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In case no. 5734-24, **AA** (Applicant), the Supreme Administrative Court delivered the following judgment on 7 March 2025.

RULING OF THE SUPREME ADMINISTRATIVE COURT

The Supreme Administrative Court overturns the decisions of the lower instances in those respects pertaining to the record from ocular inspections of sample plates and remands the case to the Swedish Transport Agency for a new examination in accordance with what is stated in paragraph 13.

BACKGROUND

1. Everyone shall be entitled to have free access to official documents provided that the information therein is not covered by secrecy. A document is official if it is held by a public authority, and if it can be deemed to have been received or drawn up by such an authority. A document that has been created within a public authority and which has not been dispatched is deemed to have been drawn up when the matter to which it relates has been finally settled by the authority.
2. The Swedish Transport Agency has conducted a procurement regarding the production of licence plates. The agency requested samples of plates from the tenderers and conducted an ocular inspection of the sample plates. The result of the inspection was recorded in a document.
3. AA requested to be provided with, on the one hand, the record of the Swedish Transport Agency's contacts with the winning tenderer's references and, on the other, the record from the ocular inspection of the sample plates. Some parts of the record relating to references were not released, for the stated reason that the information was covered by secrecy. The record from the ocular inspection was not released since the agency determined that the document was not official.
4. AA appealed the decision to the Administrative Court of Appeal in Jönköping which rejected the appeal. On the topic of the record from the ocular inspection of

the submitted sample plates, the administrative court of appeal held that the document was not official, owing to the fact that the procurement matter had not been finally settled at the time of the appealed decision since a review process at that moment was underway.

CLAIMS, ETC.

5. AA appeals.

REASONS FOR THE RULING

The question in the Supreme Administrative Court

6. The Supreme Administrative Court has granted leave to appeal in the part of the case pertaining to the record from the ocular inspection of sample plates. Leave to appeal has not been granted in the part that pertains to the record of the Swedish Transport Agency's contacts with the winning tenderer's references. The ruling by the administrative court of appeal in that respect has accordingly been affirmed.
7. The question in the Supreme Administrative Court is whether the fact that a procurement is subject to an ongoing review process means that the procurement matter cannot be deemed to be finally settled in the sense referred to in Chapter 2, Article 10, first paragraph of the Freedom of the Press Act.

Legislation, etc.

8. Pursuant to Chapter 2, Article 10, first paragraph of the Freedom of the Press Act, a document is deemed to have been drawn up by a public authority when it has been dispatched. A document which has not been dispatched is deemed to have been drawn up when the matter to which it relates has been finally settled by the authority or, if the document does not relate to a specific matter, when it has been finally checked and approved by the authority, or has otherwise received final form.

The Court's assessment

9. The document containing the Swedish Transport Agency's record from the ocular inspection of sample plates has, as it appears, not been dispatched. Since the document relates to a matter, the matter must therefore have been finally settled by the authority in order for the document to be deemed drawn up and thereby official.
10. In the view of the Supreme Administrative Court, a matter must be deemed finally settled by an authority when the authority disposes of the matter. Generally, this is manifested by the authority taking a final decision. What subsequently takes place in the matter, e.g. the decision being appealed, rendering a review authority competent to make substantive dispositions or remand the matter for renewed processing and decision, has no bearing on the question of when the matter is deemed to be finally settled by the authority. The fact that procurement matters exhibit some distinctive features when compared to many other types of matters does not constitute a reason to assess these matters differently.
11. When a procuring authority issues a contract award notice, this equates to the authority disposing of the matter. The matter is then, as far as the authority is concerned, finally settled. A procurement being the subject of a review process accordingly does not preclude the procurement matter from being deemed to have been finally settled by the authority in the sense referred to in Chapter 2, Article 10, first paragraph of the Freedom of the Press Act.
12. At the time of the Swedish Transport Agency's decision to reject the request for the release of the record, the Swedish Transport Agency had issued a contract award notice, meaning that the procurement matter had been finally settled by the authority. The document in question had consequently been drawn up and was official. Accordingly, the lower instances were wrong to deny a release on the stated ground.
13. Since the record from the ocular inspection of the sample plates constitutes an official document, it is to be released unless there is an obstacle due to secrecy. It is incumbent upon the Swedish Transport Agency to, as the first instance, assess whether there is information in the document that is covered by secrecy. The

decisions of the lower instances are thus to be overturned in those respects pertaining to the record from the ocular inspection of sample plates and the case remanded to the Swedish Transport Agency for a new examination.

Justices Henrik Jermsten, Inga-Lill Askersjö, Mahmut Baran, Ulrik von Essen and Martin Nilsson have participated in the ruling.

Judge Referee: Mårten Olsson.