average of 73 days to do so. It is obvious that such long payment periods can have a pernicious impact on the liquidity of companies. The legislature recognises the fundamental importance for contractors of shorter payment periods. A bill that was approved by the Chamber in July 2013 and that is expected to be published soon in the Official Journal is designed to provide for clear payment regulations that strengthen the position of creditors. The bill transposes European Directive 2011/7/EU by amending the existing Act of 2 August 2002 on combating late payment in commercial transactions (hereafter referred to as the "Act"). Below we briefly describe the most important innovations. The scope of application of the Act remains limited to payments for business transactions, henceforth defined as transactions leading to the delivery of goods, the performance of services or the design and execution of public works and construction/civil-technical works for compensation. This can involve transactions between companies, as well as between companies and government bodies. In principle, therefore, the Act will also apply when the debtor is a government body. As a general rule it is postulated that, if no date or period for payment has been contractually defined, all invoices for payment of business transactions must be settled within 30 calendar days as of the day following receipt of the invoice or, in certain cases, as of receipt of the goods/services or after the verification thereof. A longer term can be stipulated only under certain conditions. Furthermore, the amended Act also provides a number of additional measures for the protection of creditors, such as a maximum verification period of 30 days, interest accruing ipso jure and without notice of default in the event of late payment, and a flat fee of 40 EUR for collection costs, increased by reasonable damages. The new provisions of the Act will enter into effect retroactively and apply to payments in execution of agreements concluded, renewed or extended as of 16 March 2013, and in any case on all payments as of 16 March 2015. It remains to be seen whether the new provisions will do a better job of achieving their goal than the current Act, and thus effectively contribute to improving the liquidity position of creditors and reducing the number of bankruptcies.

