

6 OCTOBER 2023

---

## Common standards of contractors and technical advisors liability

Nordic law

---



## The Nordic approach – standard form contracts



### Sweden

- Allmänna bestämmelser (ABS 18)

### Norway

- Norsk Standard (NS) ([www.standard.no](http://www.standard.no))

### Denmark

- Almindelige betingelser ([www.voldgift.dk](http://www.voldgift.dk)), also UK

### Fundamentals of the Danish AB system

## Almindelige betingelser i bygge- og anlægsvirksomhed

Betænkning nr. 1570  
2018

AB

APP  
AB (F)  
ABR (F)

---

## The basics on liability (re DK)

---

### Technical advisor (re ABR 18)



- Liability for negligence – full loss suffered
- All parts of the services under the Contract
- Design, schedule inspection, approval, recommendation etc.

#### And further liability for...

- Financial overruns ?
- Forgotten services – penalty
- Loss for lost competitive advantage

#### And less liability if..

- Only direct loss
- Pro rata liability
- Secondary liability re defects
- Limited re insurance coverage
- 5 years after hand over

### Contractor (re AB18)



- Contractual obligation – liability without negligence
- Defects and delay
- Full loss suffered

#### And further liability for...

- Delay penalties
- Advice on design etc.

#### And less strict liability ...

- Only direct loss
- Further consequences of defects
- Product liability
- 5 years after hand over

---

... and in reality it can be complicated – when the contractor is also the consultant...

---

### Phase 1 - the contractor is advisor

### Phase 2 – The contractor is DB contractor



- Framework agreement EM – CO – AR – EN
- CO as advisor
- CO – AR – EN to develop the full design for the EM to approve
- Full design is basis for DB Contract if accepted by EM

- CO novates the contracts with AR and EN
- CO as design/build contractor
- What are the conditions for CO liability in Phase 2?
  - No wording ?
  - *“CO takes over all liability for AR design”* – as if he was AR or with a different standard?
  - Did EM accept design as is?



# BRUUN & HJEJLE

ADVOKATPARTNERSELSKAB

NØRREGADE 21

1165 KØBENHAVN

[WWW.BRUUNHJEJLE.DK](http://WWW.BRUUNHJEJLE.DK)

+45 33 34 50 00