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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on combating late payment in commercial transactions - Outcome of the European Parliament's first reading (Strasbourg, 22 to 25 April 2024)

I. INTRODUCTION

The rapporteur, Róża THUN UND HOHENSTEIN (RE, PL), presented a report on the above proposal for a Regulation on behalf of the Committee on the Internal Market and Consumer Protection (IMCO) which contained 91 amendments (amendments 1 to 91) to the proposal.

In addition, the Left group tabled three amendments (amendments 92 to 94), the ID group tabled four amendments (amendments 95 to 98), the Greens/EFA group tabled one amendment (amendment 99), the EPP group tabled eight amendments (amendments 100 to 107) and a number of MEPs from different political groups tabled 11 amendments (amendments 108 to 118).

II. VOTE

When it voted on 23 April 2024, the plenary of the European Parliament adopted amendments 1 to 92, 94 and 109 to the proposal for a Regulation. No other amendments were adopted.

The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto.

P9_TA(2024)0299

Combating late payment in commercial transactions

European Parliament legislative resolution of 23 April 2024 on the proposal for a regulation of the European Parliament and of the Council on combating late payment in commercial transactions (COM(2023)0533 – C9-0338/2023 – 2023/0323(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

– having regard to the Commission proposal to Parliament and the Council (COM(2023)0533),

– having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0338/2023),

– having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

– having regard to the opinion of the European Economic and Social Committee of 17 January 2024[1],

– having regard to the opinion of the Committee of the Regions of 31 January 2024[2],

– having regard to Rule 59 of its Rules of Procedure,

– having regard to the report of the Committee on the Internal Market and Consumer Protection (A9-0156/2024),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

[1] OJ C, C/2024/2101, 26.3.2024, ELI: http://data.europa.eu/eli/C/2024/2101/oj
[2] OJ C, C/2024/1980, 18.3.2024, ELI: http://data.europa.eu/eli/C/2024/1980/oj

Amendment 1
Proposal for a regulation
Recital 2

Text proposed by the Commission	*Amendment*
(2) Many payments in commercial transactions between economic operators or between economic operators and public authorities are made later than agreed in the contract or laid down in the general commercial conditions or by law.	(2) Many payments in commercial transactions between economic operators or between economic operators and public authorities are made later than agreed in the contract or laid down in the general commercial conditions or by law***, although the goods are delivered or the services provided***.

Amendment 2
Proposal for a regulation
Recital 3

Text proposed by the Commission	*Amendment*
(3) Late payments directly affect liquidity and predictability of cash flows, thus increasing working capital needs and compromising ***a company's access to*** external financing. This affects competitiveness, reduces ***productivity***, leads to redundancies, increases the likelihood of insolvencies and bankruptcies and is a critical barrier for growth. The damaging effects of late payments spread along supply chains, as the payment delay is often passed onto suppliers. Small and medium sized enterprises (SMEs), ***who*** rely on regular and predictable streams of cash, are heavily affected by those negative consequences. Late payment thus represents a problem for the Union economy because of its negative economic and social consequences.	(3) Late payments ***and payments deferred beyond the periods established by law*** directly affect liquidity and predictability of cash flows, thus increasing working capital needs and compromising ***profitability, when the creditor needs to obtain*** external financing ***because of late payment***. This affects competitiveness, reduces, leads to redundancies, increases the likelihood of insolvencies and bankruptcies and is a critical barrier for growth***, also considering that inflation reduces the real value of credits over time***. The damaging effects of late payments spread along supply chains, as the payment delay is often passed onto suppliers. Small and medium sized enterprises (SMEs), ***and in particular micro-enterprises, which*** rely on regular and predictable streams of cash, are heavily affected by those negative consequences. Late payment thus represents a problem for the Union economy because of its negative economic and social consequences. ***The risk of such negative effects strongly increases in periods of economic downturn when access to financing is more difficult.***

Amendment 3
Proposal for a regulation
Recital 6

Text proposed by the Commission	*Amendment*
(6) Directive 2011/7/EU of the European Parliament and of the Council[40] lays down rules to combat late payment in commercial transactions. In 2019, the European Parliament identified several shortcomings of that Directive. The SME Strategy for a sustainable and digital Europe[41] called for ensuring a 'late-payment-free' environment for SMEs and strengthening the enforcement of Directive 2011/7/EU. In 2021, the Fit for Future Platform highlighted critical issues in the implementation of that Directive in its opinion. The main shortcomings identified in these initiatives are related to: the ambiguous provisions on 'grossly unfair' regarding the deadlines for payment in business to business transactions (B2B), the unfair payment practices and the deadlines for the procedures of acceptance and verification; the flat fee compensation; the asymmetry of rules for payments terms between G2B and B2B transactions; the lack of a maximum payment term for commercial transactions in B2B transactions; the lack of monitoring of compliance and enforcement; the absence of tools to combat the asymmetries of information; as well as tools for creditors to take action against their debtors, and the lack of synergies with the public procurement framework.	(6) Directive 2011/7/EU of the European Parliament and of the Council[40] lays down rules to combat late payment in commercial transactions. In 2019, the European Parliament identified several shortcomings of that Directive. The SME Strategy for a sustainable and digital Europe[41] called for ensuring a 'late-payment-free' environment for SMEs and strengthening the enforcement of Directive 2011/7/EU. In 2021, the Fit for Future Platform highlighted critical issues in the implementation of that Directive in its opinion. The main shortcomings identified in these initiatives are related to: the ambiguous provisions on 'grossly unfair' regarding the deadlines for payment in business to business transactions (B2B), the unfair payment practices and the deadlines for the procedures of acceptance and verification; the flat fee compensation; the asymmetry of rules for payments terms between G2B and B2B transactions; the ***asymmetries in bargaining power between large and more powerful debtors and small creditors; the*** lack of a maximum payment term for commercial transactions in B2B transactions; the lack of monitoring of compliance and enforcement; the absence of tools to combat the asymmetries of information; as well as tools for creditors to take action against their debtors, and the lack of synergies with the public procurement framework.
[40] Directive 2011/7/EU of the European Parliament and of the Council of 16 February 2011 on combating late payment in commercial transactions (OJ L 48, 23.2.2011, p. 1).	[40] Directive 2011/7/EU of the European Parliament and of the Council of 16 February 2011 on combating late payment in commercial transactions (OJ L 48, 23.2.2011, p. 1).
[41] COM (2020) 103 final.	[41] COM (2020) 103 final.

Amendment 92
Proposal for a regulation
Recital 9 a (new)

Text proposed by the Commission	*Amendment*
	(9a) Cultural diversity is enshrined in Article 167 TFEU and must be protected, and the cultural economic sectors have specific characteristics, in particular slow turnover in the book trade.

Amendment 4
Proposal for a regulation
Recital 10

Text proposed by the Commission	*Amendment*
(10) Transactions with consumers, payments made as compensation for damages***, including payments from insurance companies,*** and obligations to pay that can be cancelled, postponed, or waived under or in relation to insolvency proceedings or restructuring proceedings, including preventive restructuring proceedings under Directive (EU) 2019/1023[42] of the European Parliament and of the Council, should be excluded from the scope of this Regulation.	(10) Transactions with consumers, payments made as compensation for damages and obligations to pay that can be cancelled, postponed, or waived under or in relation to insolvency proceedings or restructuring proceedings, including preventive restructuring proceedings under Directive (EU) 2019/1023[42] of the European Parliament and of the Council, should be excluded from the scope of this Regulation. ***However, payments made in performance of obligations stemming from insurance contracts should be covered by this Regulation. In particular, payments made in transactions between insurance companies and undertakings in exchange for the delivery of goods or the provision of services for remuneration, including as a compensation to other third parties, should fall within the scope of this Regulation.***
[42] Directive (EU) 2019/1023 of the European Parliament and of the Council of 20 June 2019 on preventive restructuring frameworks, on discharge of debt and disqualifications, and on measures to increase the efficiency of procedures concerning restructuring, insolvency and discharge of debt, and amending Directive (EU) 2017/1132 (OJ L 172, 26.6.2019, p. 18).	[42] Directive (EU) 2019/1023 of the European Parliament and of the Council of 20 June 2019 on preventive restructuring frameworks, on discharge of debt and disqualifications, and on measures to increase the efficiency of procedures concerning restructuring, insolvency and discharge of debt, and amending Directive (EU) 2017/1132 (OJ L 172, 26.6.2019, p. 18).

Amendment 5
Proposal for a regulation
Recital 11

Text proposed by the Commission	*Amendment*
(11) Late payment constitutes a breach of contract which is financially attractive to debtors, due to low or no interest rates charged on late payment, or slow procedures for redress. A decisive shift to a culture of prompt payment, including one in which the exclusion of the right to charge interest for late payment is null and void, is necessary to reverse this trend and to discourage late payment. Consequently, contractual payment periods should be limited to 30 calendar days both in B2B transactions and G2B transactions, where the public authority is the debtor.	(11) Late payment constitutes a breach of contract which is financially attractive to debtors, due to low or no interest rates charged on late payment, or slow procedures for redress. A decisive shift to a culture of prompt payment, including one in which the exclusion of the right to charge interest for late payment is null and void, is necessary to reverse this trend and to discourage late payment. Consequently, contractual payment periods should be limited to 30 calendar days both in B2B transactions and G2B transactions, where the public authority is the debtor. ***This shift is also needed to limit the so-called 'fear factor' that micro and small undertakings suffer when they have a credit with bigger companies and that often brings such creditors to accept longer payment periods than they are comfortable with against the promise of future business. At the same time, additional flexibility should be granted to the undertakings so they can benefit from the freedom of contract and negotiate a longer payment period up to 60 calendar days. This extended payment period should be possible when it is mutually beneficial for the creditor and the debtor. Electronic invoicing can also be a helpful tool in shortening the payment period, as it would help creditors to prove the date of receipt of the invoice in the event of doubt or dispute.***

Amendment 6
Proposal for a regulation
Recital 11 a (new)

Text proposed by the Commission	*Amendment*
	(11a) Against this background, it is necessary to acknowledge the existence of certain business models and industry practices within the retail sector which aim to keep slightly longer payment periods. As these practices reflect low rotation and seasonality of certain product categories, as well as unique operating cycles of some slow-moving cultural goods, such as toys, jewellery, sporting equipment or books, and are mutually beneficial for the creditors and the debtors, it is desirable to allow a limited flexibility in this matter so that the contracting parties can benefit of up to 120 calendar days payment period.

Amendment 7
Proposal for a regulation
Recital 12

Text proposed by the Commission	*Amendment*
(12) The procedures of acceptance or verification for ascertaining the conformity of the goods or services provided with the requirements of the contract, as well as verification of the correctness and conformity of the invoice, are often used to delay intentionally the payment period. Their inclusion in the contract should therefore be objectively justified by the particular nature of the contract in question or by certain of its characteristics[43]. It should therefore be possible to provide for such procedure of verification or acceptance in a contract only when provided for in national law where necessary, due to the specific nature of the goods or services. To avoid that the procedure of acceptance or verification is used to extend the payment period, the contract should clearly describe the details of such procedure, including its duration. For the same purpose, the debtor should initiate the verification or acceptance procedure immediately upon reception from the creditor of the goods and/or the services that are the object of the commercial transaction, regardless of whether the creditor has issued an invoice or equivalent request for payment. In order not to jeopardise the achievement of the objectives of this Regulation, it is appropriate to set a maximum duration of a procedure of acceptance or verification.	(12) The procedures of acceptance or verification for ascertaining the conformity of the goods or services provided with the requirements of the contract, as well as verification of the correctness and conformity of the invoice, are ***very useful tools in many commercial transactions, in particular to protect the interests of the seller and to avoid unnecessary legal disputes between the parties. This Regulation does not seek to limit the use of these tools. However, these procedures are*** often used to delay intentionally the payment period. ***In the context of establishing the payment period,*** their inclusion in the contract should therefore be objectively justified by the particular nature of the contract in question or by certain of its characteristics[43]. It should therefore be possible to provide for such procedure of verification or acceptance in a contract only when provided for in national law where necessary, due to the specific nature of the goods or services. To avoid that the procedure of acceptance or verification is used to extend the payment period, the contract should clearly describe the details of such procedure, including its duration. For the same purpose, the debtor should initiate the verification or acceptance procedure immediately upon reception from the creditor of the goods and/or the services that are the object of the commercial transaction, regardless of whether the creditor has issued an invoice or equivalent request for payment. In order not to jeopardise the achievement of the objectives of this Regulation, it is appropriate to set a maximum duration of a procedure of acceptance or verification ***for the purposes of establishing the payment period***.
[43] Judgment of 20 October 2022, BFF Finance Iberia SAU v Gerencia Regional de Salud de la Junta de Castilla y León (OJ C 53, 15.2.2021, p. 19) C585/20, EU:C:2022:806, paragraph 53.	[43] Judgment of 20 October 2022, BFF Finance Iberia SAU v Gerencia Regional de Salud de la Junta de Castilla y León (OJ C 53, 15.2.2021, p. 19) C585/20, EU:C:2022:806, paragraph 53.

Amendment 8
Proposal for a regulation
Recital 18

Text proposed by the Commission	*Amendment*
(18) Fair compensation of creditors for the recovery costs incurred due to late payment is necessary to discourage late payment. These costs should include the recovery of administrative costs and compensation for internal costs incurred due to the late payment and should be cumulated with interest for the late payment for every single commercial transaction that has been paid late as determined by the Court of Justice[48]. The fixed minimum sum of compensation for the recovery costs should be determined without prejudice to national provisions according to which a national court may award compensation to the creditor for any additional damage regarding the debtor's late payment.	(18) Fair compensation of creditors for the recovery costs incurred due to late payment is necessary to discourage late payment. These costs should include the recovery of administrative costs and compensation for internal costs incurred due to the late payment***, should be adapted to the value of the invoice in question*** and should be cumulated with interest for the late payment for every single commercial transaction that has been paid late as determined by the Court of Justice[48]. The fixed minimum sum of compensation for the recovery costs should be determined without prejudice to national provisions according to which a national court may award compensation to the creditor for any additional damage regarding the debtor's late payment.
[48] Judgement of 20 October 2022, BFF Finance Iberia SAU vs Gerencia Regional de Salud de la Junta de Castilla y León, C-585/20, ECLI:EU:C:2022:806.	[48] Judgement of 20 October 2022, BFF Finance Iberia SAU vs Gerencia Regional de Salud de la Junta de Castilla y León, C-585/20, ECLI:EU:C:2022:806.

Amendment 9
Proposal for a regulation
Recital 18 a (new)

Text proposed by the Commission	*Amendment*
	(18a) This Regulation upholds contractual freedom and the implementation of Article 16 of the Charter of Fundamental rights concerning the freedom to conduct a business. For this purpose, this Regulation leaves to the contracting parties the choice of contractual relations, as well as the type of contract and its modalities. Choice of different types of contracts, including consignment contracts, where the invoice is issued at an agreed point of time after the delivery of goods, is not restricted in any way. In the case of consignment contracts or other similar types of contract the deadlines specified in this Regulation should be applicable after receipt of the invoice. As this Regulation emphasises on the payment period after issuing the invoice, thus contributing to the improvement of the payment culture overall, and merely ensures that agreements on the payment period do not abuse the freedom of contract to the disadvantage of the creditor, it should be possible for the parties to benefit from the freedom of contract and consent to their preferred type of agreement;

Amendment 10
Proposal for a regulation
Recital 21

Text proposed by the Commission	*Amendment*
(21) Abuse of freedom of contract to the disadvantage of the creditor should be avoided. As a result, where a clause in a contract or a practice relating to the date or term of payment, the payment or rate of interest for late payment, the compensation for recovery costs, extending the duration the procedure of verification or acceptance or ***intentionally delaying or*** preventing the moment of sending the invoice is not in conformity with this Regulation, it should be null and void.	(21) Abuse of freedom of contract to the disadvantage of the creditor should be avoided. As a result, where a clause in a contract or a practice relating to the date or term of payment, the payment or rate of interest for late payment, the compensation for recovery costs, extending the duration the procedure of verification or acceptance or preventing the moment of sending the invoice is not in conformity with this Regulation, it should be null and void ***and in any case prohibited***. ***In the same vein, certain practices leading to an abuse of freedom of contract that is to the disadvantage of the creditor should also be prohibited. The debtor should not be able to prevent or restrict assignments of credits to third parties, or the use by the creditor of an executive order issued by a court.***

Amendment 11
Proposal for a regulation
Recital 22

Text proposed by the Commission	*Amendment*
(22) To enhance the efforts to prevent the abuse of freedom of contract to the detriment of creditors, organisations officially recognised as representing creditors or organisations with a legitimate interest in representing undertakings should be able to take action before national courts or administrative bodies in order to prevent late payments.	(22) To enhance the efforts to prevent the abuse of freedom of contract to the detriment of creditors, organisations officially recognised as representing creditors or organisations with a legitimate interest in representing undertakings should be able to take action before national courts or administrative bodies in order to prevent late payments ***and to end contractual terms and practices that are null and void***.

Amendment 12
Proposal for a regulation
Recital 23

Text proposed by the Commission	*Amendment*
(23) To guarantee full payment of the amount due, it is important to ensure that the seller retains the title to goods until they are fully paid for, if a retention of title has been expressly agreed between the buyer and the seller before the delivery of the goods.	(23) To guarantee full payment of the amount due, it is important to ensure that the seller retains the title to goods until they are fully paid for, if a retention of title has been expressly agreed between the buyer and the seller before the delivery of the goods. ***To take into account the specificities of certain goods characterised by their slow rotation, retention of title can also be used by sellers to provide extended credit to their buyers in a manner that remains consistent with this Regulation, as for example in consignment sales.***

Amendment 13
Proposal for a regulation
Recital 24

Text proposed by the Commission	*Amendment*
(24) To ensure correct application of this Regulation, it is important to provide transparency regarding the rights and obligations as laid down by this Regulation. To ensure that the correct rates of interest are applied, it is important that they are made public by the Member States and the Commission.	(24) To ensure correct application of this Regulation, it is important to provide transparency regarding the rights and obligations as laid down by this Regulation. To ensure that the correct rates of interest are applied, it is important that they are made public by the Member States and the Commission. ***In order to contribute to the achievement of the objective of this Regulation, Member States should increase awareness of the remedies for late payment among undertakings through publications and campaigns and should foster the spread of good practices.***

Amendment 14
Proposal for a regulation
Recital 25

Text proposed by the Commission	*Amendment*
(25) The sanctions for late payment can be dissuasive only if they are accompanied by procedures for redress which are rapid and effective for the creditor. Expedient recovery procedures for unchallenged claims should therefore be available to all creditors who are established in the Union.	(25) The sanctions for late payment can be dissuasive only if they are accompanied by procedures for redress which are rapid and effective for the creditor. Expedient recovery procedures for unchallenged claims should therefore be available to all creditors who are established in the Union***, in accordance with the principle of non-discrimination set out in Article 18 of the Treaty on the Functioning of the European Union ('TFEU')***.

Amendment 15
Proposal for a regulation
Recital 26

Text proposed by the Commission	*Amendment*
(26) To facilitate and ensure compliance with this Regulation, Member States should designate authorities responsible for its enforcement, which perform their duties and tasks in an objective and fair manner and ensure equal treatment of private undertakings and public authorities. Those enforcement authorities should carry out investigations on their own initiative, act on complaints, and be empowered, among other things, to impose sanctions and publish their decisions on a regular basis. In addition, for more effective enforcement, Member States should use digital tools ***to the extent possible***.	(26) To facilitate and ensure compliance with this Regulation, Member States should designate ***independent*** authorities responsible for its enforcement, which perform their duties and tasks in an objective and fair manner and ensure equal treatment of private undertakings and public authorities. Those enforcement authorities should carry out investigations on their own initiative, act on complaints, ***including anonymous complaints or notifications,*** and be empowered, among other things, to impose sanctions and publish their decisions on a regular basis. In addition, for more effective enforcement, Member States should use digital tools ***in order to facilitate this process. The Commission should assess how the enforcement authorities carry out the tasks conferred to them by this Regulation***.

Amendment 16
Proposal for a regulation
Recital 27

Text proposed by the Commission	*Amendment*
(27) To ensure easy and accessible means of redress, Member States should promote the voluntary use of effective and independent alternative dispute resolution mechanism to solve payment disputes in commercial transactions.	(27) To ensure easy and accessible means of redress, Member States should promote the voluntary use of effective and independent alternative dispute resolution mechanism to solve payment disputes in commercial transactions. ***Member States could designate their respective chambers of commerce and industry as bodies responsible for alternative dispute resolution, provided that they can demonstrate impartiality and independence from the parties. As parties may engage in negotiations to reach an amicable settlement regarding disputed debts, such settlements may involve the adjustment of interest and compensation claims, provided they are in compliance with principles of fairness and do not unduly disadvantage the creditor.***

Amendment 17
Proposal for a regulation
Recital 27 a (new)

Text proposed by the Commission	*Amendment*
	(27a) In view of the need to enhance transparency and accountability in commercial transactions, and in line with the objectives of promoting responsible financial management and fair business practices, it is imperative to introduce specific reporting obligations for contracting authorities as described in Article 2(1) of Directive 2014/24/EU. Contracting authorities should report annually on their payment practices, providing detailed insights into the promptness of their payments. A structured approach to reporting is necessary to foster greater transparency in payment practices and to assist in identifying areas where improvements are needed. The reporting obligation should include the disclosure of amounts, in euros, paid within various time frames after the payment deadline set out in this Regulation. The detailed reporting should include categorising payments made in intervals of 1 to 30 days, 31 to 60 days, 61 to 90 days, and beyond 90 days after the stipulated payment deadline, and the average time taken to pay an invoice should be part of the report. To ensure that the information is not only used for regulatory compliance but also serves as a tool for public scrutiny and encourages best practices in payment disciplines, the reports should be made publicly accessible and should be submitted in an electronic format to the relevant Member State enforcement authority.

Amendment 18
Proposal for a regulation
Recital 28

Text proposed by the Commission	*Amendment*
(28) Invoices trigger requests for payment and are important documents in the chain of transactions for the supply of goods and services, inter alia, for determining payment deadlines. It is important to promote systems that give legal certainty as regards the exact date of receipt of invoices by the debtors, including in the field of e-invoicing where the receipt of invoices could generate electronic evidence, and which is partly governed by the provisions on invoicing contained in Council Directive 2006/112/EC[49] and Directive 2014/55/EC[50] of the European Parliament and the Council.	(28) Invoices trigger requests for payment and are important documents in the chain of transactions for the supply of goods and services, inter alia, for determining payment deadlines. It is important to promote systems that give legal certainty as regards the exact date of receipt of invoices by the debtors, including in the field of e-invoicing where the receipt of invoices could generate electronic evidence ***and can also help to improve compliance with VAT obligations***, and which is partly governed by the provisions on invoicing contained in Council Directive 2006/112/EC[49] and Directive 2014/55/EC[50] of the European Parliament and the Council.
[49] Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).	[49] Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).
[50] Directive 2014/55/EU of the European Parliament and of the Council of 16 April 2014 on electronic invoicing in public procurement (OJ L 133, 6.5.2014, p. 1).	[50] Directive 2014/55/EU of the European Parliament and of the Council of 16 April 2014 on electronic invoicing in public procurement (OJ L 133, 6.5.2014, p. 1).

Amendment 19
Proposal for a regulation
Recital 28 a (new)

Text proposed by the Commission	*Amendment*
	(28a) The gradual introduction of compulsory e-invoicing can reduce payment times, increase payment control and encourage the digital transition of SMEs. National authorities should support SMEs by ensuring adequate infrastructure and support.

Amendment 20
Proposal for a regulation
Recital 29

Text proposed by the Commission	*Amendment*
(29) Effective access of undertakings, especially of SMEs, to credit management and financial literacy training can have a significant impact in reducing payment delays, maintaining optimal cash flows, reducing the risk of default and increasing the potential for growth. Nevertheless, SMEs often lack the capacity to invest in such training, while very limited trainings and training material focusing on enhancing SMEs' knowledge of credit and invoice management are currently available. It is therefore appropriate to provide that Member States need to ensure that credit management and financial literacy trainings are available and accessible to SMEs, including on the use of digital tools for timely payments.	(29) Effective access of undertakings, especially of ***micro-enterprises and*** SMEs, to credit management***, including financing services,*** and financial literacy training can have a significant impact in reducing payment delays, maintaining optimal cash flows, reducing the risk of default and increasing the potential for growth. Nevertheless, ***micro-enterprises and*** SMEs often lack the capacity to invest in such training, while very limited trainings and training material focusing on enhancing ***micro-enterprises and*** SMEs' knowledge of credit and invoice management are currently available. It is therefore appropriate to provide that Member States need to ensure that ***invoice management,*** credit management ***tools, including factoring*** and financial literacy trainings are available and accessible to ***micro-enterprises and*** SMEs, including on the use of digital tools for timely payments ***and financing services***.

Amendment 21
Proposal for a regulation
Recital 29 a (new)

Text proposed by the Commission	*Amendment*
	(29a) Recognising the critical impact of late payment practices on the European Union's economic environment and in order to enhance transparency, compliance, and best practices, the Commission should establish the European Observatory of Late Payments ('the Observatory'). The Observatory should be a key element in monitoring, analyzing, and sharing insights on payment behaviors across the Union with a primary function to monitor both timely and delayed payment practices, gathering and disseminating expertise, identifying best and potentially harmful practices, and evaluating the effectiveness of enforcement authorities in their regulatory roles. The Observatory's focus should be on providing the Commission with ongoing advice and expertise crucial for understanding and shaping the evolution of payment and late payment practices within the Union. To facilitate comprehensive monitoring and effective functioning, Member States should communicate essential information to the Observatory, including lists of goods and services subject to specific payment procedures, aggregated data from relevant articles, and details regarding enforcement actions and outcomes. The Observatory, chaired by the Commission and composed of a balanced representation of experts and stakeholders, should issue annual reports, opinions, and contributions pertinent to implementing and enforcing this Regulation. The outputs should reflect the state of payment practices and offer guidelines and recommendations for enhancing the effectiveness and fairness of the regulatory framework governing late payments.

Amendment 22
Proposal for a regulation
Recital 29 b (new)

Text proposed by the Commission	*Amendment*
	(29b) To assess and ensure the effectiveness of this Regulation, the Commission should comprehensively evaluate its implementation and impact through a comprehensive report. Given the dynamic nature of commercial transactions and the evolving market conditions, the report should be a crucial tool in understanding the Regulation's effectiveness and identifying areas for improvement. The Commission, based on the findings of the report, should be prepared to accompany it with a legislative proposal if considered to be necessary and appropriate, ensuring that the Regulation remains relevant, effective, and aligned to promote fair and efficient payment practices within the Union. Therefore, four years after the entry of this Regulation into force, and subsequently every three years, the Commission should submit a report to the European Parliament and the Council, which will maintain transparency, evaluate the progress, and make necessary adjustments to the Regulation. The report should examine the impact of the scope of this Regulation, focusing on its effects across specific sectors and business models, and provide insights into how the Regulation influences diverse commercial landscapes. The report should evaluate the impact of measures implemented, especially those related to payment periods, on enhancing cash flow and liquidity in the market to shed light on the practical effectiveness of these measures in improving financial dynamics. The report should also assess the effectiveness of the enforcement authorities in ensuring compliance and addressing payment issues. An additional aspect of the report should explore the potential benefits of introducing Union-wide e-invoicing and its role in shortening payment periods. To facilitate this comprehensive evaluation, Member States should provide the necessary information to the Commission, including details of enforcement actions and outcomes. The report should also include an assessment of the overall impact of this Regulation on commercial transactions and the effectiveness of the European Observatory of Late Payments in monitoring payment practices within the Union.

Amendment 23
Proposal for a regulation
Recital 30

Text proposed by the Commission	*Amendment*
(30) Certain provisions in this Regulation are linked to the provisions in Directive (EU) 2019/633 of the European Parliament and of the Council[51] . The relationship between Directives 2011/7/EU and (EU) 2019/633 is explained in recitals (17) and (18) and Article 3(1) of Directive (EU) 2019/633. As this Regulation replaces Directive 2011/7/EU, it should not affect the rules laid down in Directive (EU) 2019/633, including the provisions that are applicable to payments made in the context of the school scheme[52] , value-sharing agreements[53] and certain payments for the sale of grapes, must and wine in bulk in the wine sector[54] ***, except for the deadlines applicable to the maximum payment periods concerning the supply of non-perishable agricultural and food products***. However, this Regulation does not prevent the Member States from introducing or maintaining national provisions applicable in the agricultural and food sector which provide for stricter payment terms, or different calculation of payment periods, dies a quo and verification and acceptance procedures for suppliers of agricultural and food products that are more favourable to the creditor.	(30) Certain provisions in this Regulation are linked to the provisions in Directive (EU) 2019/633 of the European Parliament and of the Council[51] . The relationship between Directives 2011/7/EU and (EU) 2019/633 is explained in recitals (17) and (18) and Article 3(1) of Directive (EU) 2019/633. As this Regulation replaces Directive 2011/7/EU, it should not affect the rules laid down in Directive (EU) 2019/633, including the provisions that are applicable to payments made in the context of the school scheme[52] , value-sharing agreements[53] and certain payments for the sale of grapes, must and wine in bulk in the wine sector[54]. However, this Regulation does not prevent the Member States from introducing or maintaining national provisions applicable in the agricultural and food sector which provide for stricter payment terms, or different calculation of payment periods, dies a quo and verification and acceptance procedures for suppliers of agricultural and food products that are more favourable to the creditor.
[51] Directive (EU) No 2019/633 of the European Parliament and of the Council of 17 April 2019 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain (OJ L 111, 25.4.2019, p. 59). [52] Article 23 of Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013, establishing a common organisation of the markets in agricultural products (OJ L 347, 20.12.2013, p. 671). [53] Article 172a of Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013, establishing a common organisation of the markets in agricultural products (OJ L 347, 20.12.2013, p. 671). [54] Article 147a of Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013, establishing a common organisation of the markets in agricultural products (OJ L 347, 20.12.2013, p. 671).	[51] Directive (EU) No 2019/633 of the European Parliament and of the Council of 17 April 2019 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain (OJ L 111, 25.4.2019, p. 59). [52] Article 23 of Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013, establishing a common organisation of the markets in agricultural products (OJ L 347, 20.12.2013, p. 671). [53] Article 172a of Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013, establishing a common organisation of the markets in agricultural products (OJ L 347, 20.12.2013, p. 671). [54] Article 147a of Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013, establishing a common organisation of the markets in agricultural products (OJ L 347, 20.12.2013, p. 671).

Amendment 24
Proposal for a regulation
Recital 31

Text proposed by the Commission	*Amendment*
(31) The objectives of this Regulation are to combat late payment in commercial transactions, in order to ensure the proper functioning of the internal market, thereby fostering the competitiveness of undertakings and in particular of SMEs. Those objectives cannot be sufficiently achieved by the Member States, as implementing national solutions would likely result in a lack of uniform rules, fragmentation of the single market and higher costs for companies trading across borders. Therefore, those objectives can be better achieved at Union level. The Union may therefore adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty ***of*** European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary to achieve those objectives.	(31) The objectives of this Regulation are to combat late payment in commercial transactions, in order to ensure the proper functioning of the internal market, thereby fostering the competitiveness of undertakings and in particular of ***micro-enterprises and*** SMEs. Those objectives cannot be sufficiently achieved by the Member States, as implementing national solutions would likely result in a lack of uniform rules, fragmentation of the single market and higher costs for companies trading across borders. Therefore, those objectives can be better achieved at Union level. The Union may therefore adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty ***on*** European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary to achieve those objectives.

Amendment 25
Proposal for a regulation
Recital 32

Text proposed by the Commission	*Amendment*
(32) To provide sufficient time for all relevant actors to put in place the arrangements needed to comply with this Regulation, its application should be deferred. However, to ensure better protection of the creditors, commercial transactions that are to be paid after the date of entry into force of this Regulation, shall be subject to its provisions, even if the relevant contract was signed before its date of application.	(32) To provide sufficient time for all relevant actors to put in place the arrangements needed to comply with this Regulation, its application should be deferred. However, to ensure better protection of the creditors, commercial transactions that are to be paid after the date of entry into force of this Regulation, shall be subject to its provisions, even if the relevant contract was signed before its date of application. ***In the case of micro-undertakings which encounter the biggest challenges in terms of cash flow, the application of this Regulation in situations where they are debtors should be deferred for a further 12 months.***

Amendment 26
Proposal for a regulation
Article 1 – paragraph - 1 (new)

Text proposed by the Commission	*Amendment*
	-1. The aim of this Regulation is to combat late payment in commercial transactions, in order to ensure the proper functioning of the internal market, thereby fostering the competitiveness of undertakings and in particular SMEs.

Amendment 27
Proposal for a regulation
Article 1 – paragraph 3 – point b

Text proposed by the Commission	*Amendment*
(b) payments made as compensation for damages***, including payments from insurance companies***;	(b) payments made as compensation for damages;

Amendment 109

Proposal for a regulation
Article 1 – paragraph 3 – point c a (new)

Text proposed by the Commission	*Amendment*
	(ca) Payments resulting from purchases, sales, deliveries, commissions or agency operations contributing to the manufacture of books, as well as for the supply of paper and other consumables dedicated to the printing, binding or publishing of books in their special position as slow-moving, cultural products, where the payment terms shall be defined by agreement between the concerned parties.

Amendment 28
Proposal for a regulation
Article 1 – paragraph 3 – subparagraph 1 a (new)

Text proposed by the Commission	*Amendment*
	Notwithstanding point (b), payments made in performance of the obligations stemming from insurance contracts are covered by this Regulation.

Amendment 29
Proposal for a regulation
Article 1 – paragraph 4

Text proposed by the Commission	*Amendment*
4. ***With the exception of Article 3(1),*** this Regulation shall not affect the provisions laid down in Directive (EU) 2019/633.	4. This Regulation shall not affect the provisions laid down in Directive (EU) 2019/633.

Amendment 30
Proposal for a regulation
Article 2 – paragraph 1 – point - 1 (new)

Text proposed by the Commission	*Amendment*
	(-1) 'commercial transactions' means transactions between undertakings or between undertakings and public authorities which lead to the delivery of goods or the provision of services for remuneration;

Amendment 31
Proposal for a regulation
Article 2 – paragraph 1 – point 2

Text proposed by the Commission	*Amendment*
(2) 'public authority' means any contracting authority, as defined in Article 6(1) of Directive 2014/23/EU, Article 2(1), point (1), of Directive 2014/24/EU or in Article 3(1) of Directive 2014/25/EU;	(2) 'public authority' means any contracting authority, as defined in Article 6(1) of Directive 2014/23/EU, Article 2(1), point (1), of Directive 2014/24/EU or in Article 3(1) of Directive 2014/25/EU ***regardless of the subject or value of the contract***;

Amendment 32
Proposal for a regulation
Article 2 – paragraph 1 – point 3

Text proposed by the Commission	*Amendment*
(3) 'late payment' means payment not made within the contractual or statutory payment period as set out in Article 3;	(3) 'late payment' means a payment ***of an amount due that is*** not made within the contractual or statutory payment period as set out in Article 3;

Amendment 33
Proposal for a regulation
Article 2 – paragraph 1 – point 7

Text proposed by the Commission	*Amendment*
(7) 'procedure of acceptance or verification' means the procedure for ascertaining the conformity of the goods delivered or services provided, with the requirements of the contract;	(7) 'procedure of acceptance or verification' means the procedure for ascertaining the conformity of the goods delivered or services provided, with the requirements of the contract, ***as well as the verification of the correctness of the invoice and its conformity with those requirements***;

Amendment 34
Proposal for a regulation
Article 2 – paragraph 1 – point 8

Text proposed by the Commission	*Amendment*
(8) 'debtor' means any natural or legal person or any public authority that owes a payment for a good delivered or a service provided;	(8) 'debtor' means any natural or legal person or any public authority that owes a payment for a good delivered***, or to be delivered,*** or a service provided***, or to be provided***;

Amendment 35
Proposal for a regulation
Article 2 – paragraph 1 – point 9

Text proposed by the Commission	*Amendment*
(9) ‘creditor‘ means any natural or legal person ***or any public authority*** that delivered goods to a debtor or provided services to a debtor.	(9) ‘creditor‘ means any natural or legal person that delivered***, or is obliged to deliver,*** goods to a debtor or provided***, or is obliged to provide,*** services to a debtor.

Amendment 36
Proposal for a regulation
Article 2 – paragraph 1 – point 9 a (new)

Text proposed by the Commission	*Amendment*
	(9a) ‘large undertaking’ means an ‘undertaking’ as defined in Article 3, point (4), of Directive 2013/34/EU;

Amendment 37
Proposal for a regulation
Article 2 – paragraph 1 – point 9 b (new)

Text proposed by the Commission	*Amendment*
	(9b) ‘slow-moving goods’ means goods in the retailer’s possession, from actual supply by the manufacturer or the wholesaler to final retail sale, for more than 60 days on average;

Amendment 38
Proposal for a regulation
Article 2 – paragraph 1 – point 9 c (new)

Text proposed by the Commission	*Amendment*
	(9c) ‘seasonal goods’ means goods the demand for which increases, in a significant manner, regularly at certain times or seasons of the year;

Amendment 94

Proposal for a regulation
Article 2 – paragraph 1 – point 9 d (new)

Text proposed by the Commission	*Amendment*
	(9d) "Book chain" means all the players and suppliers involved in the process of producing and marketing paper or digital books, and, in particular, the players in the book industry (author, publisher, printer, distributor, bookshop) and their suppliers.

Amendment 39
Proposal for a regulation
Article 3 – paragraph 1

Text proposed by the Commission	*Amendment*
1. In commercial transactions, the payment period shall not exceed 30 calendar days, from the date of the receipt of the invoice or an equivalent request for payment by the debtor, provided that the debtor has received the goods or services. This period shall apply both to the transactions between undertakings and between public authorities and undertakings. ***The same payment period shall also apply to the supply of non-perishable agricultural and food products on a regular and non-regular basis as referred to in Articles 3(1)(a), point (i), second indent and 3(1)(a), point (ii), second indent of Directive (EU) 2019/633, unless Member States provide for a shorter payment period for such products.***	1. In commercial transactions, the payment period shall not exceed 30 calendar days, from the date of the receipt of the invoice or an equivalent request for payment by the debtor, provided that the debtor has received the goods or services ***in accordance with contractual agreement. Where the date of the receipt of the invoice or the equivalent request for payment is uncertain, the payment period shall not exceed 30 calendar days from the date of receipt of the goods or services***. This period shall apply both to the transactions between undertakings and between public authorities and undertakings.

Amendment 40
Proposal for a regulation
Article 3 – paragraph 1 a (new)

Text proposed by the Commission	*Amendment*
	1a. In commercial transactions between undertakings, where expressly agreed in the contract, the payment period referred to in paragraph 1, may be extended up to 60 calendar days.

Amendment 41
Proposal for a regulation
Article 3 – paragraph 1 b (new)

Text proposed by the Commission	*Amendment*
	1b. By way of derogation from paragraph 1, in transactions between undertakings for the purchase of slow moving or seasonal goods, the payment period may be extended up to 120 calendar days from the date of the receipt of the invoice or an equivalent request for payment by the debtor, provided that the debtor has received the goods. ***Prior to the date of application of this Regulation, the Commission shall adopt and publish technical guidance documentation concerning the practical details for the application of this paragraph as regards the goods falling under the definition of slow moving goods laid down in Article 2(9b) and the definition of seasonal goods laid down in Article 2(9c). Such technical guidance documentation shall in particular address diverging payment practices put in place by different economic operators consisting in a risk of fragmentation of the internal market.***

Amendment 42
Proposal for a regulation
Article 3 – paragraph 2

Text proposed by the Commission	*Amendment*
2. A procedure of acceptance or verification may be ***exceptionally*** provided for in national law ***only*** where strictly necessary due to the specific nature of the goods or services. In that case, the contract shall describe the details of the procedure of acceptance or verification, including its duration.	2. A procedure of acceptance or verification***, by which the conformity of the goods or services with the contract is to be ascertained,*** may be provided for in national law where strictly necessary due to the specific nature of the goods or services. In that case, the contract shall describe the details of the procedure of acceptance or verification, including its duration.

Amendment 43
Proposal for a regulation
Article 3 – paragraph 3

Text proposed by the Commission	*Amendment*
3. Where the contract provides for a procedure of acceptance or verification, in accordance with paragraph 2, the maximum duration of that procedure shall not exceed 30 calendar days from the date of receipt of the goods or services by the debtor, even if such goods or services are supplied prior to the issuance of the invoice or an equivalent request for payment. In this case, the debtor shall initiate the procedure for acceptance or verification immediately upon reception from the creditor of the goods and/or the services that are the object of the commercial transaction. The payment period shall not exceed 30 calendar days after such procedure has ***taken*** place.	3. Where the contract provides for a procedure of acceptance or verification, in accordance with paragraph 2***, for the purposes of this Regulation***, the maximum duration of that procedure shall not exceed 30 calendar days from the date of receipt of the goods or services by the debtor, even if such goods or services are supplied prior to the issuance of the invoice or an equivalent request for payment. In this case, the debtor shall initiate the procedure for acceptance or verification immediately upon reception from the creditor of the goods and/or the services that are the object of the commercial transaction. The payment period shall not exceed 30 calendar days after such procedure has ***been concluded or after receipt of the invoice, or an equivalent request for payment, if the latter takes*** place ***later***.

Amendment 44
Proposal for a regulation
Article 3 – paragraph 4

Text proposed by the Commission	*Amendment*
4. The payment period set out in paragraph 1 is the maximum payment period and is without prejudice to a shorter period which may be provided for in national law.	4. The payment period set out in paragraph 1***, 1a and 1b*** is the maximum payment period and is without prejudice to a shorter period which may be provided for in national law.

Amendment 45
Proposal for a regulation
Article 3 – paragraph 4 a (new)

Text proposed by the Commission	*Amendment*
	4a. Member States shall introduce appropriate measures to improve public authorities payment practices towards undertakings. In this regard, Member States shall consider introducing measures to ensure that an undertaking which is a creditor within the meaning of Article 2(9) is able to obtain upon request to the public authority, which has not paid the amount due within the maximum payment period set out in paragraph 1, the offsetting of the amount due against any outstanding amount that the creditor has towards the same public authority.

Amendment 46
Proposal for a regulation
Article 5 – paragraph 1

Text proposed by the Commission	*Amendment*
1. In case of late payment, the debtor shall ***be liable to*** pay interest for late payment, except where the debtor is not responsible for the payment delay.	1. In case of late payment, the debtor shall pay interest for late payment ***to the creditor***, except where the debtor is not responsible for the payment delay.

Amendment 47
Proposal for a regulation
Article 5 – paragraph 3

Text proposed by the Commission	*Amendment*
3. It shall not be possible for the creditor to waive its right to obtain interest for late payment.	3. It shall not be possible for the creditor to waive its right to obtain interest for late payment ***when the debtor is a public authority or a large undertaking***.

Amendment 48
Proposal for a regulation
Article 5 – paragraph 6 – introductory part

Text proposed by the Commission	*Amendment*
6. Where the conditions set out in paragraph 2 are satisfied, interest for late payment shall start accruing from the ***last one of the*** following ***events:***	6. Where the conditions set out in paragraph 2 are satisfied, interest for late payment shall start accruing from the ***day*** following ***the expiry of contractual or statutory payment period and in accordance with Article 3.***
(a) receipt by the debtor of the invoice or an equivalent request for payment;	
(b) receipt by the debtor of the goods or services.	

Amendment 49
Proposal for a regulation
Article 5 – paragraph 7

Text proposed by the Commission	*Amendment*
7. The interest for late payment shall accrue until payment of the amount due.	7. The interest for late payment shall accrue until ***the creditor receives*** payment of the amount due.

Amendment 50
Proposal for a regulation
Article 8 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Where interest for late payment becomes payable in accordance with Article 5, a flat fee compensation for recovery costs shall be automatically due by the debtor to the creditor and shall amount to a fixed sum of EUR 50, per every single commercial transaction.	1. Where interest for late payment becomes payable in accordance with Article 5, a flat fee compensation for recovery costs shall be automatically due by the debtor to the creditor and shall amount to a fixed sum of EUR 50, per every single commercial transaction ***of a value between 0 and EUR 1 500, EUR 100 per every single commercial transaction of a value between 1 501 and EUR 15 000, and EUR 150 per every single commercial transaction above 15 000 EUR***.

Amendment 51
Proposal for a regulation
Article 8 – paragraph 2

Text proposed by the Commission	*Amendment*
2. The flat fee compensation referred to in paragraph 1 shall be payable by the debtor to the creditor as a compensation for the creditor's own recovery costs***, without the necessity of a reminder***.	2. The flat fee compensation referred to in paragraph 1 shall be payable by the debtor to the creditor as a compensation for the creditor's own recovery costs.

Amendment 52
Proposal for a regulation
Article 8 – paragraph 3

Text proposed by the Commission	*Amendment*
3. It shall not be possible for the creditor to waive its right to obtain the flat fee compensation laid down in paragraph 1.	3. It shall not be possible for the creditor to waive its right to obtain the flat fee compensation laid down in paragraph 1***, when the debtor is a public authority or a large undertaking***.

Amendment 53
Proposal for a regulation
Article 9 – title

Text proposed by the Commission	*Amendment*
Null and void contractual terms and practices	***Prohibition of certain*** contractual terms and practices

Amendment 54
Proposal for a regulation
Article 9 – paragraph 1 – introductory part

Text proposed by the Commission	*Amendment*
1. The following contractual terms and practices shall be null and void:	1. The following contractual terms and practices shall be null and void***, and in any case shall be prohibited***:

Amendment 55
Proposal for a regulation
Article 9 – paragraph 1 – point b a (new)

Text proposed by the Commission	*Amendment*
	(ba) excluding or limiting the right of the creditor to:
	(i) make assignments of the credit to third parties for the purpose of accessing financing services;
	(ii) make use of an executive order of payments issued by a court;

Amendment 56
Proposal for a regulation
Article 9 – paragraph 1 – point d

Text proposed by the Commission	*Amendment*
(d) ***intentionally delaying or*** preventing the moment of sending the invoice***.***	(d) preventing ***or postponing*** the moment of sending the invoice ***by the debtor;***

Amendment 57
Proposal for a regulation
Article 9 – paragraph 1 – point d a (new)

Text proposed by the Commission	*Amendment*
	(da) prohibiting, excluding or limiting the assignment of receivables to relevant financial institution;

Amendment 58
Proposal for a regulation
Article 9 – paragraph 1 – point d b (new)

Text proposed by the Commission	*Amendment*
	(db) using means of payment altering payment terms.

Amendment 59
Proposal for a regulation
Article 11 – title

Text proposed by the Commission	*Amendment*
Transparency	Transparency ***and awareness raising***

Amendment 60
Proposal for a regulation
Article 11 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	2a. Member States shall, where appropriate, use professional publications, promotion campaigns or any other functional means to increase awareness of the remedies for late payment among undertakings.

Amendment 61
Proposal for a regulation
Article 12 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Creditors shall obtain an enforceable title, including through an expedited procedure and irrespective of the amount of debt, within ***90*** calendar days of the lodging of the action or application at the court or other competent authority, provided that the debt and the procedure are not disputed.	1. Creditors shall obtain an enforceable title, including through an expedited procedure and irrespective of the amount of debt, within ***60*** calendar days of the lodging of the action or application at the court or other competent authority, provided that the debt and the procedure are not disputed.

Amendment 62
Proposal for a regulation
Article 12 – paragraph 3

Text proposed by the Commission	*Amendment*
3. This Article shall be without prejudice to the provisions of Regulation (EC) 1896/2006.	3. This Article shall be without prejudice to the provisions of Regulation (EC) 1896/2006 ***and Regulation (EC) No 861/2007***.

Amendment 63
Proposal for a regulation
Article 13 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Each Member State shall designate one or more authorities responsible for the enforcement of this Regulation ('enforcement authority').	1. Each Member State shall designate one or more authorities responsible for the enforcement of this Regulation ('enforcement authority') ***and notify them to the Commission without undue delay***. ***Member States shall provide the authorities with appropriate human, technical and financial resources to carry out its tasks and use its powers efficiently.***

Amendment 64
Proposal for a regulation
Article 13 – paragraph 1 a (new)

Text proposed by the Commission	*Amendment*
	1a. Enforcement authorities shall be independent from other public authorities, including those involved in public procurement procedures.

Amendment 65
Proposal for a regulation
Article 13 – paragraph 2

Text proposed by the Commission	*Amendment*
2. Where appropriate, enforcement authorities shall take measures necessary to ensure that the deadlines for payments are complied with.	2. Where appropriate, enforcement authorities shall take ***proportionate*** measures necessary to ensure that the deadlines for payments are complied with.

Amendment 66
Proposal for a regulation
Article 13 – paragraph 3

Text proposed by the Commission	*Amendment*
3. Enforcement authorities shall cooperate effectively with each other and with the Commission and shall provide each other with mutual assistance in investigations that have a cross-border dimension.	3. Enforcement authorities shall cooperate effectively with each other and with the Commission and shall provide each other with mutual assistance in investigations that have a cross-border dimension. ***The Commission shall facilitate the effective cooperation of the enforcement authorities.***

Amendment 67
Proposal for a regulation
Article 13 – paragraph 3 a (new)

Text proposed by the Commission	*Amendment*
	3a. Enforcement authorities shall make publicly available aggregated information regarding the number of complaints lodged against undertakings and public authorities due to violation of Article 3 of this Regulation.

Amendment 68
Proposal for a regulation
Article 13 – paragraph 5

Text proposed by the Commission	*Amendment*
5. Enforcement authorities shall forward the complaints received regarding late payments in the agricultural and food sector to the competent enforcement authorities under Directive (EU) 2019/633.	5. ***Where appropriate,*** enforcement authorities shall forward the complaints received regarding late payments in the agricultural and food sector to the competent enforcement authorities under Directive (EU) 2019/633.

Amendment 69
Proposal for a regulation
Article 13 – paragraph 5 a (new)

Text proposed by the Commission	*Amendment*
	5a. This Article shall be without prejudice to the provisions of Regulations (EC) 805/2004, (EC) 1896/2006, (EC) 861/2007 and (EU) 1215/2012.

Amendment 70
Proposal for a regulation
Article 14 – paragraph 1 – introductory part

Text proposed by the Commission	*Amendment*
1. Enforcement authorities shall have the necessary resources and expertise to perform their duties, and shall have the following powers:	1. Enforcement authorities shall have the necessary ***human, financial and technical*** resources and expertise to perform their duties ***effectively***, and shall have the following powers:

Amendment 71
Proposal for a regulation
Article 14 – paragraph 1 – point d

Text proposed by the Commission	*Amendment*
(d) the power to take decisions finding an infringement of this Regulation and requiring the debtor to pay interest for late payment as provided for in Article 5 or requiring the debtor to compensate the creditor as provided for in Article 8;	(d) the power to take decisions finding an infringement of this Regulation and requiring the debtor to pay interest for late payment as provided for in Article 5 or requiring the debtor to compensate the creditor as provided for in Article 8 ***or both***;

Amendment 72
Proposal for a regulation
Article 14 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission	*Amendment*
	The Commission shall assess how the enforcement authorities carry out all the tasks conferred to them under this Regulation.

Amendment 73
Proposal for a regulation
Article 14 – paragraph 3

Text proposed by the Commission	*Amendment*
3. Member States shall, [***by …/***without delay], notify the Commission of those rules and of those measures and shall notify it, without delay, of any subsequent amendment affecting them.	3. Member States shall, [without ***undue*** delay ***and in any case not later than 12 months from the entry into force of this Regulation***], notify the Commission of those rules and of those measures and shall notify it, without delay, of any subsequent amendment affecting them.

Amendment 74
Proposal for a regulation
Article 15 – paragraph 3

Text proposed by the Commission	*Amendment*
3. ***Where the complainant so requests,*** the enforcement authority shall take the necessary measures for the appropriate protection of the identity of the complainant. The complainant ***shall*** identify any information for which it requests confidentiality.	3. The enforcement authority shall take the necessary measures for the appropriate protection of the identity of the complainant. The complainant ***may submit a complaint to the enforcement authority anonymously or*** identify any information for which it requests confidentiality.

Amendment 75
Proposal for a regulation
Article 15 – paragraph 4

Text proposed by the Commission	*Amendment*
4. The enforcement authority that receives the complaint shall inform the complainant within ***a reasonable period of time*** after the receipt of the complaint of how it intends to follow up on the complaint.	4. The enforcement authority that receives the complaint shall inform the complainant within ***30 days*** after the receipt of the complaint of how it intends to follow up on the complaint.

Amendment 76
Proposal for a regulation
Article 15 – paragraph 5

Text proposed by the Commission	*Amendment*
5. Where an enforcement authority considers that there are insufficient grounds for acting on a complaint, it shall inform the complainant of the reasons of its decision within ***a reasonable period of time*** after the receipt of the complaint.	5. Where an enforcement authority considers that there are insufficient grounds for acting on a complaint, it shall inform the complainant of the reasons of its decision within ***30 days*** after the receipt of the complaint.

Amendment 77
Proposal for a regulation
Article 15 – paragraph 6

Text proposed by the Commission	*Amendment*
6. Where an enforcement authority considers that there are sufficient grounds for acting on a complaint, it shall initiate, conduct and conclude an investigation of the complaint within ***a reasonable period of time***.	6. Where an enforcement authority considers that there are sufficient grounds for acting on a complaint, it shall initiate, conduct and conclude an investigation of the complaint within ***90 days after the receipt of the complaint***.

Amendment 78
Proposal for a regulation
Article 15 – paragraph 7 a (new)

Text proposed by the Commission	*Amendment*
	7a. The Commission shall make a standard EU complaint form available for the enforcement authorities of the Member States.

Amendment 79
Proposal for a regulation
Article 16 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Without prejudice to the right of creditors to submit complaints under Article 15, and to the obligations and powers of enforcement authorities laid down in Articles 13, 14, and 15, Member States shall promote the voluntary use of effective and independent alternative dispute resolution mechanisms for the settlement of disputes between debtors and creditors.	1. Without prejudice to the right of creditors to submit complaints under Article 15, and to the obligations and powers of enforcement authorities laid down in Articles 13, 14, and 15, Member States shall promote the voluntary use of effective and independent alternative dispute resolution mechanisms for the settlement of disputes between debtors and creditors. ***Notwithstanding the provisions of Articles 5(3), 8(3), and 9(1) point (b) of this Regulation, parties to the agreement may engage in negotiations to reach an amicable settlement regarding disputed debts.***

Amendment 80
Proposal for a regulation
Article 16 a (new)

Text proposed by the Commission	*Amendment*
	Article 16a
	Reporting obligations
	1. Contracting authorities, as referred to in Article 2(1) of Directive 2014/24/EU, shall report on a yearly basis on their payment practices.
	2. Reporting obligation referred to in paragraph 1 shall contain:
	(a) the amount, in EUR paid:
	– 1 to 30 days after the deadline referred to in Article 3 of this Regulation;
	– 31 to 60 days after the deadline referred to in Article 3 of this Regulation;
	– 61 to 90 days after the deadline referred to in Article 3 of this Regulation;
	– more than 90 days after the deadline referred to in Article 3 of this Regulation;
	(b) average time to pay an invoice.
	3. The report referred to in paragraph 1 of this Article shall be submitted, in an electronic form, by the contracting authorities to the Member State enforcement authority referred to in Article 13 and be accessible to the public.

Amendment 81
Proposal for a regulation
Article 17 – paragraph 2

Text proposed by the Commission	*Amendment*
2. Member States shall ensure that credit management tools ***and*** financial literacy trainings are available and accessible to small and medium sized enterprises, including on the use of digital tools for timely payments.	2. Member States shall ensure that ***invoice and*** credit management tools***, including factoring and similar financing services, as well as*** financial literacy trainings ***and any other initiatives that tackle late payment*** are available and accessible to small and medium sized enterprises, including on the use of digital tools for timely payments.

Amendment 82
Proposal for a regulation
Article 17 a (new)

Text proposed by the Commission	*Amendment*
	Article 17a
	European Observatory of late payments
	1. The Commission shall set up an Observatory of Late Payment (The Observatory) by ... [OP: date of application of this Regulation].
	2. The Observatory shall monitor payment as well as late payment practices within the Union in order to collect and share expertise, best practices and identify potential harmful practices, as well as effectiveness of enforcement authorities in carrying out their tasks, with a view to provide the Commission with advice and expertise on the evolution of payment and late payment practices.
	3. Member States shall communicate to the Observatory:
	a) lists of goods and services subject to the procedure of acceptance or verification set out in Article 3(2).
	b) aggregated data containing information referred to in Articles 13(3a), 14(1), 14(2) and 16a(3);
	c) information regarding enforcement authorities, number of complaints and investigations and measures taken;
	4. The Observatory shall issue annual reports, opinions and written contributions related to the implementation of this Regulation, including the assessment and guidelines for the effective enforcement of this Regulation.
	5. The Observatory shall be chaired by the Commission and shall be composed of representatives of relevant experts and stakeholders. The composition of the board shall ensure a balanced representation of all interested stakeholders.

Amendment 83
Proposal for a regulation
Article 17 b (new)
Regulation (EC) No 1896/2006Article 7, Article 12 and Article 16

Text proposed by the Commission	*Amendment*
	Article 17b
	Amendments to Regulation (EC) No 1896/2006
	Regulation (EC) No 1896/2006 is amended as follows:
	(1) Article 7 is amended as follows:
	(a) paragraph 5 is replaced by the following:
	"5. The application shall be submitted electronically."
	(b) paragraph 6 is replaced by the following:
	"6. The application shall be signed electronically in accordance with Article [2(2)] of Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market . This signature shall be recognized in the Member State of origin without any further conditions being imposed. Member States shall introduce alternative electronic communication systems that allow secure identification of users. In this case, an electronic signature shall not be required."
	(2) Article 12(1) is replaced by the following:
	"1. If the conditions set out in Article 8 are fulfilled, the court shall issue a European order for payment using form E as set out in Annex V within 14 days of the lodging of an application. In calculating the 14-day period, the time taken by the claimant to complete, correct or amend the application shall not be taken into account."
	(3) Article 16(2) is replaced by the following:
	"2. The statement of opposition shall be sent to the defendant within 14 days from the date of service of the order for payment."

Amendment 84
Proposal for a regulation
Article 17 c (new)
Regulation (EC) No 861/2007
Article 7, Article 13 and Article 18

Text proposed by the Commission	*Amendment*
	Article 17c
	Amendments to Regulation (EC) No 861/2007
	Regulation (EC) No 861/2007 is amended as follows:
	(1) Article 7 is amended as follows:
	(a) paragraph 1 is replaced by the following:
	"1. Within 14 days of receiving the defendant's or claimant's replies within the time limit laid down in Article 5(3) or (6), the court shall give judgment or proceed as follows:
	(a) invite the parties to provide further information relating to the claim within a specified period, which shall not exceed 14 days;
	(b) take evidence in accordance with Article 9;
	(c) summon the parties to an oral hearing, which shall take place within 14 days of the summons."
	(b) paragraph 2 is replaced by the following:
	"2. Member States shall introduce alternative electronic communication systems that allow secure identification of users. In this case, an electronic signature shall not be required."
	2. In Article 13, the following paragraph is added:
	"4a. The documents referred to in Article 5(2) and (6) and judgments given in accordance with Article 7 shall be served by electronic means from 1 January 2027. Service shall be evidenced by an acknowledgement of receipt stating the date of receipt. All correspondence other than that referred to in paragraph 1 between the court and the parties or other persons involved in the proceedings shall be transmitted by electronic means with acknowledgement of receipt. Member States shall provide the technical means necessary for this by 1 January 2027."
	3. Article 18(2) is replaced by the following :
	"2. The time limit for requesting a review of the judgment shall be 14 days. It shall commence on the day on which the defendant actually became aware of the content of the judgment and was in a position to act accordingly, but no later than the day of the first enforcement measure that resulted in the defendant's assets being wholly or partially withdrawn from his disposal. An extension of this period is excluded."

Amendment 85
Proposal for a regulation
Article 18 – paragraph 1

Text proposed by the Commission	*Amendment*
By [OP: please insert the date = ***4years*** after the entry into force of this Regulation], the Commission shall submit a report on ***the*** implementation ***of this Regulation*** to the European Parliament and the Council.	By [OP: please insert the date = ***4 years*** after the entry into force of this Regulation] ***and every 3 years thereafter***, the Commission shall submit a report on ***its*** implementation to the European Parliament and the Council.

Amendment 86
Proposal for a regulation
Article 18 – paragraph 1 a (new)

Text proposed by the Commission	*Amendment*
	The report shall assess the following:
	(a) the impact of the scope as laid down in Article 1, including the impact on specific sectors and on specific business models;
	(b) the impact of the measures implemented, in particular regarding the payment periods as laid down in Article 3, on increasing the cash flow and liquidity on the market;
	(c) the effectiveness of the enforcement authorities as laid down in Articles 13, 14 and 15;
	(d) the potential benefits, of introducing EU wide e-invoicing, to shortening payment periods on the market;

Amendment 87
Proposal for a regulation
Article 18 – paragraph 1 b (new)

Text proposed by the Commission	*Amendment*
	Member States shall provide the Commission with the necessary information for the preparation of that report, including information regarding the investigations, inspections, decisions, proceedings and publications of the enforcement authorities referred to in Article 14(1).

Amendment 88
Proposal for a regulation
Article 18 – paragraph 1 c (new)

Text proposed by the Commission	*Amendment*
	The report shall include an evaluation of the impact of this Regulation on the commercial transactions and of the impact of the European Observatory of late payments on monitoring late payment practices in the EU.

Amendment 89
Proposal for a regulation
Article 18 – paragraph 1 d (new)

Text proposed by the Commission	*Amendment*
	The report shall be accompanied by a legislative proposal, if necessary and appropriate.

Amendment 90
Proposal for a regulation
Article 19 – paragraph 1 a (new)

Text proposed by the Commission	*Amendment*
	However, from [the date of application of this Regulation] until [24 months after the entry into force of this Regulation], it shall continue to apply to the situations where micro-undertakings referred to in Article 3(1) of Directive 2013/34/EU and self-employed are debtors.

Amendment 91
Proposal for a regulation
Article 20 – paragraph 2

Text proposed by the Commission	*Amendment*
2. It shall apply from [OP: please insert the date = ***12*** months after the date of entry into force of this Regulation].	2. It shall apply from [OP: please insert the date = ***18*** months after the date of entry into force of this Regulation]***, subject to Article 19, second subparagraph***.