

Business-to-business transactions: a comparative analysis of legal measures vs. soft-law instruments for improving payment behaviour

Responses to Report Recommendations:

Recommendation	Applies to:	Acceptability					Additional comments if desired
		1	2	3	4	5	
6.1 A need for better enforcement of the LPD and rules on payment terms							
Recommendation area 1		☺		☹		☹	
<ul style="list-style-type: none"> To improve the enforcement of the LPD and national legislation on late payment, Member States are encouraged to designate a body in charge of monitoring enforcement of legislation on payment practices and imposing financial penalties in case of a violation. This body could also act upon the reporting of violations by businesses, provided that anonymity is ensured. 	Member state						
<ul style="list-style-type: none"> Business organisations are best placed to provide guidance, information and training on rights and obligations of businesses including payment terms and how to tackle unfair contractual practices and offer legal support in case late payment issues arise. 	Private Sector						
6.2 Preventive measures - 6.2.1 Stricter payment terms							
Recommendation area 2		☺		☹		☹	
<p>In sectors particularly vulnerable to long payment terms, Member States could consider establishing stricter payment terms:</p> <ul style="list-style-type: none"> Taking into account the specificities of the sector and the good traded; and 	Member state						

<ul style="list-style-type: none"> • Provide an appropriate monitoring and enforcement system. 	Member state						
6.2 Preventive measures - 6.2.2 Transparency of payment practices							
Recommendation area 3		☺		☹		☹	
<ul style="list-style-type: none"> • Member States could establish the organisation and rules governing databases on payment practices. 	Member state						
<ul style="list-style-type: none"> • Member States and business associations could raise awareness about the existence and benefits of databases. 	Member state + Private Sector						
<ul style="list-style-type: none"> • Member States could establish the mandatory reporting of payment practices. This legislative action could target only large companies, but further research is needed to establish the costs of information obligation placed on companies. 	Member state						
6.2 Preventive measures - 6.2.3 Invoice management measures							
Recommendation area 4		☺		☹		☹	
<ul style="list-style-type: none"> • Member States and business associations could raise awareness about the benefits of invoice management measures. 	Member state & Private Sector						
6.3 Remedial measures - 6.3.1 Alternative dispute resolution							
Recommendation area 5		☺		☹		☹	
<ul style="list-style-type: none"> • Member States or business associations could set up national and regional mediation services, accessible to all companies; 	Member state & Private Sector						
<ul style="list-style-type: none"> • The fees for mediation for SMEs could be minimised (make the service free of charge or cheaper for SMEs); 							

<ul style="list-style-type: none"> • A confidential mediation process could be allowed to mitigate the fear factor. 							
6.3 Remedial measures - 6.3.2 Administrative sanctions							
Recommendation area 6		☺		☹		☹	
Better and more effective enforcement of rules against late payment. Member States are encouraged to consider:							
<ul style="list-style-type: none"> • National plans for monitoring and controls (e.g. based on level of risks encountered in the different sectors/across different sizes of companies); 							
<ul style="list-style-type: none"> • Administrative sanctions (i.e. financial penalties) in case of non-compliance with the rules; and 							
<ul style="list-style-type: none"> • Publication of the decisions regarding sanctions to increase the deterrent effect and transparency. 							
6.4 Initiatives contributing to changing business culture - 6.4.1 Prompt payment codes and CSR							
Recommendation area 7		☺		☹		☹	
<ul style="list-style-type: none"> • Member States/business associations could foster prompt payment codes, ensure appropriate enforcement (e.g. with compliance boards) and encourage large companies to enrol. 							
<ul style="list-style-type: none"> • Business associations could foster CSR measures against late payment to promote good payment behaviour. 							
6.4 Initiatives contributing to changing business culture - 6.4.2 Education							
Recommendation area 8		☺		☹		☹	

<ul style="list-style-type: none"> • Member States are encouraged to consider targeted credit management education and training and provide financial support to companies wishing to participate in them. 							
<ul style="list-style-type: none"> • Business associations could develop and promote handbooks and business guides on credit management. 							
6.5 Sectorial interventions - 6.5.1 Construction							
Recommendation area 9		☺		☹		☹	
<ul style="list-style-type: none"> • Member States could consider imposing strict payment terms between contractors and all subcontractors, with appropriate enforcement. Business associations, where relevant, could foster prompt payment codes setting the business standards in the sector. 							
<ul style="list-style-type: none"> • The Commission could encourage Member States and business associations to set up construction adjudication or mediation measures and disseminate good practices in this regard. 							
<ul style="list-style-type: none"> • The Commission could encourage Member States to allow project bank accounts between businesses and disseminate good practices in this regard. However, further research is needed to the implications of PBAs in large complex construction projects involving several layers of suppliers. 							
6.5 Sectorial interventions - 6.5.2 Food and drink							
Recommendation area 10		☺		☹		☹	

<ul style="list-style-type: none"> Member States could consider introducing stricter payment terms differentiated by category of products⁵¹⁰ with appropriate enforcement. Business associations, where relevant, could foster prompt payment codes setting the business standards in the sector. 							
<ul style="list-style-type: none"> The Commission could encourage Member States to establish an independent body of adjudicator empowered with enforcement task, dispute resolution and sanctioning. 							
<ul style="list-style-type: none"> The Commission could disseminate good practices in this regard. 	Commission						
6.5 Sectorial interventions - 6.5.3 Retail							
Recommendation area 11		☺		☹		☹	
<ul style="list-style-type: none"> Member States could consider fair payment terms in the sector according to the type of products sold. Further research is needed to define what is 'fair' and what is the viability of terms beyond 60 days. 							
<ul style="list-style-type: none"> Member States are encouraged to establish an independent body of adjudicator empowered with enforcement, dispute resolution and sanctioning. Member States could explore setting up a joint adjudicator for the food and drink sector and the retail sector. 							
<ul style="list-style-type: none"> The Commission could disseminate good practices in this regard. 							
6.5 Sectorial interventions - 6.5.4 Manufacturing, IT/software/telecommunication, utilities and transport, and business and professional services sectors							
Recommendation area 12		☺		☹		☹	

<ul style="list-style-type: none"> • Member States/business associations, where relevant, could foster prompt payment codes setting the business standards in the respective sectors. 							
<ul style="list-style-type: none"> • The Commission could disseminate good practices in this regard. 							