

# Procurement water, energy, transport and postal sectors: coordination of procedures for award, utilities directive

2000/0117(COD) - 10/05/2000 - Legislative proposal

**PURPOSE:** to amend the Directive coordinating the procurement procedures of entities operating in the water, energy and transport sectors. **CONTENT:** In 1998, the Commission published a Communication entitled 'Public Procurement in the European Union'. The main theme to emerge from the Green Paper debate is the need to simplify the legal framework and adapt it to the new electronic age while maintaining the stability of its basic structure. The Commission recognised the need to simplify the existing legal framework by clarifying provisions which were obscure or complex and by amending legislation where the problems to be addressed could not be solved through interpretation of its provisions. This is prompted by the same concern about clarification expressed by the Commission in its Communication on Concessions in Community law, which does not preclude any specific legislative proposal on concessions. Moreover, specifically regarding Directive 93/38/EEC, the Commission also undertook to reexamine the scope in order to verify whether it was still appropriate in the light of the gradual liberalisation in those sectors. Against this background, this proposal for a Directive meets these objectives. The amendments to the proposed Directive are organised as follows: 1) Simplification of the Directive : As regards restructuring and clarifying the Directive without changing its substance, the proposed amendments do not include any fundamental changes compared with Directive 93/38/EEC, as last amended by Article 12 of Directive 94/22/EC and Directive 98/4/EEC. In general, the provisions of the Directive have been set out in a clearer way so as to increase comprehension. As regards simplification and clarification of the Directive involving some changes in its substance, these changes refer to the giving of information about the outcome of an award procedure to all contracting entities, the selection of participants in a restricted or negotiated procedure and finally, the obligation to refer to European standards concerning quality assurance or certification and to recognise other means of proof, has been extended. 2) Amendments to the legal framework : The Commission has identified six areas for proposing amendments to Directive 93/38/EEC as follows: - the scope of Directive 93/38/EEC on contracts concluded in the water, energy, transport and telecommunications sectors, which has to be reviewed in the light of the gradual liberalisation of those sectors; - the introduction of electronic purchasing mechanisms and the consequences of these in terms of reducing the length of an award procedure; - clarification of provisions relating to technical specifications; this will encourage effective competition through the participation of the greatest possible number of tenderers and, in particular, innovative businesses; - a strengthening of the provisions relating to award criteria; - a simplification of thresholds; the previously large number of thresholds - differing slightly among themselves - has been reduced; - the introduction of a common procurement vocabulary. Finally, the scope of Directive 93/38/EEC on public procurement in the water, energy, transport and telecommunications sectors has been changed.