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WORKING DOCUMENT

From: General Secretariat of the Council
To: Delegations

Subject: Late Payment Regulation - Joint comments by AT, BG, CZ, DE, EE, IE, LT, LV, MT, PT, RO, SE, SI and SK on the Presidency text (document 9598/24)

7 June 2024

Austria, Bulgaria, the Czech Republic, Estonia, Germany, Ireland,
Latvia, Lithuania, Malta, Portugal, Romania, Slovakia, Slovenia and Sweden

Proposal for a Regulation on combating late payment in commercial transactions

– Commission Proposal COM(2023) 533 final/2

Comments on the Presidency Text (document 9598/24)

following the meeting of the Council Working Party on 16 May 2024

The Spanish Presidency took up the proposal by the European Commission on the Late Payment Regulation in two meetings in the Working Party on Competitiveness and Growth in late 2023, followed by four meetings during the Belgian Presidency in 2024. In addition, the Belgian Presidency held a policy debate on the proposal at the COMPET Council on 7 March 2024.

In the negotiations at the Working Party level, both the Spanish and the Belgian Presidency proved to be very diligent honest brokers, reflecting on the feedback from the Member States, in particular the clear position communicated by a majority of Member States at the COMPET Council on 7 March 2024. We are thankful for the work put into this file by both the Spanish and the Belgian Presidencies, which resulted in the current compromise proposal by the Belgian Presidency.

It became clear during the negotiations in the Working Party, however, that a large number of Member States is not convinced that there is a need to replace the currently existing rules on late payment by a new Regulation or by a new Directive. The Commission was not able to demonstrate in its Impact Assessment nor in response to questions asked by Member States that the policy choices made in its proposal were appropriate to tackle the problem of late payment and to accommodate businesses' needs.

We therefore do not believe that the Working Party should proceed with further negotiations of the compromise text proposed by the Belgian Presidency, particularly as the Member States have already provided extensive feedback on the initial Commission proposal, making their positions well-known. It is now the Commission's responsibility to heed this feedback and to withdraw its proposal, returning, if still deemed necessary, with a Recast of the current

Late Payment Directive, accompanied by an Impact Assessment that analyses all relevant issues in-depth and justifies all policy choices made in a transparent manner.

The co-signing Member States are ready to work together with the Commission and future Presidencies to provide for a more resilient and effective Single Market that provides SMEs with a level playing field.

