

EUROPEAN ECONOMIC AREA
STANDING COMMITTEE
OF THE EFTA STATES

5/00/W/012
6 March 2000
Brussels

SUBCOMMITTEE V ON LEGAL AND INSTITUTIONAL QUESTIONS

**Supplementary comments by EFTA Subcommittee V on a Proposal for a
European Parliament and Council Directive combating late payment in
commercial transactions**

EXECUTIVE SUMMARY

Without prejudice to the question of the EEA relevance of the proposed Directive, the EEA EFTA States are familiar with the concept of minimal default interest rates set by law to the extent that such rules remain non-mandatory. While a common European approach combating late payment in commercial transactions might have some merits, it should however not impose stricter limits than necessary. The time-limit after which default interest is due should therefore not be shorter than 30 days. Moreover, issues which are not directly linked with late payment such as the retention of title, public procurement, procedural provisions and compensation of damage should be excluded.

1. On 12 April 1999, the EEA EFTA States submitted comments on a proposal by the Commission for a European Parliament and Council Directive combating late payment in commercial transactions.
2. The Council adopted its Common Position on 29 July 1999. The EEA EFTA States have noted with satisfaction that the changes proposed by the Council to the proposal by the Commission are to a large extent in line with what the EEA EFTA States have suggested.
3. The EEA EFTA States are, however, concerned about the position of the European Parliament adopted on 16 December 1999 which calls for certain amendments of the Council's Common Position.

4. The following points are of particular importance to the EEA EFTA States:

- interest entitlement should only be due after 30 days rather than after 21 days (see EP Amendment 15);
- there should be no entitlement to additional compensation (see EP Amendment 17);
- there should be no provisions about the retention of title (see EP Amendments 11 and 20);
- there should be no provisions regarding public procurement contracts (see EP Amendments 13, 14, 21 and 22);
- there should be no provisions affecting national procedural law (see EP Amendments 8 and 23).

5. In addition, the EEA EFTA States recall that they are in principle opposed to limiting the freedom of contract. They can neither agree with the approach of a statutory balance in the relationship between seller and buyer, nor with the introduction of a definition of the concept of “grossly unfair” contracts in the proposed directive (see EP Amendments 18 and 19).

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