

Public procurement, service and works contracts: coordination of procedures for the award, classical directive

2000/0115(COD) - 25/03/2003 - Commission communication on Council's position

The Commission considers that the text of the common position takes on board the key elements contained in the initial proposal and in the amendments of the European Parliament, as taken on board in the amended proposal. Where the Commission has not accepted the common position unanimously by the Council, it is because of the situation of financial services. The Commission has made 2 statements on this issue : the Commission considers that the public procurement Directives are subject to Community obligations arising from the Government Procurement Agreement, and will therefore interpret these Directives in a manner compatible with this Agreement. Therefore the Commission considers the new measures cannot be interpreted as excluding, among other things, public contracts concerning loans of contracting authorities, in particular local authorities with the exception of loans for "the issue, sale, purchase or transfer of securities or other financial instruments". In addition, the Commission would reiterate that in any event where the Directives are not applicable, for example below the threshold, the rules and principles of the Treaty must be observed. In accordance with the case law of the Court, this implies in particular the obligation of transparency consisting in ensuring sufficient publicity to allow contracts to be opened up to competition. The Commission also made a statement on the questions concerning services concessions and public/private partnerships : it states that these should be further examined to assess the need for a specific legislative instrument so as to allow economic operators better access to concessions and to the various forms of public/private partnerships and so guarantee that these operators can take full advantage of their rights enshrined in the Treaty.