

The Danish Complaints Board for Public Procurement

Complaint guidelines:

If an economic operator has legal standing a complaint can be brought before the Complaints Board for Public Procurement (the Complaints Board).

The Complaints Board can pass legally binding decisions and award damages for losses suffered by the economic operator.

There is no formal standard procedure for filing a complaint with the Complaints Board. The Complaints Board can, however, advise as follows:

1. Fee

Complaints of violations of Titles I-III of the Danish Public Procurement Act (which mainly implements the Public Procurement Directive 2014/24/EU), the Utilities Directive (Directive 2014/25/EU), the Concession Directive (Directive 2014/23/EU) and the Directive on Security and Defence Procurement (Directive 2009/81/EC) are subject to a fee of DKK 20,000, cf. section 5(4) of Executive Order regarding the Complaints Board.

If the Complaints Board finds in favor of the complainant, the fee is repaid.

To pay the fee from abroad, please use the following information:

IBAN code: DK41 0216 4069 2095 21. Swift code: DABADKKK

When transferring the fee the complainant must add the following: “Klagenævnet for Udbud, [name of the company/the complainant]”.

In the complaint the complainant must state that the fee is paid by transfer and include documentation for the transfer with account information.

2. Procedure

2.1. The complaint must include information on the identity of the complainant and the contract notice from “Ted – Tenders Electronic Daily”.

In addition, the complainant is obliged simultaneously to inform the contracting authority that a complaint has been filed with the Complaints Board. A copy of this notification must be forwarded to the Board.

- 2.2. The complaint must include a letter of complaint (Word *and* PDF-versions) **written in Danish**, including claims (“Påstande”), which in precise terms define the infringements allegedly committed by the contracting authority, including the rule or the principle, which allegedly has been violated. In this regard, it will be sufficient to refer to the relevant articles in the public procurement directives.

As mentioned, the complaint must be written in Danish. However, in the following, for the sake of guidance as to how a complaint should be structured, a few examples are given in English. Multiple claims must be numbered in consecutive order as follows: “Påstand 1” (Claim No. 1), “Påstand 2”, (Claim No. 2) etc.

Examples:

Claim No. 1

The Complaints Board must rule, that [the contracting authority] has infringed the principle of equal treatment and transparency set out in the Public Procurement Act section 2(1)/ the Directive on Public Procurement article 18 (1) by rejecting [the complainant’s] offer as non-compliant despite the fact that

Claim No. 2

The Complaints Board must rule, that [the contracting authority] has infringed the principle of equal treatment and transparency set out in the Public Procurement Act section 2(1)/ the Directive on Public Procurement article 18 (1) by awarding the contract to [the successful tenderer], despite the fact that the offer from [the successful tenderer] was non-compliant as it did not meet minimum requirement xx set out in the procurement documents sections x.y.z.

Claim No. 3

The Complaints Board must annul [the contracting authority’s] contract award decision dated [date].

In addition, the complaint should contain the complainant’s statement of the relevant facts and legal arguments.

Relevant appendices should be included in the complaint. The relevant appendices are typically the tender conditions, the contracting authority's award decision etc. Appendices must be numbered in consecutive order as follows "Appendix 1, appendix 2", etc. Appendices in English may be included in their original form/language.

2.3. The Complaints Board may reject claims or complaints that are considered unsuitable for consideration by the Board.

2.4. The complaint including relevant numbered appendices and payment documentation must be sent electronically to:

klfu@naevneneshus.dk

3. *More information*

3.1. *Costs*

The Complaints Board may order that the unsuccessful party fully or partly cover the other party's costs for the complaints procedure based on a specific assessment of, among other things, the nature and extent of the case and the proceedings.

3.2. Further information on the Complaints Board is available in the Board's [annual reports](#), which are also available in English and French.