

HOPE position on the proposal of the European Commission on combating late payments in commercial transactions

HOPE is the acronym of the European Hospital and Healthcare Federation, an international non-profit organisation, created in 1966. HOPE, the European Hospital and Healthcare Federation, is made up of national organizations representing public and/or private hospitals. It covers more or less 80% of hospital activities in the European Union.

The Commission proposes to revise the EU rules on late payment in commercial transactions with two measures applying only to the public sector: payment terms for public authorities should not exceed 30 days unless explicitly agreed and duly justified; a 5% late payment fee on the amount due on undisputed invoices (in addition to statutory interest and recovery fees). In the proposed Directive there is also an automatic fixed rate for recovery costs (including a fixed 1% fee on invoiced amounts over €10000) that would be imposed on public and private sector.

HOPE is committed to solve the issue of late payments and does not underestimate this issue, in particular for small and medium enterprises.

In a report (that seems to serve as a basis of this proposal) requested by the Commission called “*Review of the effectiveness of the European Legislation in combating late payments*”, the healthcare sector is particularly blamed, with strong examples coming from Italy, Czech Republic, Portugal and Malta.

Unfortunately the diagnostic is distorted. A lot could be said on the extremely schematic presentation made of a limited number of the healthcare sectors. It considers only what goes wrong, when there is no such issue in some member states. The information is even sometimes outdated and with a lot of bias and misunderstanding. The examples given in the report do not always give an accurate picture of what is really happening in the relation with the companies, etc.

At least one thing is partially right for some of the countries mentioned. The report says that “*regulations like the one proposed by the Directive have had and will have little or no impact on these sectors as they require substantial reforms.*” But again, late payments are not an issue in the healthcare systems of several EU member states.

Concerning the special rules for the public sector, it will first of all be difficult in some cases to differentiate public and private hospitals. More important, their resources are coming from the same public money (state or compulsory social security).



HOPE considers the proposal of the Commission disproportionate with several unintended consequences.

Where there is a real problem the solution proposed in the Directive would not tackle the source of the problem. In all cases the 5% late payment fee which is in addition to statutory interest rates and recovery costs is disproportionate especially given that it is not linked to any actual costs incurred by the supplier.

The proposal creates discrimination between public and private sector healthcare providers (especially with regard to the 5% late payment fee).

The 1% recovery fee on large contracts is equally disproportionate.

HOPE would suggest deleting of the article introducing the 5% late payment fee and replacing the 1% recovery fee on large contracts with a fixed rate fee as is proposed for smaller contracts.

Contact: Pascal Garel sg@hope.be

