



## September 2018 EU affairs newsletter

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## Company law

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### Single Digital Gateway Regulation adopted by Council: better online access to information and procedures across the EU

On 27 September 2018 the Council adopted a regulation setting up a single digital gateway. The new gateway will provide access to online information and procedures, assistance and problem solving services to individuals and companies. This follows an agreement reached with the European Parliament in June. The new gateway will provide access to online information and procedures, assistance and problem solving services to individuals and companies.

The single digital gateway will be an additional powerful tool available to individuals and businesses which are exercising their freedom of movement and establishment in another member state. Online access to information and procedures will become readily available to everyone on equal terms. This is another clear example of the benefits of the digital single market.

**The single digital gateway will use the existing name "Your Europe"** and will include a common user interface integrated into the Your Europe portal. The interface will be easy to use and available in all official EU languages. The new gateway will integrate a number of networks and services that have been established at national and EU level to provide support for cross-border activities.

The interface will provide **a central access point for information on the exercise of rights to mobility in the EU, and will ensure full access to various online procedures in a non-discriminatory way.** A basic principle of the gateway is that any procedure available to citizens of one member state should be equally accessible to those from other member states.

Some key administrative procedures will be available online to both national and cross-border users. These cover situations which are relevant for doing business, working or studying or moving from one location to another, for example: requesting a proof of residence, applying for study loans and grants, recognition of academic titles, getting a European Health Card, registering a motor vehicle, claiming pension benefits and registering employees for pension and insurance schemes.

The new gateway will help reduce administrative burdens. As a general rule, the single digital gateway will apply the "once-only" principle, which means that individuals and businesses will only have to supply the same information once to public administrations.

The functioning of the gateway will be supported by technical tools developed by the Commission in cooperation with national administrations.



The Council and the European Parliament now need to sign the adopted regulation. The signed text will be published in the EU Official Journal and will enter into force on the twentieth day following that of its publication. **However, in order to give national, regional and local administrations more time to adapt, the target date for placing all relevant information and procedures online will be two, four or five years after the entry into force, depending on the issue.**

The digital single market strategy acknowledged that the needs of citizens and businesses in their own country and across borders could be better met by extending and integrating existing European portals, networks, services and systems and by linking them to a single digital gateway.

The regulation is part of the "Compliance Package", comprising also a proposal on the Single Market Information Tool and measures to improve SOLVIT, the free assistance website for the internal market.

## Data protection

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### MEP oral question on the link between public registers and GDPR

Asked an oral question from MEPs about the link between public registers (and then business registers) GDPR, Commissioner Jourova answered on 25<sup>th</sup> September 2018 that *“The processing of personal data in public registers must be distinguished from the subsequent processing of the personal data by different operators. Each of these processing operations requires a separate lawful ground for processing under Article 6(1) of the General Data Protection Regulation (GDPR).”* She also stated that *“National legislation may lay down rules for the publication, and for the re-use of the personal data, where the law meets an objective of public interest and is proportionate to the legitimate aim pursued. A non-profit body which does not have specific legally-imposed tasks in the public interest would not be able to rely on Article 6(1)(e) of the GDPR to carry out the processing operations.”*

Link to the answer given: <http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2018-003315&language=EN>



## Public Sector Information

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### LIBE and CULT EP Committees release their draft opinions on PSI review

The LIBE report was published on 24 September 2018 whereas the CULT report was published on 19 September 2018.

As expected, [the LIBE report](#) put the focus on data protection and provides amendments which aim at ensuring that GDPR remains the rule for data protection and that when data is made available for re-use under PSI, it fully is within the scope of the GDPR. Amendments do not however tackle the issue of sole entrepreneurs and legal representatives and their status regarding public sector information re-use vs. personal data.

[The CULT report](#) insists more on the status of cultural institutions and public sector bodies and the need for them to be able to charge for marginal cost to get cost recovery. It also wants the list of High-Value Datasets to be as clear and exhaustive as possible.

And the draft report of ITRE (committee responsible) has been also published: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+COMPARL+PE-623.664+01+DOC+PDF+V0//EN&language=EN>

### PSI ALLIANCE - ROUNDTABLE - PSI what next?

Thanks to Georg Hittmair and Compass who is a founding member of the PSI Alliance and a FEBIS member, Luis Carmona was able to attend the PSI Alliance Roundtable on 26/09/18 featuring a very interesting discussion among the Commission, Parliament (Julia Reda' assistant), and the Council (Austrian presidency representative).

Compass, in their intervention, made a good sample of the information which use was licit and now (under the GDPR) is considered personal, as the person may be identifiable). Certainly a lot of materials to give it some thought.

Luis stated that *"FEBIS made the reflection of finding some legislation contradictory, as on the one hand it promotes transparency, AML, alternative ways of financing, fintech, fighting late payments, second chance, PSI revision,... and on the other it constrains essential parts of information via new legislation as GDPR, eprivacy, accounting directive, trade secrets, insolvency directive,... Harmonization does not exist*



*within the EU, this is a fact, but at least, some essential data should be made available as a holistic ground in all MS.*

*Having said that, regulators have a great chance to clear up some aspects, by defining appropriate HVDS (High value data sets) in the next PSI directive draft and making the regulations more pragmatic and beneficial for the overall economy. Essential data needed for crucial credit/trade decisions will need to be present, otherwise, late payments, insolvencies, business close downs, and other multiple bad consequences from taking wrong decisions, will occur. If HVDS are well defined, a lot of the a.m. situations could be avoided and will prevent SMEs, and all economic stakeholders, from struggling.*

The regulators conclusion could be that it is in their hands to sort this out. They will take into consideration our comments and are willing to hear our statements more closely if we want to meet them sometime. FEBIS regulatory committee has already worked out a position paper and is discussing in cooperation with PSI Alliance how to set the pace to follow this up properly. We will discuss it in our next conference call,

As far as timeline is concerned, Council and MEPs are reviewing all comments / contributions now and, most likely, by the end of this year, or January 2019, will come up with a new directive proposal.

## Late Payments

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### EP report from MEP Lara Comi published

The EP report from MEP Lara Comi [on combating late payments in business transactions](#) has been published on 21<sup>st</sup> September 2018. It insists inter-alia on the need to reduce payment delays from public administrations and recognizes the role of late payments in business failures and insolvencies. It also notably insists on preventive measures such as Early-Warning tools and notably **“points out that the introduction of the mandatory publication of information in specific databases and registries concerning payment behaviour can discourage late payment and help businesses choose reliable commercial partners; considers that the ‘name and shame’ factor and public access to information can be an incentive for companies to improve their payment practices and uphold their monetary obligations”**.

The IMCO Committee is the lead Committee for the EP on this file. FEBIS regulatory Committee has already worked on a position paper outlining the role that business information providers can play in prevention and early-warning, this will now be communicated to all key players in the EU and also to key partners;



## FEBIS represented at FSB event on late payments on 26/09/2018

On 26 September, Luis Carmona, FEBIS vice-president, participated in the event organised by FSB at the European Parliament on late payments. The FSB event was a great chance for FEBIS to make a point on the EU parliament revision of the late payments situation, supervised by the commission per initiative of the UK national association FSB – <https://www.fsb.org.uk/>

The Commission is keen to see the parliament's output on this revision. In the meantime all stakeholders are welcome to give their thoughts and contributions, and Febis is already participating. The Commission is particularly concerned about:

- the gap of payments in arrears, as 1 day of delay results in 160 million costs for SMEs, then they struggle.
- Big corporations may have the practice to force SMEs to accept payment terms of over 90 and even 120 days, it is unacceptable and has the impact of putting SMEs in a difficult financial situation. If they had cumulated unpaids they will be forced to close down.
- Administrations not paying punctually.

We made our point in an introductory FEBIS *short* speech to pursue transparency: *“SME’s good performance are within our scope of actions. We do want safe, protected and viable SMEs, not only because they are our most numerous clients’ universe but because they are our data subjects and, most importantly, the pillars of all economies. In order to achieve these objectives, transparency will be an appropriate way to guide them to avoid late payments. The effect of insolvencies’ cascade has to be eradicated (or, at least, diminished) from our economy systems. We do have tools to show the parliament, and other EU institutions, that conducting sensible studies on late payment may reveal the main causes that provoke them. In addition, forcing big corporations and public administrations to respect payments terms could be very useful to fight the problem. To this end, it will be important for SMEs to have access to the payment terms of any company as transparency is an essential principle”.*

FEBIS offered to help to keep talking about these themes or to explore ways to help SME and overall economies to avoid late payments. FSB, is interested in working closely with us and will have further talks. DG Growth also wants to involve FEBIS in meetings to explore ways to fight late payments, finding out more causes of late payments, and insisted on the need of exchanging more national studies on late payment based on BPI multiple tools to conduct this. MEPs have taken into account our comments and would like to count on us for their next initiatives to tackle the problem.



## Early Warning

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### FEBIS takes part in the Early Warning Europe Expert Meeting on 28/09/2018

On 28<sup>th</sup> September 2018 was organised a meeting of the Early Warning Europe project, funded by the European Commission programme COSME. Please find here project's members:

<http://www.earlywarningeurope.eu/meet-the-partners/implementation-team>, and among them, **UEAPME**.

The overall theme of the meeting was early warning and the method of identifying companies in distress by using machine learning. The meeting was the platform for Early Warning Europe project partners and external experts (insolvencies' practitioners, accountants, associations helping entrepreneurs in distress, a judge from the Commercial Court, Graydon BE etc.) to discuss how to use machine learning to detect enterprises being in a difficult situation, and its potential the effects in terms of data privacy etc.

Thanks good contacts with UEAPME, FEBIS has been invited to this workshop and represented by Ellisphere.

The Danish Business Authority presented a model developed on the basis of annual accounts for detecting early warning signs that could be expanded in other target countries.

Ellisphere explained the role of BIP, what is trade credit and how late/non payments may have such a huge impact of the contagion effect, what is scoring and why annual accounts, statement at the closing date, may not be enough for early warning as a lot of businesses are not required to file them, that payment balances etc. may be much more interesting to analyse economic transactions and their impacts on cash flow, alerted on the consequences of the regulations' discrepancies for sole entrepreneurs and explained that raw data provided to BIPs to feed the algorithms will never be publically disclosed. And, finally, that we could propose 2 options (available at reasonable price):

- 1st option: data provided by a business is used to calculate its "early warning" score, which is provided to that same business only.
- 2nd option: data provided by a business is used to calculate its "early warning" score, which is provided to that same business only AND for calculating the "risk of default" score.

During the break, short discussion with the representative of ECB to whom we said that access to Anacredit would be great and why we should work together. He answered that we should appreciate his own presentation. And we did since the Anacredit presentation enabled to recall that "systemic risk" means "impact on the real economy", and that contagion effect was also highlighted. He presented Anacredit as a market driven initiative and recalled that the full data model is available to the public.



Access to Anacredit *may* be available to non-banks of the feedback loop. Business cards have been exchanged. We will keep in touch and keep you informed.

The open discussion afterwards gave the opportunity to come back more deeply to some of our main points and to highlight how (fresh) data are important to efficiently use machine learning for early warning. UEAPME required to access FEBIS position on sole entrepreneurs of the regulations' discrepancies on their status.



## About FEBIS– Federation of Business Information Services

Benefiting from the opening of markets within Europe and overseas, world-wide business has experienced substantial growth. As business grows so does the demand for business information, in particular, intelligence for cross-border business activities.

In 1973, leading European credit information agencies joined forces to form the Federation of Business Information Services FEBIS (initially known as FECRO), with its registered office in Frankfurt. Today, FEBIS has developed into a sizable organization comprising more than 100 members from all over the world involved in providing Business Information and credit information services of national and International importance.

As the industry association, FEBIS strives to look after common interests of its members. While monitoring new legislation like data protection laws and insolvency laws, FEBIS also oversees and the application of public sources and information.