

PREVENTIVE LAW AND RISK MANAGEMENT IN FINNISH PPP PROJECTS

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ABSTRACT

Public-private-partnerships projects (later on PPP's) are long term, complexed and very challenging contractual arrangements and relationships. They bring new roles for public sector and also for private sector in terms of construction and services. In Finland PPP's are used for example in building large motorways, schools and sport and swimming halls. This paper will go through some features of the Finnish PPP's.

Preventive law focuses in practical views what comes to contract law and contractual issues. It emphasises contract preparation and negotiations as tools to recognize and allocate future's risks and different kind of other special contract issues and questions. Main target is to prevent problems instead of confronting them. Preventive law means also company-specific working methods in contract/project preparation phase. For example engineers, economists and lawyers have to find a common language so they can find out critical questions and issues during the preparation of a contract. Only this way future's contractual risks and problems can be avoided. This means also that companies have to invest to contract processes. This paper will clarify what preventive law is about in terms of contract law and contracting especially in PPP's.

For example 20-40 years partnership relation with PPP's brings up also dozens of different risks into the picture. These risks are handled mainly during contract negotiations. During the negotiations parties allocate risks and also determine the tools for risk management. Risks can be seen in a preventive way and also as a tool for contractual planning. While risks are in a major role what comes to PPP's, also risk management is important. Every PPP project form an unique starting point what comes to risk management and planning it. This paper will discuss risks and risk management first in general level and after that focusing on PPP's in Finland.

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