



Republika e Kosovës
Republika Kosovo - Republic of Kosovo
Kuvendi - Skupština - Assembly

Law No. 05/L-110

ON LATE PAYMENTS IN COMMERCIAL TRANSACTIONS

The Assembly of the Republic of Kosovo;

Based on Article 65 (1) of the Constitution of the Republic of Kosovo,

Approves

LAW ON LATE PAYMENTS IN COMMERCIAL TRANSACTIONS

Article 1
Purpose

1. The purpose of this Law is to prevent late payments in commercial transactions and determination of the deadlines and rules on calculation of interest in late payments, in cases of the supply of goods and services between business organizations or between business organizations and public authorities, to ensure a proper functioning of the market, thereby fostering the competitiveness of business organizations.

2. This law is partially in accordance with the Directive 2011/7/EU of the European Parliament and of the Council of 16 February 2011, on “Combating Late Payment in Commercial Transactions” Official Gazette of the European Union, Series L, no. 48, dated 23.2.2011, p. 1–10.

Article 2

Scope

1. This Law shall apply to all payments made as remuneration for commercial transactions.
2. This Law shall not apply to payments and debts for commercial transaction:
 - 2.1. that are subject to insolvency proceedings instituted against the debtor, including proceedings aimed at debt restructuring;
 - 2.2. that are a result of contracts with consumers;
 - 2.3. interest on late payments for transactions between natural and legal persons with financial institutions licensed in Kosovo shall be regulated with a sub-legal act by the Central Bank of the Republic of Kosovo(CBK).

Article 3

Definitions

1. Terms used in this Law, shall have the following meaning:
 - 1.1. **Commercial transactions** - transactions between business organizations or between business organizations and public authorities which lead to the delivery of goods or the provision of services for remuneration;
 - 1.2. **Public Authority** - any contracting authority, including the central government units, local self-government units, public enterprises and all institutions created in accordance with the Constitution of Kosovo, regardless of the subject or value of the contract;
 - 1.3. **Business organization-** any business organisation established according to the relevant Law on Business Organizations;
 - 1.4. **Late payment-** payment not made within the contractual or legal period of payment and where the conditions laid down in Article 4 and Article 5 of this Law are met;
 - 1.5. **Interest for late payment** - the legal interest for late payment or interest at a rate agreed upon between business organizations in their commercial transactions who are subject of this law according to Article 8 of this Law;
 - 1.6. **Statutory interest for late payment** - simple interest for late payment at a rate which is equal to the sum of the reference interest rate and the interest rate which is at least eight (8) percentage points;

1.7. **Reference interest rate-** for the purpose of this law, is the average value of the interest rate on new loans for the previous six (6) months, published by the CBK;

1.8. **Amount due** - the principal sum which should have been paid within the contractual or statutory period of payment, including the applicable taxes, duties, levies or charges specified in the invoice or in the equivalent request for payment;

1.9. **Retention of title-** the contractual agreement according to which the seller retains the ownership right to the goods in question until the price has been paid in full;

1.10. Ministry – respective Ministry for Trade and Industry;

1.11. CBK – Central Bank of the Republic of Kosovo.

Article 4

Transactions between business organizations

1. In commercial transactions between business organizations, the creditor is entitled to interest for late payment without the necessity of a reminder, where the following conditions are satisfied:

1.1. the creditor has fulfilled its contractual and legal obligations; and

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

2. In commercial transactions, the legal interest rate shall be applied in delayed payments.

3. The reference interest as part of the legal interest of the late payment will be published from the CBK every six (6) months, on the 1st of February and on the 1st of August of the calendar year.

4. In cases when the CBK has not published the reference rate, the latest published reference rate by the CBK shall be the rate into force.

5. Legal interest rate on late payments applicable in commercial transactions is the reference interest rate, which is valid for the next six (6) months, adding to it the interest rate at least eight (8) percentage points;

6. When the conditions set out in paragraph 1. of this Article are satisfied:

6.1. the creditor is entitled to interest for late payment from the day following the date or the end of the period for payment defined in the contract;

6.2. when the date or period for payment is not defined in the contract, the creditor is entitled to interest for late payment upon the expiry of any of the following time limits:

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

6.2.2. when the date of receipt of invoice or the equivalent request for payment is undefined, thirty (30) calendar days after the date of receiving of goods or services;

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

6.2.4. when the 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 law 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, thirty (30) calendar days after that date.

7. When the procedure of acceptance or verification, by which the conformity of the goods or services with the contract is to be ascertained, is provided for, the maximum duration of that procedure does not exceed (30) calendar days from the date of receipt of goods or services, unless otherwise expressly agreed in the contract and provided it is not grossly unfair to the creditor as stipulated in the Article 8 of this Law.

8. Contracting parties will guarantee that the period for payment stipulated in the contract shall not exceed sixty (60) calendar days, unless otherwise expressly agreed in the contract and provided it is not grossly unfair to the creditor according to the Article 8 of this Law.

Article 5

Transactions between business organizations and public authorities

1. In commercial transactions where the debtor is a public authority, the creditor is entitled to statutory interest for late payment upon expiry of the period defined in paragraphs 3., 4. or 5. of this Article, without the necessity of a reminder, when the following conditions are satisfied:

1.1. the creditor has fulfilled its contractual and legal obligations; and

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

2. In commercial transactions, the legal interest rate shall be applied in delayed payments as well as delayed deliveries of goods and services.

3. The reference interest rate as part of the legal interest rate will be published by the CBK, every six (6) months on the 1st of February and on the 1st of August of the calendar year.

4. In cases when the CBK has not published the reference rate, the latest published reference rate by the CBK shall be the rate into force.

5. The interest rate on late payments applicable in commercial transactions is the reference interest rate, which is valid for the next six (6) months, adding to it an interest rate at least eight (8) percentage points.

6. In commercial transactions where the debtor is a public authority:

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

6.1.1. thirty (30) calendar days following the date of receipt of invoice or any equivalent request for payment by the debtor;

6.1.2. when the date of receipt of invoice or the equivalent request for payment is undefined, thirty (30) calendar days after the date of receipt of goods or services;

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

6.1.4. when the procedure of receiving 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 receipt or verification takes place, the payment has to be realized within thirty (30) calendar days after that date.

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

7. The maximum duration of the procedure of receiving or verification referred to in paragraph 6.1.4 of this Article, shall not exceed (30) calendar days from the date of receipt of 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 8 of this Law.

8. If the period for payment fixed in the contract does not exceed the legal time limits provided in paragraph 6. of this Article, 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 sixty (60) calendar days.

Article 6

Payment schedules

This Law shall not prejudice the ability of parties to agree, subject to the relevant provisions of the Law on Obligatory Relationship, on payment schedules providing for installments. In such cases, where any of the installments is not paid on the agreed date, interest and compensation provided for in this Law shall be calculated solely on the basis of overdue amounts.

Article 7

Compensation for recovery costs

1. When the interest for late payment becomes payable in commercial transactions between business organizations in accordance with Article 4 of this Law and in commercial transactions between business organizations and public authorities in accordance with Article 5 of this Law, the creditor is entitled to obtain from the debtor, as a minimum, a fixed sum of 40.00 (forty) EUR.
2. The fixed sum referred to in paragraph 1. of this Article is payable without the necessity of a reminder and as compensation for the creditor's own recovery costs.
3. The creditor shall, in addition to the fixed sum referred to in paragraph 1. of this Article, be entitled to obtain reasonable compensation from the debtor for any recovery costs exceeding that fixed sum and incurred due to the debtor's late payment. This could include expenses incurred, inter alia, in hiring a lawyer or employing a private enforcement agent.

Article 8

Unfair contractual terms and practices

1. A contractual term or practice relating to the date or period for payment, the rate of interest for late payment or the compensation for recovery costs is either unenforceable or gives rise to a lawsuit for damages if it is grossly unfair to the creditor. In determining whether a contractual term or a practice is grossly unfair to the creditor, all circumstances of the case shall be considered, including:

1.1 any gross deviation from good commercial practice, contrary to good faith and fair dealing;

1.2. the nature of the product or the service; and

- 1.3. whether the debtor has any objective reason to deviate from the statutory rate of interest for late payment, from the payment period as referred to in Article 4 paragraph 6. of this Law, Article 5 paragraphs 6. and 8. of this Law, or from the fixed sum as referred to in Article 7 paragraph 1. of this Law.
2. For the purpose of paragraph 1. of this Article, a contractual term or a practice which excludes interest for late payment shall be considered as grossly unfair.
3. For the purpose of paragraph 1. of this Article, a contractual term or a practice which excludes compensation for recovery costs as referred to in Article 7 of this Law, shall be presumed to be grossly unfair.

Article 9

Transparency and awareness rising

1. Ministry of Trade and Industry shall ensure transparency regarding the rights and obligations stemming from this Law.
2. The CBK shall make publicly available the reference rate on six (6) months basis as provided in this law, by making such information available to all interested parties and publicly available on its official website.
3. Ministry of Trade and Industry shall prepare professional publications, promotion campaigns or any other functional means to increase awareness related to the legal means for late payment interest among business organizations and public authorities.

Article 10

Retention of title

The seller retains title to goods until they are fully paid for if a retention of title clause has been expressly agreed between the buyer and the seller before the delivery of the goods.

Article 11

Appropriate implementation of the provisions of the Law on Obligational Relationship

In the absence of provisions defined by this Law shall apply mutatis mutandis the provisions of the Law on Obligational Relationship, with the exception of Articles 382 and 383.

Article 12
Final provisions

1. Provisions of the Law on Obligational Relationships regulating interest on late payments shall remain applicable to contracts concluded and invoices issued before the date to which this Law enters into force.

2. The CBK shall issue sub-legal acts on late payments interest as provided in Article 2, sub-paragraph 2.3. of this Law, at latest six (6) months after the entry into force of this Law.

Article 13
Entry into force

This law enters into force fifteen (15) days after its publication in the Official Gazette of the Republic of Kosovo.

Law No. 05/L-110
28 October 2016

President of the Assembly of the Republic of Kosovo

Kadri VESELI