

REVISION OF THE EU LATE PAYMENTS DIRECTIVE

MAGDALENA WESSEL, EUF VICE-CHAIR AND CHAIRPERSON OF THE EUF LEGAL COMMITTEE



EU LATE PAYMENTS DIRECTIVE – EVOLUTION UNTIL 2022

- Directive 2011/7/EU on combating late payment in commercial transactions (LPD): in force since March 2011, transposition into national laws due by spring 2013
- EUF already engaged in legislative process for LPD as early as mid-2009
- August 2016: Commission adopts report on LPD's implementation, inter alia recommending best practices for more effective application of LPD → studies were launched, but over several years, COM-representatives denied imminent LPD-review

EU LATE PAYMENTS DIRECTIVE – CURRENTLY (I)

- mid-September 2022: both EU Commission President von der Leyen and EU Commissioner Breton announce/mention impending LPD review – but further details on possible contents and timeline only came out in early 2023
- January 2023: COM launches call for evidence and then public consultation (with questionnaire) on LPD-revision
- Identified shortcomings of LPD to be addressed by this review include regulatory gaps and ambiguities, lacks in addressing asymmetrical bargaining power of businesses and in providing incentives for prompt payment

EU LATE PAYMENTS DIRECTIVE – CURRENTLY (2)

- Main objective of LPD review: promoting a culture of prompt payment by proactively combating late payments
- Possible tools to achieve this include
 - ➔ introducing caps on payment terms in B2B-transactions,
 - ➔ defining unfair trade practices more clearly,
 - ➔ facilitating timely payments e.g. through modern payment tools (incl. factoring),
 - ➔ strengthening prevention and enforcement (e.g through mediation or penalties)

EU LATE PAYMENTS DIRECTIVE – CURRENTLY (3)

- EUF responded to call for evidence and public consultation in mid-March 2023
 - ➔ pro some kind of limitation to bans on assignments and similar (unfair) clauses
 - ➔ pro practical measures for more effective and easily enforceable LPD-compliance
 - ➔ against tightening e.g. caps on payments terms
- Similar responses from other interest groups (e.g. Business Europe, SME United and Eurocommerce)

EU LATE PAYMENTS DIRECTIVE – FUTURE DEVELOPMENT

- COM is now evaluating responses/feedback and drafting legislative proposal
- Legislative proposal is expected for late summer/early autumn 2023
- Elections for EU Parliament take place in June 2024, current EU Commission's term of office ends in October 2024 – will LPD review be finalized beforehand?