

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

2000/0117(COD) - 25/03/2003 - Commission communication on Council's position

The Commission considers that the text of the common position takes over the key elements contained in its initial proposal and in the amendment of the European Parliament, as taken over in the amended proposal. Where the Commission has not accepted the common position adopted unanimously by the Council, it is because of the situation of the financial services. On the other aspects, the common position meets the objectives of clarification, simplification and modernisation set out in the initial proposal of the Commission. The following statement by the Commission on financial issues has been included in the Council minutes : 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 that the new provisions concerning the financial services cannot be interpreted as excluding, among other things, public contracts concerning loans by contracting entities, 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 thresholds, 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.