



1 Your Rapporteur welcomes the Commission's proposal given that it improves the functioning of
2 the internal market, in particular taking into account the situation of small and medium-sized
3 enterprises.

4 Your Rapporteur observes that the absence of effective remedies is only one of the causes for late
5 payments in the internal market. The results of the Commission's impact assessment as well as
6 several stakeholder contributions and studies indicate that very often companies refrain from
7 charging interest for late payment for fear of deterioration or loss of customer relationships.
8 Furthermore, the "fear that the customer would be lost" is the most frequent reason for refraining
{ from claiming interest for late payment, according to the Commission's impact assessment.

10 In addition, the Rapporteur notes that the IPM (Interactive Policy Making – "Your Voice in
11 Europe") and EBTP (European Business Test Panel) consultation, which is referred to in the
12 Commission's impact assessment, shows that some companies never claim interest, *inter alia*,
13 because of unawareness of their right to charge interest for late payment.

14 In the light of these findings, the Rapporteur observes that addressing only one of the causes of
15 the problem is clearly not enough. Late payment can only be combated with a wide range of
16 complementary measures. These measures should include awareness-raising targeted at
17 undertakings and in particular SMEs, informing them about their rights. Practical measures that
{ facilitate timely payment, such as the use of electronic invoices, should be promoted. The
19 Rapporteur also supports the use of positive and negative naming of payers and the spread of best
20 practices to promote timely payment.

21 It is only the combined impact of these measures that can eventually lead to a different
22 commercial culture which is more conducive to timely payment and in which late payment is
23 considered as an unacceptable abuse of the client's position and a breach of contract and not as a
24 normal practice. Recasting the late payment directive is an important step in the right direction
25 but it should not be the only measure.



26 Your Rapporteur would like to discuss improvements to the following aspects of the
27 Commission's proposal in more detail:

28 **1) differential treatment of public authorities and undertakings**

29 Your Rapporteur considers that there is a further need to discuss the necessity of differential
30 treatment of public authorities and undertakings.

31 Your Rapporteur acknowledges that public authorities are different from undertakings in terms of
32 budgetary planning processes and access to financing. However, it is not self-evident that these
33 grounds are sufficient to adopt a fundamentally different approach to public authorities and
34 businesses in terms of payment periods and sanctions. He believes that a commercial relationship
35 between an undertaking and a public authority is in many ways similar to a commercial
36 relationship between two undertakings.

37 Alternatively, the Rapporteur wishes to explore the possibility of applying the rules of public
38 authorities also to utility undertakings (such as water or energy operators).

39 **2) thresholds for compensation for recovery costs (Article 4 (1))**

40 Article 4 stipulates that the creditor shall be entitled to the recovery of administrative costs
41 incurred due to late payment. The Rapporteur considers that compensation for internal
42 administrative costs should be sufficiently high to encourage creditors to claim back the money
43 and dissuade debtors from paying late even in the case of small amounts due. Therefore, the 40
44 Euros compensation for recovery of a debt of less than 1,000 Euros, even if the amount due is
45 e.g. 5 Euros, seems reasonable. It can, however, be questioned whether a payment equivalent to
46 1% for debts of 10,000 Euros or more is justified. The recovery costs are in principle the same
47 for both small and big debts. The Rapporteur believes that there is further need for discussion of
48 the thresholds from the point of view of proportionality.



49 **3) the concept of "remaining" recovery costs (Article 4 (3))**

50 Your Rapporteur wishes to clarify the concept of "remaining" recovery costs. There might be a
51 different understanding of the term "recovery costs" in different Member States, e.g. as to
52 whether the recovery costs include remuneration of the employees or not. He thinks that it might
53 be worthwhile to provide clarification (e.g. in the form of a recital) as to what these costs could
54 include.

55 This should strengthen the expected harmonising effect of the proposal and provide for more
56 predictability for the debtor, taking into account that apart from the fact that the amount should
57 remain within the limits of the "reasonable", there is no concrete capping for the amount of
58 additional recovery costs that the creditor is entitled to claim.