

# IProcureNet

SECOND ADVANCED SECURITY PROCUREMENT CONFERENCE.

21 June 2022

*14H30:*

*Challenges for National Standardisation Bodies'  
and public authorities in referencing standards in  
public procurement.*

Søren Jensen, Director, DanSense

# Presentation of DanSense

**DanSense.** Consulting engineers.

## We specialise in:

### Public Procurement

Referencing of standards.  
Climate and Environmental requirements.

### Green and sustainable development

Management systems, like e.g.; ISO 14001  
Specific environmental aspects.  
Circular economy.  
Sustainable development (**North African project**)  
Industrial Symbiosis.



**Søren Jensen:** “Master in Environmental Management”. Owner of DanSense.  
Experience: 35 years from the public and private sector and in a fund.

[www.dansense.dk](http://www.dansense.dk)

Phone.: +45 20247001

E-mail.: sj@dansense.dk

# DanSense European Public procurement network

App. 90 representatives following the network from **24** countries.

*Updated 3<sup>rd</sup> April 2022*



- Representatives from **20 central public procurement authorities** as well as **19 NSB's** (*National standardisation bodies*)

+ Observers

# Public procurement Network

<b>Country</b>	<b>National Public proc. Rep.</b>	<b>NSB representative</b>
Austria	YES	YES
Belgium	YES	YES
Croatia	YES	YES
Cyprus	YES	YES
Czech Republic	YES	no
Denmark	YES	YES
England	no	YES
Estonia	no	YES
Finland	YES	YES
France	YES	no
Germany	YES	YES
Hungary	YES	no
Iceland	YES	YES
Latvia	YES	YES
Lithuania	YES	YES
Luxembourg	no	YES
Malta	YES	no
Norway	YES	YES
Poland	YES	YES
Romania	YES	YES
Slovakia	YES	no
Spain	YES	YES
Sweden	YES	YES
Switzerland	no	YES

# Relevant basic material – initial work



As part of a Joint initiative between the European Commission and the European standardisation organisation CEN/CENELEC





## What is a standard?

In the context of the public procurement Directive 2014/24/EU Annex VII, 2

### A Standard,:

- “**standard**” means a **technical specification**, adopted by a **recognised standardisation body**, for repeated or continuous application, with which compliance is not compulsory, and which is one of the following:
  - International standard
  - European standard
  - National standard
  - European Technical Assessment
  - Common Technical specification



# Organisations developing recognised standards

 International standardisation

- ISO
- IEC
- ITU

 European standardisation

- CEN
- CENELEC
- ETSI

 National standardisation

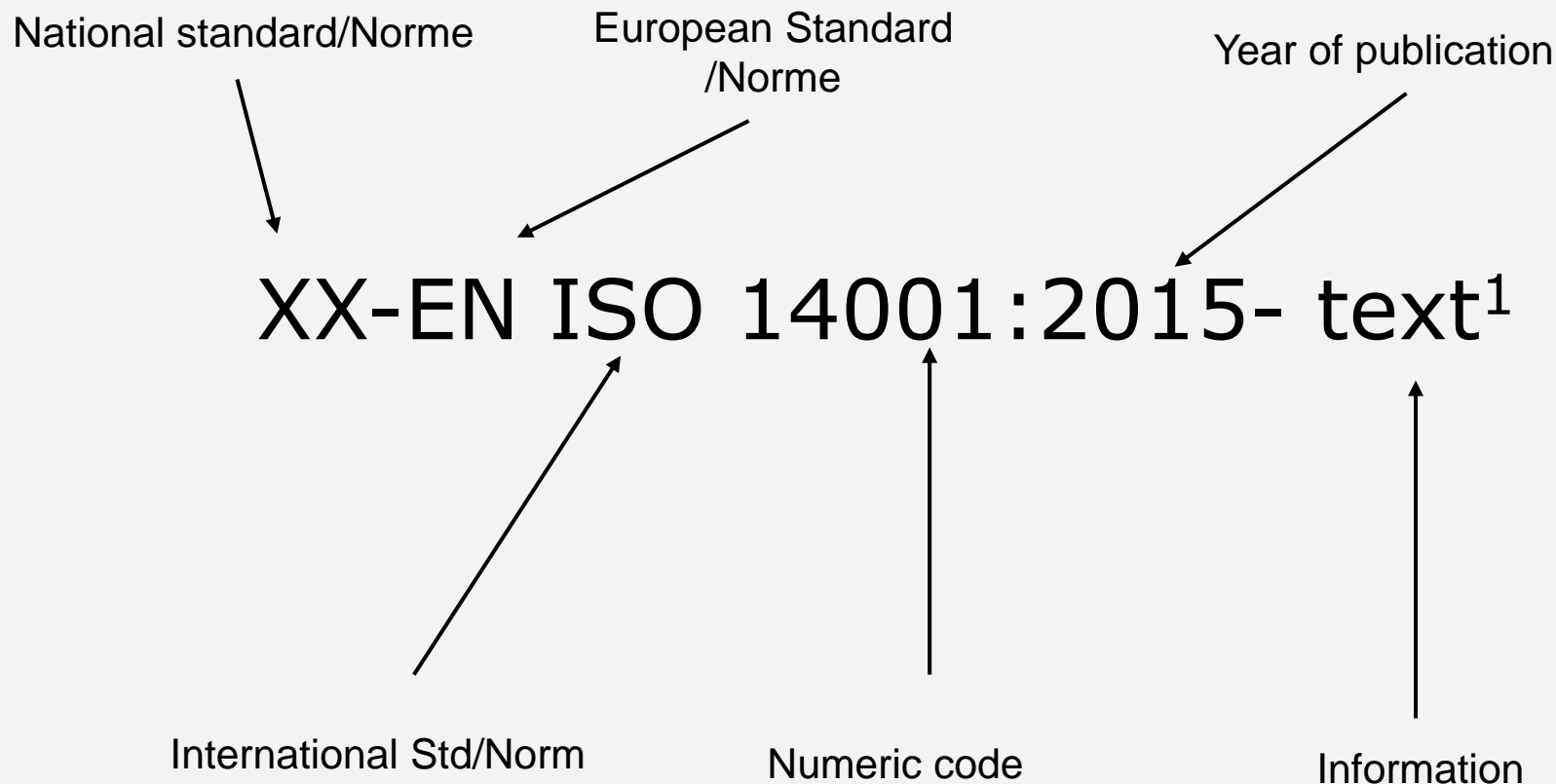
e.g.:

Normalización Española      DANSK STANDARD

Agreed type of identification / nomenclature for all standards.

## Example on **recognized** standards and Nomenclature for exact identification



<sup>1</sup>**Text:** *Environmental management systems - Requirements with guidance for use*



# Article 42 adds more standards



*ESO's: European standardisation organisations mentioned above*

# Organisations developing recognised standards

 International standardisation

- ISO
- IEC
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 European standardisation

- CEN
- CENELEC
- ETSI

 National standardisation

e.g.:

Normalización Española      DANSK STANDARD

**Challenge 1:** Standardisation organisations knows how to produce standards, but not necessarily how to reference them in public procurement



## Legal background for referencing standards

Directive 2014/24/EU of the European Parliament and of the council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC **explicitly allows contracting authorities to reference standards in technical specifications in the procurement process**



## - Article 42 “Technical specifications”

### 42.3

- “....Without prejudice to mandatory national technical rules, to the extent that they are compatible with Union law, **the technical specifications shall be formulated in one of the following ways**”

**42.3.(a) in terms of performance or functional requirements**, including environmental characteristics, provided that the parameters are sufficiently precise to allow tenderers to determine the subject-matter of the contract and to allow contracting authorities to award the contract;



The good  
old way of  
doing  
things  
throughout  
Europe!



## Legal background for referencing standards

- **42.3(b)** “*by reference to technical specifications and, in order of preference, to national standards transposing European standards, European Technical Assessments, common technical specifications, international standards, other technical reference systems established by the European standardisation bodies or - when any of those do not exist - national standards, national technical specifications or national technical specifications relating to the design, calculation and execution of the works and use of the supplies; each reference shall be accompanied by the words ‘or equivalent’;*”
- **42.3(c)** *in terms of performance or functional requirements as referred to in point (a), with reference to the technical specifications referred to in point (b) as a means of presuming conformity with such performance or functional requirements*
- **42.3(d)** *by reference to the technical specifications referred to in point (b) for certain characteristics, and by reference to the performance or functional requirements referred to in point (a) for other characteristics.*

**If you don't understand standards you cannot use (b), (c) or (d)**



**Challenge 2 : 3 out of 4 options on development of technical specifications are not used.**

## Analysis of Public Sector Procurement Activities

- A Report on Referencing Standards  
in Public Procurement

May 2019



DAN  
SENSE

sis

Swedish  
Institute for  
Standards



Funded  
by the



**In sectors:**  
Construction, Medical  
devices, and Waste

**Including:**  
6 countries and 3525  
survey persons.

**Response:**  
14 % or 423 persons.

# Countries involved in the survey



# Several interesting results

**Survey persons were extremely competent.** Many years of experience and a long track record in public procurement.

For the **public sector**, the main reasons for referencing standards were:

- They are good for describing minimum requirements
- They provide clear specifications
- They are an integrated part of the market

The **private sector** the main reason was:

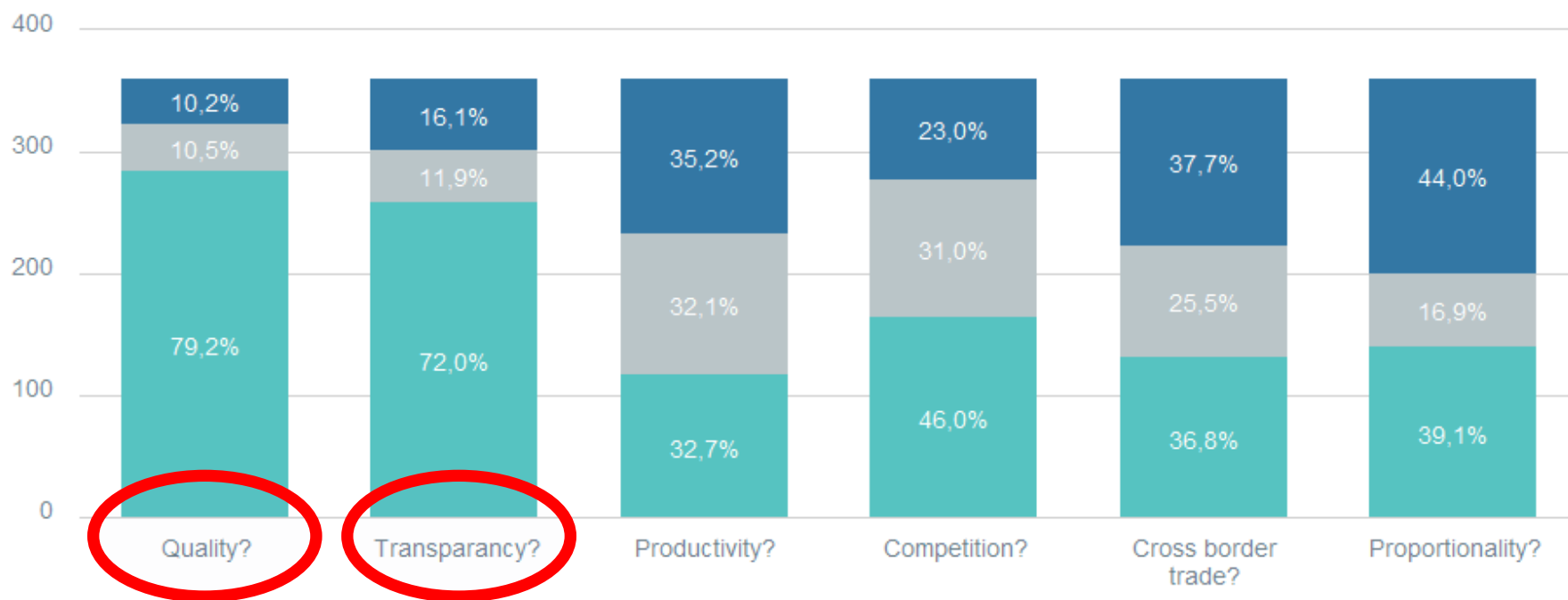
- They are requested by the public sector to provide standards

**YET:** the survey also revealed.

**It is most likely not known to the public authorities how to correctly identify and reference standards.**



## Public sector – In your opinion are standards considered to increase:



Total sprøg: Indeholder null. Svar status: Gennemført

361

- Yes
- No
- Don't know



## Public sector: Do you know if any of the following types of standards have been referenced as part of procurement documents?



Total sprog: Indeholder null. Svar status: Gennemført

361

**Challenge 3** : Contraction authorities are not aware of types of standards referenced

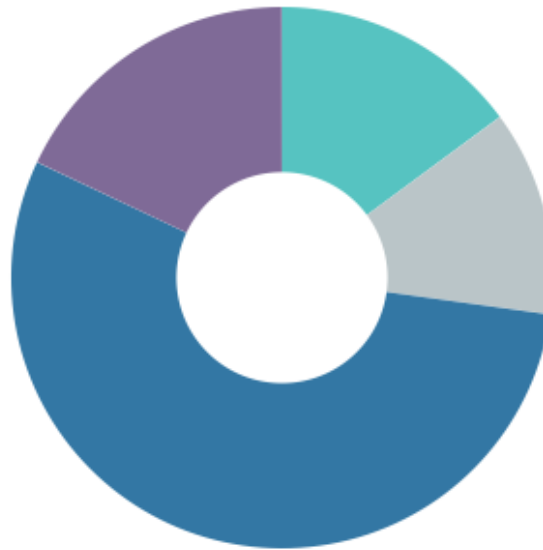
# European harmonised standards



- **Before 1985** – one type of goods/services/construction – one directive – no connection to standards
- **After 1985** – harmonisation of goods/services/construction through “the new approach” which is now called “the new legislative framework”
- On the basis of overall directives and regulations **the European Commission** harmonises European standards.
- **More than 20 %** of all developed European standards are harmonized, meaning it will make it easier for Contracting authorities to comply with European legislation.
- This could **increase trade** cross countries considerably.

## Where did you learn about referencing standards?

Challenge 4 : Contraction authorities self-taught in referencing of standards



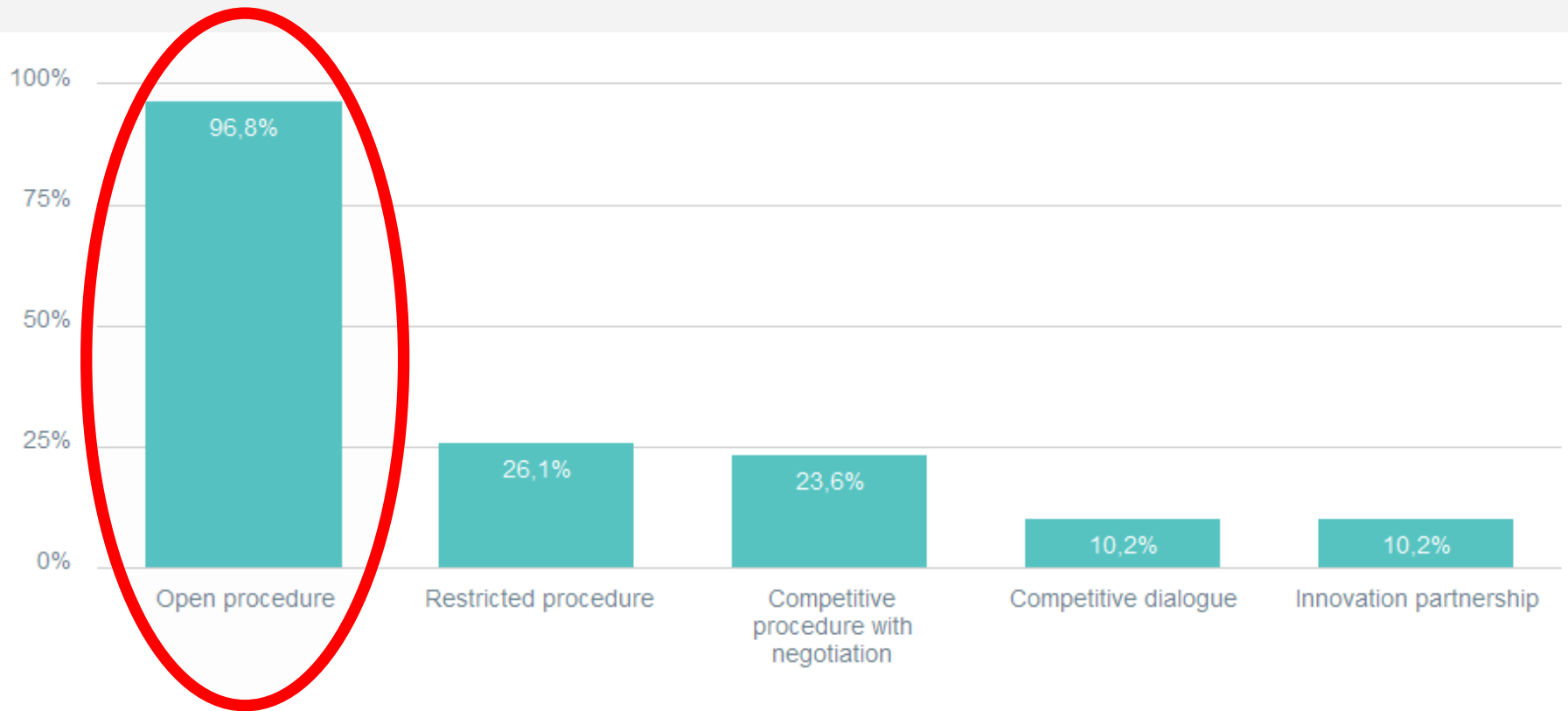
**Total** sprog: Indeholder null. Svar status: Gennemført

● National Standardisation bodies 14,9%  
● Consultants 12,3%

● We have used them earlier in similar tenders 54,8%  
● Public authorities 18,0%

423

## Public sector – Where are the standards primarily mentioned?



Total: open procedure: 157

157

**Challenge 5** : Contraction authorities primarily mention that they reference standards only in the open procedure, even they can be mentioned in all procedures.

## Art 42.3(b): Order of preference

In order of preference:

- A: National standards transposing European standards
- B: European Technical Assessments
- C: Common technical specifications
- D: International standards
- E: Other technical reference systems established by the European standardisation bodies,

**or if the above does not exist**

- F: National standards
- G: National Technical approvals
- H: National Technical specifications

Each reference accompanied by the words “**or equivalent**”.



**This list of standards is exhaustive**

If not mentioned, then not included.

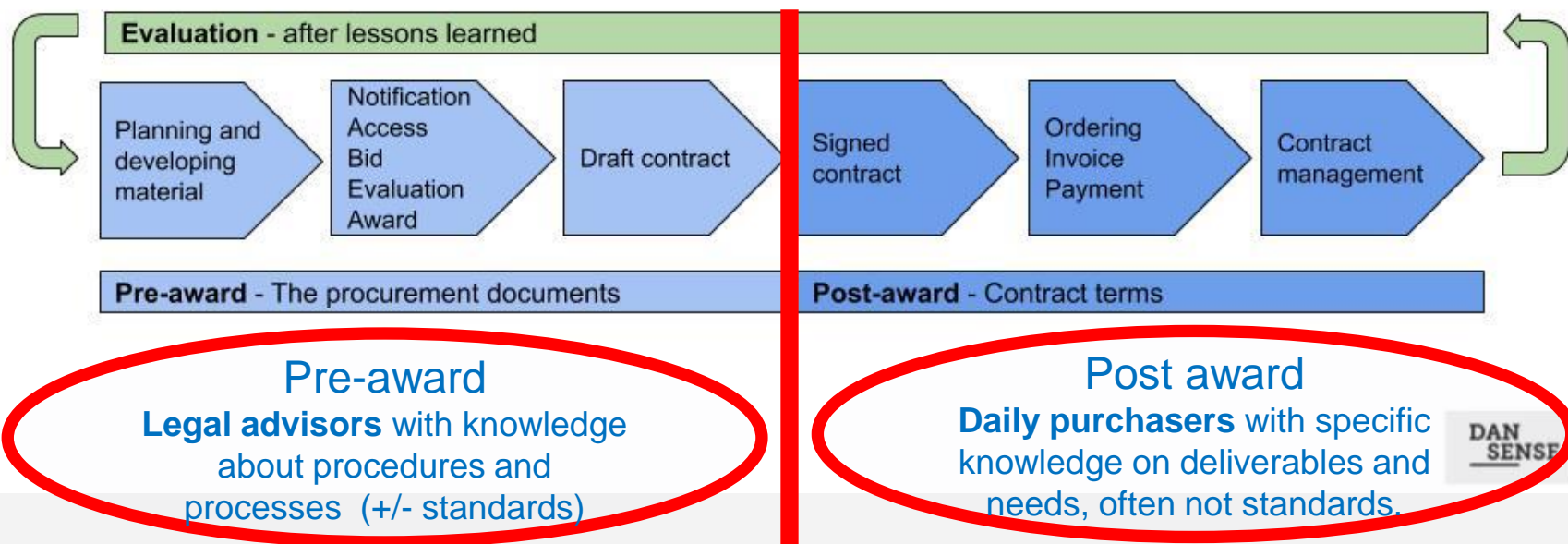
**Challenge 6 : Contracting authorities does not know what this means.**

# Directive 2014/24/EU on public procurement

Article 42.3

## Who takes ownership to Article 42.3?

Public procurement End-to-end procurement

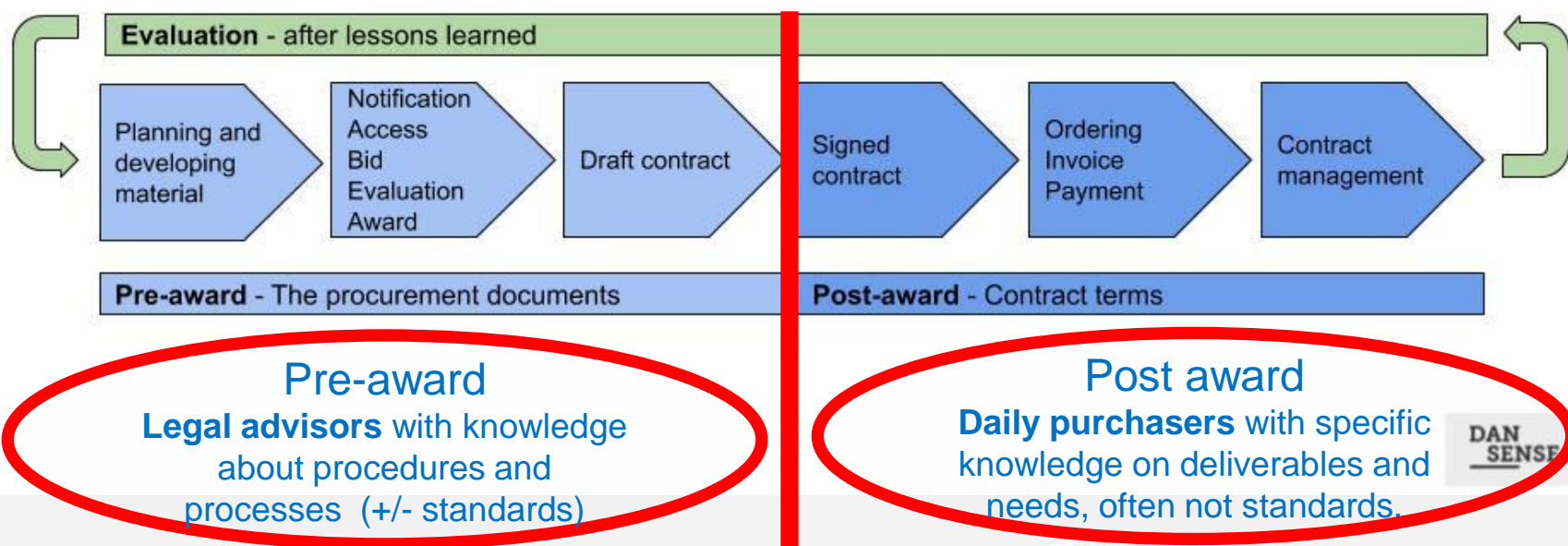


# Directive 2014/24/EU on public procurement

Article 42.3

## Who takes ownership to Article 42.3?

Public procurement End-to-end procurement



**Challenge 7** : Article 42.3 falls between two chairs so new tools are needed.

## Implications on other articles when

lack of knowledge of 42.3.b-d

§

**Not being able to reference standards reduces possibilities in e.g.:**

**Article 42.3** "Technical specifications".

**Article 43** "Labels"

**Article 44** "Test reports, certification and other means of proof"

**Article 60** "Means of Proof"

**Article 62** "Quality assurance standards and environmental management standards"

*(And more, not mentioned like especially **Article 68**, Life-Cycle costing and also **Article 53**, electronic availability)*

**Challenge 8** : If knowledge to referencing of standards, is missing, documenting proper public procurement gets very difficult and innovation procurement is almost eliminated, since comparability is reduced.



# GDP in public procurement in Europe

**Annual EU budget in public procurement:**  
€ 2000 billion, 13,3 - 14 % of GDP per year.

**Including:**  
250.000 public entities in Europe.

**All public contracting authorities** develop **technical specifications** according to article 42.3 in the Directive 2014/24/EU on Public Procurement

**Potential economic savings by learning how to reference standards in public procurement:**

If 1 % saved = € 20 Billion a year over at least 5 years.

**DanSense estimate for Professionalized procurement with standards:**

5-10 % saved plus introducing sustainable procurement.

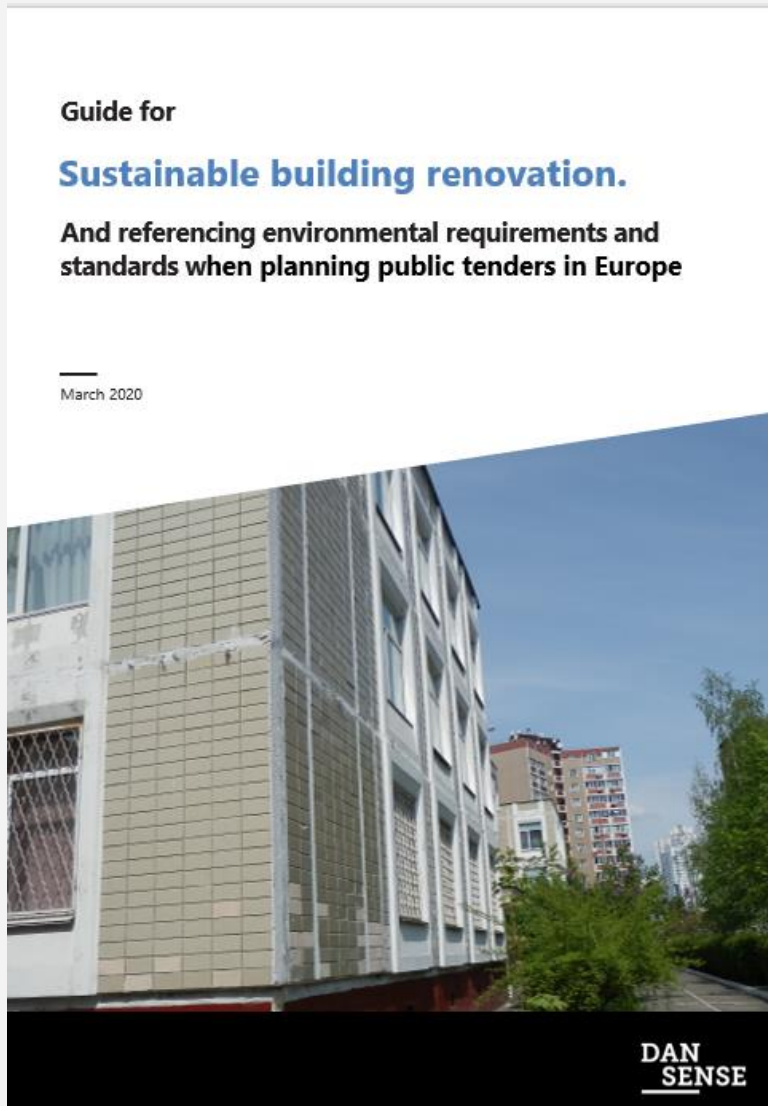
DanSense argues.

**Money to be saved in public procurement in 5 years in Europe:**

Up to **€ 1000 Billion**. – Enough to reduce environmental and climate impacts considerably **in all countries by focusing increased use of standards in PP**.

First sector specific guide:

# Sustainable building renovation



- Focusing standardisation aspects and **environmental and climate** aspects in building renovation
- Giving **guidance on how to reference standards** and environmental requirements in public procurement.

**Should the  
second sector  
specific guide for  
contraction  
authorities be on:**

**Security  
Procurement?**



Feel free to send questions regarding safety and possibilities through innovative procurement and referencing of standards.



**Any questions?**

# Thank you for your time Have a great day.



DanSense Ltd

Kallerup Bakkevej 5

4400 Kalundborg

Denmark

CVR: DK-31066832

Office: +45 2024 7001

E-mail: [sj@dansense.dk](mailto:sj@dansense.dk)

