March 2025

Joint statement on the proposed Late Payment Regulation

In 2023 the European Commission published a proposal for a Late Payment Regulation replacing the current 2011 Directive and limiting payment terms in the EU to 30 days for all commercial transactions.

BusinessEurope, **Eurochambres** and **EuroCommerce** stand firmly against late payments. However, from the outset each have expressed strong concerns about the limitation of contractual freedom in business-to-business (B2B) commercial relations that strict payment terms entail. This is why we call on the European Commission to withdraw the proposal.

The European Parliament adopted its position in April 2024, introducing some exemptions and setting different timelines for entry into force based on company size. While appearing to offer more flexibility, it still excessively limits freedom of contract and creates a more complex framework that will mean businesses have to navigate categories and exemptions and leave them confused and without legal certainty. The same complexity results if different timelines are required only for large companies in their relations with SMEs. It is a solution out of touch with the reality of value chains and encourages a reduction in the number of suppliers, likely penalising SMEs who would have more rigid requirements. Tackling late payments is important to help SMEs manage cash flow and allow for more investment in the twin transitions. However, such framework risks becoming an obstacle to developing an agile and competitive European market by taking away the flexibility that negotiations on payment terms give to businesses to manage their cash flow in the first place.

Determining a payment term cannot be pre-planned in advance for all situations by a strict dictate or derogations: a top-down imposition of strict caps completely disregards the diversity of businesses and existence of long-lasting business relationships where the freedom to agree payment terms offers advantages to all parties. It also renders valueless the increased transparency on payment practices in force pursuant to the Corporate Sustainability Reporting Directive (CSRD) (see Disclosure Requirement G1-6) and contradicts the European Commission's ambition to simplify compliance for businesses. It also ignores a very recent report (see Altares, H1 2024) that confirms the situation differs by country and shows an overall **constant improvement since 2020**, with payments without delay continuing to grow in Europe (from 45,7% in 2021 to 50,5% in Q2 2024).

In a context where, as Mario Draghi has suggested, the scaling-up of EU businesses must be encouraged, a strict approach to payment terms creates market entry barriers for EU companies by increasing the need for start-up financing – especially in comparison with competitors from third countries including those whose unfair competition the EU is trying to address – and increases the risks of exploring new business avenues or launching new products on the market. The proposal also deters businesses from holding a larger inventory – which negatively impacts EU resilience in an uncertain global context where strategic autonomy and secured supply chains are key (see "Navigating Supply Chain Disruptions: New Insights on the Resilience and Transformation of EU Firms").

Capping all payment terms is not a zero-sum game. For instance, imposing a cap of 30 days will cause a dramatic financial gap which will be mostly felt by SMEs. A recent study shows that 40% of European companies that are paying after 60 days will face a financing gap that will have a huge macro-economic impact. To reduce payment terms to 30 days, they would need €2 trillion of additional financing and could, at current interest rates, increase corporates' interest payments by €100 billion. Filling that gap will not be cheap or without consequences for jobs and prices – especially for SMEs – at a time when the availability of business loans in the EU remains difficult.

Given the complex situation the revision of the Late Payment Directive has been creating since its publication, the inability of reinstating freedom of contract, the increasing negative opinions of the business sector, along with the majority of Member States (see their non-paper of 7 June 2024), we believe that **the most adequate solution would be that the European Commission heeds this feedback and withdraws its proposal.**

We firmly support actions that tackle the problem of breach of contract to ensure deadlines are met and established business practices are not jeopardised. However, this must preserve freedom of contract and ensure proportionate enforcement provisions.

We urge a focus on measures to foster a culture of prompt payment such as the EU Payment Observatory on Late Payment, CSRD, enforcement, mediation and alternative dispute resolution or factoring.

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