



Nordic Public Procurement Bulletin - April 2025



Mikala Berg Dueholm
Partner



Charlotte Brunlid
Special Counsel, Lawyer, Head of
Public Procurement



Tuija Kaijalainen
Partner



Line Voldstad
Partner, Head of EU Regulatory
and IPT

In our Nordic Public Procurement bulletin our lawyers across the Nordic region highlight relevant news and trends on the Nordic public procurement scene. The bulletin intends to provide high-level knowledge and insight.



Highlights from Denmark

Procurement Challenges in Specialized Social Services

- **The sector of specialised social services in Denmark provides support for individuals with complex needs, as mandated by the Danish Social Services Act** – Procurement in this area is governed by the “Light Regime” under Chapter III of Directive 2014/24/EU, implementing Articles 74–76. This regime offers procedural flexibility and higher thresholds, but presents notable challenges in balancing price, quality, and competition.
- **A central challenge is the formulation of objective minimum requirements** – The Danish Complaints Board for Public Procurement has held that requirements based on considerable discretionary judgement are unsuitable as minimum requirements. For complex services - such as social pedagogical support or residential facilities, traditional minimum requirements are often impractical, as it is difficult to specify objective criteria for service environments or daily operations.
- **Additionally, services are typically financed through fixed governmental rates** – This can cause limiting of pricing flexibility which often pressures providers to reduce quality to meet price constraints. This disproportionately affects small, specialised providers, potentially reducing market diversity and regional offerings.

Direct Awards in Defence Procurements

- **Recent changes in Danish defence procurement strategy have led to a preference for direct awards of contracts, bypassing standard competitive procedures** – Article 346 of the Treaty on the Functioning of the European Union (TFEU) allows Member States to procure goods, services, and works directly, without prior competition, when essential security interests are at stake. Similarly, Article 28 of Directive 2009/81 permits negotiated procedures without prior publication in urgent situations, such as crises or armed conflicts.
- **While direct awards enable rapid procurement in times of urgency, their frequent use poses significant risks** – Overreliance on such procedures can reduce competition, potentially leading to higher prices and less dynamic supply markets. Experience indicates that defence procurements conducted without open competition may result in suboptimal or more expensive solutions. The flexibility provided by Articles 346 TFEU and 28 of Directive 2009/81 is not without limits: exceptions must be strictly justified on grounds of public or essential security interests, and the contracting authority must document the necessity and proportionality of each direct award.
- **The Danish Complaints Board for Public Procurement is central in ensuring compliance and transparency in the defence market** – The Danish Complaints Board for Public Procurement plays a crucial role in reviewing whether these exceptions are properly applied, especially as the number of direct awards increases. Legal challenges are likely if stakeholders perceive that the requirements of proportionality and necessity are not met. A balanced, transparent, and legally robust procurement strategy is essential to safeguard both Denmark’s security interests and fair market competition.



Highlights from Finland

Proposed Changes to Finnish Public Procurement Rules

A working group appointed by the Finnish Ministry of Economic Affairs and Employment is preparing amendments to procurement laws, based on Prime Minister Petteri Orpo's Government Programme, with the aim to increase competition and competitive neutrality and also to achieve significant cost savings in the medium term, and to address national emergency supply needs. These changes will affect the Act on Public Procurement and Concession Contracts and the Act on Procurement in Special Sectors. The working group has prepared a report including a draft government proposal, and received numerous feedback from stakeholders by the due date in March 2025. The government is expected to present the official proposal to Parliament in early September 2025, with the revised laws intended to come into effect on 1 January 2026. The report proposes changes to the procurement laws including:

- Limitations on use of in-house entities (e.g. a minimum ownership requirement of 10 % in the entity and procurements possible only when they are more economically advantageous overall than market alternatives or when there is another particularly strong public interest in doing so). The background for this suggestion is that the in-house exemption has been interpreted too broadly, especially with regard to the required control over the entity.
- If only one tender is received in a procurement procedure, there will be an obligation to re-tender unless there is a particularly compelling reason not to.
- Contracts exceeding the EU threshold must be divided into parts unless there are specific reasons not to, and the decision not to divide can be appealed.
- Market dialogue will become a fundamental part of the procurement procedure.
- Mandatory analysis for procurements exceeding EUR10 million to assess the suitability of the procurement model and to anticipate costs.
- The feasibility of creating a system for expedited appeals in public procurement, possibly based on a procurement appeals board, is being explored.
- Failure to notify direct procurement and submit contract modification notices will be sanctioned.
- A provision will be added allowing contracting authorities to set conditions related to security and emergency supply in the specifications describing the scope of the procurement, to ensure the functionality and uninterrupted use of product or service throughout its lifecycle.

National Public Procurement Data Repository

The Ministry of Finance is running a project to create a national public procurement data repository utilizing a prior evaluation memorandum on the subject and feedback received thereto from stakeholders. The project aims to promote knowledge-based decision-making, cost-effectiveness, comparability of own production and purchasing services, and facilitate the implementation of supervisory tasks. A working group appointed by the Ministry will draft a government proposal by the end of April 2027.



Highlights from Norway

Proposed changes to Norwegian Public Procurement rules

The Norwegian Ministry of Trade, Industry and Fisheries appointed a national procurement committee in November 2022 to propose changes to the public procurement rules in Norway. The committee has submitted two reports in November 2023 and May 2024.

The first report proposed the following changes, among others:

- a new structure of the procurement rules (more detailed rules in one law applicable to all public procurement procedures, instead of several detailed rules in regulations),
- removing the inclusion of sustainability objectives in public procurement procedures and
- the participation of entities that do not have rights to participating in public procurement procedures in the EEA market (so-called "third country suppliers").

The second report suggested, i.e., that the following changes be implemented in the new framework:

- Make it easier to obtain legal measures/remedies before a contract is signed, to reduce the number of subsequent lawsuits with claim for damages, to ensure efficiency and to bring the Norwegian system of legal remedies into line with the other Nordic countries by introducing:
 - formal and binding decisions by KOFA,
 - a new system whereby a complaint is sent to KOFA within the standstill period suspends the contracting authority's ability to enter into the contract and that this suspension period lasts until KOFA has made its decision,
 - supervision by the Competition Authority to improve compliance with the obligation to publish contract notices,
 - the power of the Competition Authority to bring a case for review by KOFA to impose the sanction of "ineffectiveness",
 - competence of the Competition Authority to impose fines for illegal direct awards, and complaints against the Competition Authority's decisions are reviewed by KOFA
- New provisions on damages – implementing current case law. Proposes one regulation on damages for bidding costs and one regulation on damages for lost profit, and that a claim for damages must be brought to court within one year after the contract is signed.

A new public procurement framework is expected to enter into force sometime in 2025 or 2026.

Stricter requirements for the use of apprentices in public procurement contracts.

From 1 August 2025 new and stricter requirements will apply to the use of apprentices in public construction projects. The new requirements were introduced in January 2025 and include the following key points:

- 10 per cent apprentice quota: Requirement that at least 10 per cent of the workforce on public projects must be apprentices. Suppliers must also be affiliated with an apprenticeship programme.

- Broad scope of application: The rules apply to a wide range of public projects, including major construction works.
- Increased workforce diversity: The government emphasises the importance of apprenticeships in building a future, skilled workforce in the construction industry.



Highlights from Sweden

Coordinated register checks for contracting organizations

Extensive efforts are underway in Sweden to address the issue of unscrupulous and criminal actors submitting tenders in procurements in welfare services. The problem is difficult to manage, as the services these criminal groups submit tenders for are essential for a functioning welfare system. Examples of such procurements include those concerning residential care homes (HVB-hem).

In 2022, the Swedish government decided to appoint a special investigator to propose an effective and reliable system for supplier control in public procurement and application for participation in systems of choice. The inquiry has presented a proposal that is expected to enter into force on 1 October 2025.

The inquiry has identified five main problems in checking whether there are grounds for exclusion of suppliers and applicants:

1. Uncertainty on which Swedish offences should lead to exclusion.
2. Lack of guidance on the scope of persons to be checked
3. Absence of applicable confidentiality provisions and criminal records requested by contracting authorities
4. Risk that both suppliers and contracting authorities receive inappropriate information when requesting full criminal records, as there are no customised criminal records extracts for procurement
5. The Swedish Procurement Authority and the Swedish Police Authority advocate truthful assurances instead of criminal records, but it is doubtful whether this method is sufficient to ensure that suppliers convicted of certain offences are excluded from procurements.

The inquiry proposes that the Swedish Companies Registration Office (Sw. *Bolagsverket*) should be responsible for providing a system for coordinated register checks. The check shall be available to actors applying the procurement laws or the compensation laws and to competent authorities within the EU/EEA area. Operators must request checks both when awarding a contract or approving an applicant, and when following up contracts or framework agreements signed after a procurement or the establishment of a system of choice.

[Rapport om utvecklingen på upphandlingsområdet 2024](#)

Measures Against Dishonest Actors in Swedish Public Procurement

In Sweden, abnormally low tenders have been somewhat a challenge, where the suppliers argue their rights to submit strategic tenders, but the contracting authorities want to prevent too low tenders. The contracting authorities often refer to bad experience when it comes to contracts with suppliers that are too low in price.

To prevent dishonest and criminal suppliers from participating in public procurements due to a lack of control and follow-up, the Government has tasked the Swedish Competition Authority with proposing measures to facilitate the rejection of abnormally low tenders. Additionally, the Swedish Competition Authority (Sw.

Konkurrensverket) will analyse and propose an effective, proportionate, and reliable methods for assessing how well suppliers meet quality requirements in public contracts.

Regarding rogue actors, several government agencies, including the Swedish Agency for Public Procurement (Sw. *Upphandlingsmyndigheten*), have been assigned to analyse measures which can contribute to crime prevention. A report will be presented by 31 August 2025 which will include a description of ongoing and planned measures.

[Upphandlingsrelaterade regeringsbeslut i början av året | Upphandlingsmyndigheten](#)

AI and Procurement

In 2024, the Swedish Agency for Digital Government (Sw. *Myndigheten för digital förvaltning*) ("**Digg**") and the Swedish Authority for the Protection of Privacy (Sw. *Integritetsskyddsmyndigheten*) ("**IMY**") were assigned to create guidelines for the use of generative artificial intelligence in public administration. At the beginning of the present year, the Swedish Agency for Public Procurement, together with several other authorities, were also assigned to report on the use of AI. The report shall include implemented and planned capacity-building initiatives related to the use of AI. The aim is to increase security and the ability to use generative AI in a safe, ethical and effective manner.

The authorities must also describe their collaboration on AI development and use, and the need for further collaboration with other authorities. The result of the assignments will be reported in June 2025.

In the Swedish news flow, the report is presented as a report that could make major gains (approximately SEK 140 billion annually) in the form of higher productivity, increased revenue and reduced incorrect payments if AI technology were to be fully utilised in public administration.

[Nu lanseras nationella riktlinjer för användningen av generativ AI inom offentlig förvaltning | IMY](#)

Services	Udbud, Udbud
----------	--------------
