Basic information

1995/0079(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Public procurement: services, supply and public work contracts (amend. Directives 92/50/EEC, 93/36/EEC, 93/37/EEC) **Subject** 2.10.02 Public procurement	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ECON Economic and Monetary Affairs, Industrial Policy	LANGEN Werner (PPE)	15/06/1995

Former committee responsible	Former rapporteur	Appointed
ECON Economic and Monetary Affairs, Industrial Policy	LANGEN Werner (PPE)	15/06/1995

Former committee for opinion	Former rapporteur for opinion	Appointed
BUDG Budgets		
RELA External Economic Relations	MIRANDA DE LAGE Ana (PSE)	22/11/1995
JURI Legal Affairs, Citizens' Rights		

Council of the European Union

Council configuration	Meetings	Date
Competitiveness (Internal Market, Industry, Research and Space)	1886	1995-11-23
Competitiveness (Internal Market, Industry, Research and Space)	1970	1996-11-26
Budget	2026	1997-07-24
Fisheries	1983	1996-12-20

Key events

Date	Event	Reference	Summary
29/03/1995	Legislative proposal published	COM(1995)0107	Summary
16/05/1995	Committee referral announced in Parliament, 1st reading		
23/11/1995	Debate in Council		
24/01/1996	Vote in committee, 1st reading		Summary
24/01/1996	Committee report tabled for plenary, 1st reading	A4-0014/1996	
28/02/1996	Debate in Parliament		Summary
13/12/1996	Modified legislative proposal published	COM(1996)0623	Summary
20/12/1996	Council position published	11542/2/1996	Summary
18/02/1997	Committee referral announced in Parliament, 2nd reading		
22/04/1997	Vote in committee, 2nd reading		Summary
22/04/1997	Committee recommendation tabled for plenary, 2nd reading	A4-0158/1997	
13/05/1997	Debate in Parliament		Summary
24/07/1997	Act approved by Council, 2nd reading		
13/10/1997	Final act signed		
13/10/1997	End of procedure in Parliament		
28/11/1997	Final act published in Official Journal		

Technical information

Procedure reference	1995/0079(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Legal basis	EC Treaty (before Amsterdam) E 066 EC Treaty (before Amsterdam) E 057-p2 EC Treaty (before Amsterdam) E 100A
Stage reached in procedure	Procedure completed
Committee dossier	ECON/4/08541

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A4-0014/1996 OJ C 047 19.02.1996, p. 0005	24/01/1996	
		T4-0100/1996		

Text adopted by Parliament, 1st reading/single reading		OJ C 078 18.03.1996, p. 0011-0018	29/02/1996	Summary
Committee recommendation tabled for plenary, 2nd reading		A4-0158/1997 OJ C 167 02.06.1997, p. 0003	22/04/1997	
Text adopted by Parliament, 2nd reading		T4-0226/1997 OJ C 167 02.06.1997, p. 0044-0052	14/05/1997	Summary

Council of the EU

Document type	Reference	Date	Summary
Council position	11542/2/1996 OJ C 111 09.04.1997, p. 0001	20/12/1996	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(1995)0107	29/03/1995	Summary
Modified legislative proposal	COM(1996)0623	13/12/1996	Summary
Commission communication on Council's position	SEC(1997)0037	17/01/1997	Summary
Commission opinion on Parliament's position at 2nd reading	COM(1997)0289	30/06/1997	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES0796/1995 OJ C 256 02.10.1995, p. 0004	05/07/1995	Summary
CofR	Committee of the Regions: opinion	CDR0370/1995 OJ C 126 29.04.1996, p. 0008	15/11/1995	Summary

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Directive 1997/0052
OJ L 328 28.11.1997, p. 0001 Summary

Public procurement: services, supply and public work contracts (amend. Directives 92/50/EEC, 93/36/EEC, 93/37/EEC)

1995/0079(COD) - 13/10/1997 - Final act

OBJECTIVE: to amend the Community directives on public contracts in the light of the Agreement on government procurement reached in the Uruguay Round. COMMUNITY MEASURE: European Parliament and Council Directive 97/52/EC amending Directives 92/50/EEC, 93/36/EEC and 93/37/EEC concerning the coordination of procedures for the award of public service contracts, public supply contracts and public works contracts respectively. SUBSTANCE: the amendments adopted align the procedures provided for in the above-mentioned Directives with those laid down in the GPA in order to ensure that Community and international rules do not differ and to avoid discrimination against Community enterprises, i.e. more favorable treatment of third-country tenderers. In order to increase the transparency of the award of public contracts, the Directive lays down, in particular, that the contracting authority shall, within 15 days of the date on which a written request is received, inform any eliminated candidate or tenderer of the reasons for rejection of his application or his tender, and inform any tenderer who has made an admissible tender of the characteristics and relevant advantages of the tender selected as well as the name of the successful tenderer. The time limits for the reception of tenders are amended slightly so that they are calculated from the date of dispatch of the contract notice rather than that of publication. As regards the forwarding of tenders, the Directive allows Member States to authorize the submission of tenders by more appropriate means, taking account of technological advances in the communication of documents. However, guarantees are required regarding content, confidentiality, proof and the opening of tenders. The secrecy of tenders must be ensured until the date set for their opening. DEADLINE FOR TRANSPOSITION: 13/10/1998.

Public procurement: services, supply and public work contracts (amend. Directives 92/50/EEC, 93/36/EEC, 93/37/EEC)

1995/0079(COD) - 20/12/1996 - Council position

The common Council position incorporates a number of Parliament's amendments included in the amended Commission proposal, including those aimed at: - introducing differentiated thresholds for service contracts depending on whether or not the services in question are covered by the Agreement on Government Procurement (GPA), which came into force on 1 January 1996; - including the central government bodies in Austria, Finland and Sweden in Annex I (list of contracting authorities subject to the GPA). In addition, the Council introduced new provisions in the common position: - stipulating that the GPA has no direct effect in the Community; - stressing that contracting authorities which comply with the basic directives (92/50/EEC, 93/36/EEC and 93/37/EEC), as amended by the present directive, are in compliance with the GPA; - recalling explicitly the general principles of Community law relating to equal treatment and non-discrimination. The other changes made by the Council concern the following: - the scope of the directive: the changes made to Directive 92/50/EEC place emphasis on the service contract which do not fall within the scope of the GPA; the common position establishes, with regard to the 'Services' and 'Works' directives, different thresholds for contracts covered by the GPA (expressed in SDRs) and for those not covered by it (expressed in ECU); - information to be supplied to rejected applicants and tenderers: information relating to the relevant characteristics and advantages of the successful tender is an essential element in increasing the transparency of public contracts. The Council has therefore brought the text of the directives into line with the GPA; - the deadline for receiving tenders: the deadlines for receipt of tenders have been slightly amended so that they are calculated from the date of dispatch of the notice and not from that of publication; - statistical obligations: a substantive change has been made to paragraph 2(b) of Directive 92/50/EEC to the effect that the statistical statements required under this paragraph do not apply to R&D services in category 8, certain telecommunications services in category 5 or to services covered by the GPA; - entry into force: the date of entry into force is twelve months after the adoption of the directive. With regard to the sending of tenders, the common position allows the Member States to authorize sending of tenders by means more in keeping with technological progress in document transmission. However, guarantees relating to content, confidentiality, proof and the opening of tenders are required. A joint Council and Commission declaration accompanies this provision: it stresses that tenders must remain secret until the date set for opening them. Finally, it should be noted that the common position did not incorporate two amendments proposed by Parliament and accepted by the Commission in its amended proposal, namely: - a new recital relating to the importance of prompt payment by public bodies in transactions to which they are parties, and to setting the date of payment in public service contracts. However, the Council and Commission adopted a declaration referring to the Commission recommendation of 12 May 1995 on payment deadlines in commercial transactions, which calls on the Member States to take the legal and practical steps necessary to ensure that contractual payment deadlines are met and that better payment deadlines are introduced in the field of public procurement; - an amendment to the provision regarding statistical obligations in Directive 93/37/EEC concerning public works contracts: the Council has brought this provision into line with the corresponding provisions in the two other directives (Directives 92/50/EEC and 93/36/EEC) in order to keep the same wording in all three directives.

Public procurement: services, supply and public work contracts (amend. Directives 92/50/EEC, 93/36/EEC, 93/37/EEC)

1995/0079(COD) - 05/07/1995

The ESC commented only on the proposed changes to the existing Directives, deliberately avoiding any analysis of the Directives themselves. It was aware that the Directives were shortly to be the subject of a four-year review and it would give its Opinion then in the light of lessons learned from the application of the Directives and on the basis of prior consultation. The reviews should take into due consideration the social aspects involved in the application of these Directives. The ESC wanted to take this opportunity to stress the importance to the functioning of the single market of the urgent transposition into national law in all Member States of the Public Procurement Directives.

Public procurement: services, supply and public work contracts (amend. Directives 92/50/EEC, 93/36/EEC, 93/37/EEC)

1995/0079(COD) - 29/03/1995 - Legislative proposal

CONTENT: to amend the "Services", "Supplies" and "Works " directives in order to bring them into line with the new GATT agreement extending the current framework of balanced rights and obligations with regard to public procurement. CONTENT: the proposed amendments, which are identical for all three directives, are as follows: - Scope: the thresholds applicable have been revised slightly downwards: . SDR 200,000 (ECU 198,109 on 1 January 1994) in lieu of ECU 200,000 for supply and service contracts with regional and local authorities; . SDR 5,000,000 (ECU 4,952,730 on 1 January 1994) in lieu of ECU 5,000,000 for works contracts; . SDR 130,000 (ECU 128,771 on 1 January 1994) in lieu of ECU 200,000 for government service contracts. - Possible assistance in preparing technical specifications: a new provision prohibits the public authorities from asking for or accepting assistance in drawing up specifications from a company with a commercial interest in the contract or where this might obstruct the competition. - Information for candidates rejected: the contracting authority will continue, as at present, to state the reasons why an applicant or tender was rejected. It must also provide information on the advantages of the tender selected, unless there is legitimate cause not to divulge this information. - Statistics: the Member States are called on to send the Commission more detailed statistics on contracts every year (rather than every two years). - Finally, a new article guarantees that access for the enterprises, products and services of the Member States to public procurement within the EU will be at least as favourable as the access for which provision is made in the GATT agreement for the enterprises, products and services of the third countries which have signed the agreement.

Public procurement: services, supply and public work contracts (amend. Directives 92/50/EEC, 93/36/EEC, 93/37/EEC)

1995/0079(COD) - 17/01/1997 - Commission communication on Council's position

The Commission considered that the common position represented a balanced and satisfactory compromise between the initial positions of the Commission, the European Parliament and the Council, despite the fact that certain amendments proposed by the European Parliament and included in the amended proposal were not incorporated in the common position. Consequently, the Commission was able to approve the common position.

Public procurement: services, supply and public work contracts (amend. Directives 92/50/EEC, 93/36/EEC, 93/37/EEC)

1995/0079(COD) - 14/05/1997 - Text adopted by Parliament, 2nd reading

The European Parliament adopted the recommendation for second reading by Mr Werner LANGEN (PPE, D). Since many of the amendments to the proposal were accepted by the Commission and Council, Parliament approved the common position subject to a few secondary amendments. It called, for example, for the Commission to make available to SMEs the training and information materials they needed to participate fully in the changed market.

Public procurement: services, supply and public work contracts (amend. Directives 92/50/EEC, 93/36/EEC, 93/37/EEC)

1995/0079(COD) - 15/11/1995 - Committee of the Regions: opinion

The Opinion took account of the experience of local and regional authorities, proposing examination of the effects of the directive. It suggested simplifying rules, reducing the number of regulations where possible, and providing information and advice on the implementation of these provisions for the authorities and service providers. The Committee of the Regions should be involved in assessing the directive's impact in the individual Member States in order to ensure that the consequences at local and regional level were also taken into account. It was important to investigate specifically both the conditions under which and the manner in which public/private sector cooperation could take place under the directive and the increase in threshold values with a view to balancing out costs and benefits for both firms and public authorities. The Opinion concluded that the extent to which the unrestricted application of the directive might conflict with investment designed to generate employment should be examined. The scope for introducing back-up, supportive and stimulative measures to promote employment should be carefully considered.

Public procurement: services, supply and public work contracts (amend. Directives 92/50/EEC, 93/36/EEC, 93/37/EEC)

1995/0079(COD) - 26/11/1996

The Council reached unanimous political agreement on the amendment of Community directives on public contracts in the light of the Agreement on Government Procurement (GPA) resulting from the Uruguay Round.

Public procurement: services, supply and public work contracts (amend. Directives 92/50/EEC, 93/36/EEC, 93/37/EEC)

1995/0079(COD) - 29/02/1996 - Text adopted by Parliament, 1st reading/single reading

In adopting the report by Mr Werner LANGEN (PPE, D), the European Parliament approved the Commission proposal concerning the coordination of procedures for the award of public service contracts, public supply contracts and public works contracts respectively, subject to the following substantial amendments: - in the case of 'research and development' services not covered by the public procurement agreement, the directive applies only to public contracts whose estimated worth excluding VAT is ECU 200 000 or more; - the contracting authorities are authorized to request or to accept from a business enterprise an opinion with a view to establishing the specifications relative to a contract, provided this opinion does not have the effect of preventing competition; - the European Parliament does not adopt the general principle of an obligation to inform unsuccessful candidates of the characteristics and advantages of the successful tender, but proposes that there should be no difference in the treatment of Community and third-country businesses and that information on the successful offer should only be allowed to be given if this is not damaging to the public interest, commercial interests or competition; - the EP proposes not to go beyond the terms of the GATT agreement and not to leave it to the Commission to decide on the nature of the statistical information required by the directive.

Public procurement: services, supply and public work contracts (amend. Directives 92/50/EEC, 93/36/EEC, 93/37/EEC)

1995/0079(COD) - 13/12/1996 - Modified legislative proposal

The Commission proposes a series of amendments to the 'Services', 'Supply' and 'Works Contracts' Directives, aimed at inserting some provisions of the Government Procurement Agreement (GPA), which entered into force in the Community on 1 January 1996, in order to: a) avoid discrimination against Community companies and give them the same advantages that third country companies enjoy pursuant to the GPA; and b) ensure consistency between the two legal regimes. The principal changes introduced by the Commission to take account of Parliament's opinion consist in: - a new recital on payment periods; - the introduction of differentiated thresholds for service contracts depending on whether the types of services in question are covered by the GPA; - a restructuring of the provisions on statistics regarding public works contracts; - inclusion of the central government bodies of Austria, Finland and Sweden in Annex I. The following changes have also been introduced: - a clarification of the fields of application of the GPA and the Directives as well as a clear statement as to the legal regime applicable to third country companies; - the modification of the thresholds for design contests so as to reflect the limited scope of the GPA as compared to that of Directive 92/50/EEC; - the introduction of more flexibility in the deadlines following publication of a periodic indicative notice in the three Directives; - the insertion of a provision on non-discrimination in Directives 93 /36/EEC and 93/37/EEC; - the introduction of a 5 000 000 ECU threshold for certain works contracts which do not come within the field of application of the GPA.