

Procurement of Health Care Services in Sweden in General

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The Example of Procurement of Acute Care in the Stockholm Region

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PROCUREMENT OF HEALTH CARE SERVICES IN SWEDEN IN GENERAL

Under the EEA Agreement Sweden undertook to apply the Community rules on public procurement. The relevant Directives were transposed into the Public Procurement Act, which entered into force on January 1 1994. The EC Directives on public procurement do not contain very many provisions on health care services, but the Swedish Government and Parliament considered it necessary to adopt a more detailed regulatory framework for such services too. For this purpose a special chapter laying down procedural rules was included in the Public Procurement Act, although they were not as detailed as the Community rules on procurement of A-services. The rules on judicial review and damages were also made applicable to the procurement of such services.

Since the Act entered into force the administrative and ordinary courts have ruled on about fifty cases relating to procurement of health care services. The matters at issue included the following: tender deadlines were too short, tender dossiers were insufficiently detailed, the procurement body approached a specific tenderer instead of organizing a public invitation to tender, the dossier was tailored to the services offered by former employees of the procurement body. The courts ordered the procurement bodies to reopen procurement procedures in some cases where they found that the rules had not been complied with.

A number of complaints relating to the procurement of health care services in Sweden have also been submitted to the supervisory authority, i.e. the National Board for Public Procurement.

A parliamentary committee – the Procurement Committee – has proposed amendments to the rules governing the procurement of health care services. It proposes, among other things, that tender procedures should not be compulsory under a threshold of about €30,000 and that it should be possible to purchase services directly from a health care provider where a patient wishes to be treated by that provider. The Committee's proposals are currently being considered in the Government Offices. The question of legislative amendments will not be considered until next year at the earliest.

Another problem that is being considered by the Committee is so called hive-offs, i.e. the forming of a separate company by municipal or county council employees for the purpose of providing and selling their services to their former employer. This is encouraged in many municipalities and county councils, but the problem is that they are not allowed, even in the initial phase following startup, to place orders with the new company without a tender procedure.

The Procurement Committee proposes that such companies should be allowed a period of five years after startup during which services could be provided without a tender procedure. A broad political majority in Sweden is in favour of allowing a period during which tenders are not compulsory, although there are differences of opinion as regards the length of the period. It is not clear whether such an option is consistent with Community rules, including the rules on public aid to enterprises.

The problem has also been dealt with by the Committee of the Regions in its submission (CdR 312/2000 fin) on the Commission's proposal for a Directive of the European Parliament and of the Council on the coordination of procedures for the award of public supply contracts, public service contracts and public works contracts (COM (2000) 275 final – 2000/0115 COD and COM (2000) 276 final – 2000/0117 COD). The rapporteur was a conservative politician from the county council of Värmland in Sweden. The Committee of the Regions states in its submission: "The Committee of the Regions has also drawn the Commission's attention in the past to the problems which can arise with the privatisation of public enterprises and in

cases where employees are given the opportunity to set up their own business which, under contract, takes over tasks from local and regional authorities.

The Committee of the Regions takes the view that the rules on service procurement should not hinder these processes. On the contrary, it should be possible, as a transitional solution and for a limited period, to purchase without a procurement procedure; this means that the competition would increase in the long run."

PROCUREMENT OF ACUTE CARE IN THE STOCKHOLM REGION

S:t Görans hospital in Stockholm, from directly public managed to public limited company and now to private for profit company

The name of the hospital is S:t Görans sjukhus (Saint George´s hospital). It is situated in the city of Stockholm. It has ca 200 beds in internal medicine, general surgery and orthopedics and an emergency ward.

In 1993 the county council of Stockholm, which at that time had a conservative government, tried by public tendering to find an entrepreneur to run the hospital. Some Companies from Sweden, UK and France were interested but when they were asked how much they were prepared to invest in share holders capital in a limited company for the hospital - they were not willing to take sufficient risk by investing enough of their own money. In that situation the county council would have had the main financial risk but not full control.

So the county council decided to create a limited company for S:t Görans hospital, 100% owned by the county council with the name "S:t Görans sjukhus AB", with a non -political board (only some former politicians and a chairman from a semiprivate company - the CEO was recruited from an other hospital but he had been a CEO for a pharmaceutical company a couple of years earlier) . The shareholder capital was about 5 million Euro, all the staff was employed by the company - only a few wanted to stay employed by the county council.

The hospital buildings and the heavy equipment was owned by the county council and rented by the company. It was not thought of and not forbidden in Swedish law to run hospitals as public or private companies.

When a social democratic government came into power 1995 -1998 in the county council they tried to change S:t Görans back to a directly managed public hospital but the staff and unions made protests so it stayed as a public company.

1999 the conservative government came into power again in the county council and now they wanted a private company to run the hospital. They invited companies to make declarations of interest for the Limited company of S:t Görans. They had negotiations with some companies, all of them Swedish in the end. The limited company (not the building) was sold in December 1999 to the Swedish company "Bure AB" now Capio which is running laboratories and one small hospital for elective care etc. The agreement is official. The cost including some equipment was about 250 million SEK. Capio also got a three- year- care contract (2002-12-31) with the county council (in some way a prolongation of the S:t Görans contract calculated on the same volume as 1999) with a price per DRG-point with limits for elective care.

The county council promised in the agreement that from 2003-01-01 should all acute and elective care run by S:t Görans hospital, by other private hospitals (there are 3 small ones) and by the new public limited companies for Huddinge hospital and Danderyds hospital be put on public tendering according to the Swedish law on public tendering(built on EU-law). If that not happens the three year care contract with S:t Görans should be prolonged at longest to the end of 2006 with at least the same volume and other conditions as in the care-agreement. The Capio company rents the hospital building until 2010 if there is produced health care at the same volume as today. December 14 in the year of 2000 Capio and the county council decided to prolong the agreement to the end of 2006 or the time when the

public tendering takes place. *See separate paper.* The prolonged agreement also includes an ambition to increase the volume at the hospital. When it comes to the next tendering the Capio company has the longterm-renting contract for the hospital building. There are no other vacant hospital buildings in Stockholm now.

The audit commission of the county council asked KPMG to make a review of the prolonged agreement. They said that the first agreement with selling the shares as main agreement and bying care as a subordinate agreement was not according to the Swedish law on public procurement. The subordinate contract should be regarded as the main business agreement and should have been procured by public tendering. The value of the agreement including the prolongment is 3,5 billion SEK. The price for selling the shares was 250 million SEK . KPMG also said that the prolongment included an ambition to increase the volume – that should also have been procured the public tendering. The contract for longterm renting of the hospital could make a coming big procurement more difficult or spoil the rationality of it according to KPMG.

The national stop law – forbids selling acute hospitals to for profit companies

The national social democratic government proposed 2000 a stop-law to prohibit county councils to sell acute hospitals to for profit companies or make contracts for running the hospitals to the end of the year 2002- the next election is in september 2002. The law does not concern hospitals that already had an agreement with the county council

A new national commission is given the task to propose permanent legislation from 2003. For example to analyse : a delay in decisions in selling acute hospitals; introduce penalties; effects of agreements longer than the election period; effect of the use of co-operatives started by the medical staff.

The big procurement in Stockholm – biggest in Europe?

As related in the agreement on S:t Görans hospital there should be a big public procurement for private run and public hospitals run as limited companies.

Now a *proposal* is made from the office of the regional health board in Stockholm – a political decision will follow within two months.

The new agreements should start to run from 2005-01-01. The final decisions on the tendering and asks for bids will be made in January 2003 which means after the next election.

The tendering follows the simplified procurement procedure and should include acute care at all seven hospitals in the Stockholm Region with 1.8 million inhabitants:

Danderyds hospital, now limited public company

Huddinge University hospital, now limited public company

Karolinska hospital, now directly managed maybe limited public company in the future

Södersjukhuset, now directly managed but proposed limited public company

Norrtälje hospital, now directly managed but proposed limited public company

Södertälje hospital, now directly managed maybe limited public company in the future

S:t Görans sjukhus now run by private for profit company Capio

Directly managed hospitals are allowed to make bids, according to the fact that Stockholm County Council has a purchaser – provider split with purchasers and providers in separate organisations within the county council.

The agreements should be five years with a option for prolongation two years.

The planned cost is more than 1 billion Euro per year (10 billion SEK) As far as known it is the biggest and most complex public tendering for health care in Europe.

There should be framework agreements with the regional health board on patients freedom of choice, price, maximum volume and description of the seven or more objects and care programs. There should be subordinate agreements with the district health authorities on volume within the maximum volume. The procedure will follow the Swedish law on public procurement.