Council of the European Union

Brussels, 11 March 2024
(OR. en)

7581/24

Interinstitutional File: 2023/0323(COD)

COMPET 299
MI 287
IND 144
ECOFIN 296
FIN 261
CODEC 752
INST 86
PARLNAT 31

COVER NOTE

From:	The Maltese House of Representatives
date of receipt:	7 March 2024
To:	The President of the Council of the European Union
Subject:	Proposal for a Regulation of the European Parliament and of the Council on combating late payment in commercial transactions [12976/23 REV1 - COM(2023) 533 final/2] - Opinion on the application of the Principles of Subsidiarity and Proportionality

Delegations will find enclosed the opinion[1] of the Maltese House of Representatives on the above.

[1] The translation(s) of the opinion may be available on the Interparliamentary EU Information Exchange website (IPEX) at the following address: https://secure.ipex.eu/IPEXL-WEB/document/COM-2023-0533

KAMRA TAD-DEPUTATI HOUSE OF REPRESENTATIVES
PARLAMENT TA' MALTA

President
Kumitat Permanenti dwar
l-Affarijiet Barranin u Ewropej

Chairman
Standing Committee on
Foreign and European Affairs

6 March 2024

H.E. Ursula von der Leyen
President
European Commission

The Standing Committee of the Foreign and European Affairs ('the Committee'), during a meeting held on 26th February 2024, discussed the Proposal for a Regulation of the European Parliament and of the Council on combating late payment in commercial transactions– COM (2023) 533.

The Committee supports a culture of prompt payment in all commercial transactions. It is evident that late payments are a systemic problem that needs to be addressed to foster a more equitable and sustainable business environment. It is acknowledged that late payments can indeed place companies, in particular SMEs, under high financial pressure and in some cases lead to severe liquidity problems.

While the Committee recognises the benefits of harmonised legislation within the single market, the importance of safeguarding the freedom of contract should be emphasised. The principle of freedom of contract allows businesses to negotiate terms that are mutually beneficial, and any regulation should not unduly restrict this. It is important that the legislative proposal strikes a careful balance between ensuring prompt payments and preserving the freedom to contract.

Moreover, lowering payment terms to 30 days and fully removing the 'freedom of contract' clause in B2B is disproportionate and can result in significant negative impacts. Therefore, whilst the Committee is not against the proposed de facto 30 days payment period as such, as it can incentivise further progress in prompter payments, it is imperative to preserve room for contractual flexibility to accommodate specific and case-by-case circumstances.

Therefore, while the Committee supports the need for a legislation on late payments to address the challenges faced by businesses in the Single Market, it is however essential to not apply a one size fits all approach. The legislative proposal should prioritize the principle of preventing businesses from exploiting each other through delayed payments, while safeguarding the freedom of contract and the observance of the principle 'pacta sunt servanda' firmly established in our legal system.



Edward Zammit Lewis MP

Cc

H.E. Roberta Metsola
President
European Parliament

H.E. Charles Michel
President
European Council