



Council of the  
European Union

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**"I/A" ITEM NOTE**

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From: General Secretariat of the Council  
To: Permanent Representatives Committee/Council

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Subject: Proposal for a Directive of the European Parliament and of the Council on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union (**first reading**)  
- Adoption of the legislative act (**LA + S**)  
= Statement

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**Statement by the Polish, Slovenian and German delegations**

The Directive on certain rules governing actions for damages under national law for infringements of the competition law provisions should i.a. minimise discrepancies between rules applicable to antitrust damages actions in Member States and ensure that victims of infringements of EU competition law can obtain full compensation for the harm they have suffered. Our delegations fully support this.

The final compromise is far from those objectives. The civil law principle of joint and several liability, to which controversial exceptions were introduced already in the text of general approach adopted by the Council in December 2013, has been even more restricted due to the inclusion of new para. 2 in Article 11. It will reduce the injured parties' - frequently small and medium enterprises - opportunity to seek full compensation. It will also lead to legal uncertainty and unequal treatment due to differences in the definition of small and medium enterprises among the Member States.

The Polish, Slovenian and German delegations are of the opinion that such compromise does not merit the support and shall abstain from supporting the text as it stands.

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