Directive 2011/7/EU of the European Parliament and of the Council of 16 February 2011 on combating late payment in commercial transactions (recast) (Text with EEA relevance)

Article 4

Transactions between undertakings and public authorities

1 Member States shall ensure that, in commercial transactions where the debtor is a public authority, the creditor is entitled upon expiry of the period defined in paragraphs 3, 4 or 6 to statutory interest for late payment, without the necessity of a reminder, where the following conditions are satisfied:

a the creditor has fulfilled its contractual and legal obligations; and

b the creditor has not received the amount due on time, unless the debtor is not responsible for the delay.

2 Member States shall ensure that the applicable reference rate:

a for the first semester of the year concerned shall be the rate in force on 1 January of that year;

b for the second semester of the year concerned shall be the rate in force on 1 July of that year.

3 Member States shall ensure that in commercial transactions where the debtor is a public authority:

a the period for payment does not exceed any of the following time limits:

(i) 30 calendar days following the date of receipt by the debtor of the invoice or an equivalent request for payment;

(ii) where the date of receipt of the invoice or the equivalent request for payment is uncertain, 30 calendar days after the date of the receipt of the goods or services;

(iii) where the debtor receives the invoice or the equivalent request for payment earlier than the goods or the services, 30 calendar days after the date of the receipt of the goods or services;

(iv) where a procedure of acceptance or verification, by which the conformity of the goods or services with the contract is to be ascertained, is provided for by statute or in the contract and if the debtor receives the invoice or the equivalent request for payment earlier or on the date on which such acceptance or verification takes place, 30 calendar days after that date;

b the date of receipt of the invoice is not subject to a contractual agreement between debtor and creditor.

4 Member States may extend the time limits referred to in point (a) of paragraph 3 up to a maximum of 60 calendar days for:

a any public authority which carries out economic activities of an industrial or commercial nature by offering goods or services on the market and which is subject, as a public undertaking, to the transparency requirements laid down in Commission Directive 2006/111/EC of 16 November 2006 on the transparency of financial relations

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between Member States and public undertakings as well as on financial transparency within certain undertakings[1];

b public entities providing healthcare which are duly recognised for that purpose.

If a Member State decides to extend the time limits in accordance with this paragraph, it shall send a report on such extension to the Commission by 16 March 2018.

On that basis, the Commission shall submit a report to the European Parliament and the Council indicating which Member States have extended the time limits in accordance with this paragraph and taking into account the impact on the functioning of the internal market, in particular on SMEs. That report shall be accompanied by any appropriate proposals.

5 Member States shall ensure that the maximum duration of a procedure of acceptance or verification referred to in point (iv) of point (a) of paragraph 3 does not exceed 30 calendar days from the date of receipt of the goods or services, unless otherwise expressly agreed in the contract and any tender documents and provided it is not grossly unfair to the creditor within the meaning of Article 7.

6 Member States shall ensure that the period for payment fixed in the contract does not exceed the time limits provided for in paragraph 3, unless otherwise expressly agreed in the contract and provided it is objectively justified in the light of the particular nature or features of the contract, and that it in any event does not exceed 60 calendar days.

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(1) OJ L 318, 17.11.2006, p. 17.