Procurement procedures water, energy, transport and telecommunications sectors (amend. Directive 93/38/EEC)

1995/0080(COD) - 06/11/1997

The joint text on coordinating procurement procedures in the water, energy, transport and telecommunications sectors on which the EP/Council Conciliation Committee agreed on 6 November 1997 basically marked the successful conclusion of a long battle fought by the EP throughout the procedure. Although the conciliation eventually resulted in a quick agreement on technical dialogue and improving information to encourage access by SMEs to public contracts, this was because numerous problems had already been solved before this conciliation. The purpose of the Directive was to adapt the Community legislation to take account of the Government Procurement Agreement (GPA) reached within the WTO (World Trade Organisation). In 1996, the EP had rejected an initial Commission proposal because the amendments proposed went beyond the provisions laid down by the GPA. As the revised proposal took account of most of the EP's concerns, it was accepted by Parliament, except for five points. On technical dialogue, the Conciliation Committee eventually accepted the solution proposed by the EP, namely that awarding bodies could request or accept outside opinions provided that this did not distort the competition conditions. Likewise, the Committee accepted the idea of supplying training and information materials to SMEs in order to encourage their participation in contracts. Finally, the provision of information on the award of contracts could be limited in cases where this might harm the commercial interests of the firm having won the contract. Moreover, a joint declaration specified that the firm having won the contract could ask for its information to be treated confidentially. Finally, the Directive specified that Member States should each year provide a statistical report on the contracts awarded so that they had the information needed to verify the proper application of the GPA. However, in a declaration, the Commission undertook to limit its requests to the strict minimum needed in order to meet the obligations arising from the GPA.