

Swedish Presidency in PPN – Priorities

**Speech by Director General Dan Sjöblom, Swedish Competition Authority.
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Check Against Delivery

Ladies and gentlemen, dear colleagues,

Thank you for inviting me to today's event to discuss important future challenges in the field of public procurement.

First, I would like to express my particular thanks to the organisers, the Hungarian Public Procurement Council, and in particular its President Róbert Gajdos. It is important to have a lively dialogue concerning how to develop and further improve public procurement. I strongly believe international exchange and networking at meetings such as this conference contribute to develop the area.

The title that has been chosen for the following days is 'Actual questions of public procurement in the European Union and in the Member States'. This subject is highly topical to say the least. We will shortly gain access to the European Commission's proposals for new procurement rules. As you all know, this will represent the follow-up to the Green Paper launched earlier this year and which many organisations have commented upon. The forthcoming proposals and, ultimately, rules will affect public procurement in Europe, and therefore both innumerable public institutions as well as private sector suppliers for a long time.

Importantly, especially in times like these with calls for austerity measures looming everywhere, these rules and the well-functioning of public procurement

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will have a direct impact on the amount of welfare that taxpayers' money will be able to provide across Europe.

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Sweden holds the Presidency of the Public Procurement Network (PPN) since July. This network brings together EU Member States, EEA and EFTA countries, Candidate countries and even potential Candidate countries to the EU. Our vision is to increase the openness of the network, which in our view can only strengthen it. It is not only current and future procurement authorities from EU Member States that are welcome to be involved. The EU Commission is of course a very central partner. Also the EBRD (European Bank of Reconstruction and Development) and SIGMA (Support for Improvement in Governance and Management, an organisation within OECD) follow our work. The open and broad membership makes it possible to discuss procurement issues in a wider perspective.

The objective of the network is to strengthen the application and the enforcement of the procurement rules through mutual exchange of experience and benchmarking, and to create a reliable and effective informal cooperation including opportunities for members to solve problems in cross border cases related to public procurement. The PPN web site provides accessible information and will be regularly updated.

As I mentioned, Sweden recently took over the Presidency from Italy, and we will hand over to Ireland and Lithuania in the beginning of 2013. In the future, the Presidency of PPN may be linked to the Presidency of the EU.

During the Swedish Presidency we want to focus on the following substantive issues:

- The on-going work with the reform of the EU Public Procurement Directives, which affects all members. The Commission's forthcoming proposals to modernise the Directives will provide a basis for discussion within the network. Any proposals relating to service concessions could also be discussed in the network. Awaiting these proposals/initiatives, the subject of Public-Public Cooperation has been raised for discussion within the network. A questionnaire has been circulated among members and discussions are foreseen at the next PPN meeting in December.
- Another issue we intend to cover in the network relates to the means to combat illegal direct awards of contracts. A discussion on the success of different types of sanctions in Member States is something we find very interesting,

- The issue of access to the EU public procurement market for third country tenderers is also an interesting topic as opening access towards the outside may increase competition for public contracts. At the same time we understand that an initiative may be forthcoming from the Commission in this field, with a possible aim to seek means of enhancing reciprocity.
- Finally, the area of social services could also be an interesting issue for discussion inside the network, to share experiences and, hopefully, identify good practices, whereby these issues may be considered in a way that does not unduly limit competition for public contracts.

Today, I will talk about some of these issues.

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Since last year we have tightened up procurement legislation in Sweden. The statutory amendment was partly a consequence of an adaptation to the EU Directives. Through these amendments, the Swedish Competition Authority was given completely new powers to seek sanction against contracting authorities that do not comply with the rules.

This reinforced legislation means that we can bring cases to court and request that a fine is imposed on contracting authorities that have illegally awarded direct contracts without the statutory prior publication. Such illegal direct awards represent an important problem. It presents opportunities for certain companies to be favoured over others during public contract awards, which also creates risks for corruption and anticompetitive bid-rigging, none of which is of any benefit to citizens or taxpayers.

We currently have a about ten such cases pending. Given the novelty of the rules, no case has yet reached a final judgement. The fines we have sought vary between roughly 10.000 to a million Euros.

Several cases brought so far relate to the construction industry. We have chosen to prioritise this sector since it forms an important economic sector and individual contracts often correspond millions of Euros.

Our legal framework allows us to seek the imposition of fines of up to ten per cent of the contract value, whilst staying within a band of roughly 1,000 and 1,000,000 Euros.

I am convinced that once the first court cases have been concluded, we will see results going far beyond these individual cases. This new possibility of imposing fines on contracting authorities in the event of improper procurement should be

an important wake-up call to all decision makers in any organisation covered by the procurement rules that a new era has commenced and that these rules now need to be taken seriously. It is important to show that those dealing with public money cannot act on their own volition and that any procurement organisation needs to be endowed with proper resources to carry out its mandate in a professional way.

I therefore believe and hope that our activities will have a general, preventative function in the future.

It would be very interesting to hear experiences about how the system works in other countries, not least experiences from applying other forms of sanctions.

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In August this year, the Swedish Competition Authority organised an international conference on the theme 'The Cost of Different Goals of Public Procurement'. Researchers from many different countries gathered to present their views on a number of important and central issues relating to procurement. One matter emphasised by several of the participants was that 'best value for money' should actually be the objective of having rules to govern public procurement.

As taxpayers, we always want the best and most for the money that we have allocated to our common funds. When municipalities and public authorities buy goods and services, this money should be spent on the best food for our schoolchildren, the best care at our hospitals and the best roads and bridges; and this must be achieved at the best possible price. Rules on how to conduct public procurement serve as a guarantee for this. Public procurement has not always focussed on this overall objective, but as time goes by it is being supported by an increasing number of people. This is a good thing.

Any work in the future to develop the procurement rules at an EU level should clarify that it should be the interests of citizens that prevail. However, in my opinion, the current trend to allow other societal policy objectives govern procurement policies needs to be evaluated very carefully indeed. The burdening of public procurement with criteria that go beyond value for money should in my view only be considered if a careful examination demonstrates that these other objectives cannot be better or cheaper achieved through other means, such as taxation, regulation and incentives.

The ambition stated in the Green Paper of achieving simpler and more flexible rules for procurement is a good one. There are currently many rules that are complicated especially for small enterprises, who may decide not to submit any tenders at all. We would all like to see more SME's willing and able to participate

in tenders. This strengthens competition and helps to promote better market structures.

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The Swedish Presidency of PPN is organising a conference on procurement issues next autumn, probably in November. I hope to see many of you there and I would like to take this opportunity to welcome you to Sweden for this conference.

Thank you for the attention and I wish all of us a successful conference.