

Combating Late Payments

Brief description and main aims:

Despite the existing Directive 2011/7/EU, the construction sector is still affected by the problem of late payments both from public and private clients. This is due to the characteristics of its value chain and the fact that construction companies usually must bear the costs of the construction process before they are paid.

In September 2023, the European Commission published its proposal for a *Regulation on Combatting Late Payments in Commercial Transactions*, repealing the current directive.

FIEC is supportive of clear rules aimed at fostering and safeguarding prompt payments from clients to construction companies and between companies while also minimising the administrative burden for all parties involved in a commercial transaction. For this reason, FIEC has opposed certain provisions, namely those related to payments to subcontractors in Public Procurement.

Why FIEC is dealing with this topic:

Late payments have the potential to threaten the very existence of a construction company, as a positive cash flow is essential to its day-to-day operations.

The current EU rules on late payments have been in place since 2011 but many problems remain unsolved. In some Member States, this is of particular concern for construction companies working with the public sector. Even if the current framework has provisions on payment periods and/or recovery measures, companies are often reluctant to take legal action against a public authority that has failed to pay them on time.

Ensuring that contracting authorities pay on time is not only essential for creating a prompt payment culture but has an impact on payments down the entire supply chain. All construction projects need upfront funding to some degree to initiate and mobilise the project. It is essential to the supply-chain, including the main contractor, that they are paid on time to cover the costs they are incurring. The legally enforceable principle should be that all clients pay on time – whether they are public or private contractual authorities.

Actions and key dates:

12/09/2023 – European Commission publishes a legislative proposal to tackle late payments in commercial transactions in Europe.

16/11/2023 – FIEC meets with the European Parliament's rapporteur on the file, Róza von Thun Und Hohenstein (Renew Europe).

07/12/2023 – FIEC publishes its [Position Paper](#) on the European Commission's proposal.

19/02/2024 – FIEC finalises its position on the IMCO Draft Report and disseminates it to the political groups in the European Parliament.

24/04/2024 – The European Parliament approves the new rules on Late Payments.

12/06/2024 – 14 Member States call on the European Commission to withdraw its proposal for a *Regulation on Combatting Late Payments*.