

GROUPE DU PORTÉ-PAROLE
S P R E C H E R G R U P P E
GRUPPO DEL PORTAVOCE
BUREAU VAN DE WOORDVOERDER
S P O K E S M A N ' S G R O U P

NOTE D'INFORMATION • INFORMATISCHE AUFZEICHNUNG
NOTA D'INFORMAZIONE • TER DOCUMENTATIE • INFORMATION MEMO

Brussels, March 1971

Proposal for a directive coordinating procedures
for concluding public supply contracts

At its meeting on 11 March 1971 the Commission adopted a proposal for a Council directive coordinating procedures for concluding public supply contracts.

A constantly growing proportion of business activity in present-day economies consists of work related to public contracts. They reflect the public demand for goods and services to meet the needs of central governments, local authorities and other corporate bodies under public law. If the free movement of goods to be introduced under the Treaty were limited to private sector demand alone, the great body of public buying would be shielded from the effects of free movement competition in the Community. In consequence application of the principles of the Treaty of Rome implies that activity to meet public demand for goods be just as free as that to meet private sector demand.

Restrictions on the free movement of goods between Member States in the field of public supplies - just as in the field of private supplies - which can be classed as measures having equivalent effect to quantitative restrictions are forbidden under Art. 30 et seq. of the Treaty. The principles for interpreting and implementing these rules in the field involved were established by Commission Directive 70/32/EEC, based on Article 33 (7) of the Treaty, on supplies of products to the State, local authorities and other corporate bodies under public law, adopted by the Commission on 17 December 1969.

The freedom to trade referred to by these rules could not however be complete as a result of abolition measures alone. Obstacles to trade do exist which cannot be classed as having equivalent effect to quantitative restrictions in the sense of the principles referred to above, and which could not, therefore, be eliminated under the Treaty rules governing the free movement of goods. There are for example, obstacles resulting from the differences in the laws applied by Member States on the matter. This is mainly a matter of the discriminatory effects of the discretionary powers of authorities, the main source of violation of the Treaty principles in this field.

This being so, it seemed essential to supplement the measures taken by the Commission under Art. 30 et seq. of the Treaty by recourse to other provisions in the Treaty, in the event those of Art. 100, so as to propose to the Council adoption of the directive in question to ensure coordination of procedures for awarding public supply contracts.

The idea of this proposal for a directive is to contain the discretionary powers of authorities within sufficiently strict bounds for any arbi-

trary element to be avoided when adjudicating bodies make their decisions and thus induce national authorities to base their decisions at this stage on economic factors alone.

It is proposed:

a) To arrange for advertising suitable to the type of contracts and the way in which they are awarded; this will consist of:

(I) Insertion in the Communities' official gazette of notices stating the administrations' intention to award contracts up to and above a certain amount;

(II) Drawing up of a detailed specification and other documents relevant to each contract;

b) To remove any clause having a discriminatory effect as regards technical specification for any items covered by the contract;

c) To establish objective criteria which will ensure that suppliers who satisfy these criteria really do have access to the markets. The directive divides these criteria into two categories: those which the adjudicating bodies are to use in selecting applicants for pre-qualification, and those which are to be used in awarding the contract.

A system of this kind was suitable for supply contracts because of the basic similarity of public contracts. The freedom of works contracts itself centres on two directives; one which bases the abolition of written discrimination and discriminatory practices on the provisions governing freedom to supply services, and another which coordinates procedures for making awards and whose legal basis is Art. 100.

Lastly, and for the same reasons, the Commission considers that the Advisory Committee on Contracts, which the Council proposes should be set up when the directive coordinating systems for awarding public works contracts is adopted, should have its powers extended to include supply contracts. It should be remembered that this committee, to be made up of experts from the member countries, will have the task of cooperating with the Commission, enabling it to assess the effectiveness of the measures adopted, their proper implementation and any modifications that may be needed.

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Bruxelles, mars 1971

Les ventes à tempérament dans la Communauté

Sur l'initiative de la Commission, des experts gouvernementaux des Etats-membres se sont réunis à trois reprises depuis décembre 1969, pour étudier les possibilités de mettre sur pied un régime de ventes à tempérament sur le plan communautaire.

C'est d'une part l'existence d'un marché du crédit à la consommation qui constitue dans un régime économique fondé sur le marché libre un important facteur d'expansion et, d'autre part, la nécessité de surveiller ce marché qui peut présenter des inconvénients tant pour l'économie en général que pour le consommateur en particulier, qui ont incité la Commission à prendre l'initiative de ces discussions. Suivant les vues de la Commission, il faudrait en arriver à élaborer un régime communautaire des ventes à tempérament ainsi que de leur financement, permettant de donner une dimension européenne à la défense de certains intérêts du consommateur tout en contribuant à éliminer les risques de distorsion qui peuvent naître des différences entre les réglementations nationales actuelles dans le domaine du crédit à la consommation.

Quelques chiffres montrent à suffisance, l'importance des ventes à tempérament dans le crédit à la consommation :

Allemagne

1964 7 milliards DM
1968 10 milliards DM
dont 36 % pour les ventes à tempérament
et 64 % pour les prêts personnels (1)

Belgique

1970 11,9 milliards FB
dont 72 % pour les ventes à tempérament
et 28 % pour les prêts personnels

France

1969-1970 7,39 millions FF
dont 85 % pour les ventes à tempérament
et 15 % pour les prêts personnels

Pays-Bas

1967 19,5 milliards FB
dont 70 % pour les ventes à tempérament
et 30 % pour les prêts personnels

.../...

Il n'y a pas de statistiques pour l'Italie et le Luxembourg.

(1) ventes à tempérament = lorsque le prix global à payer par l'acheteur est supérieur au prix de vente au comptant et qu'il s'acquitte en plusieurs versements.

~~prêts personnels~~ = ~~prêts financés par des banques et des instituts de crédit et destinés à des biens de consommation.~~