



UMEÅ UNIVERSITET

Fel i tjänst

Om felbedömning och påföljdsbestämning vid avtal om tjänster i oreglerade fall

Peter Hultgren

Akademisk avhandling

som med vederbörligt tillstånd av Rektor vid Umeå universitet för avläggande av juris doktorsexamen framläggs till offentligt försvar i Hörsal A, Lindellhallen vid Umeå universitet fredagen den 15 februari, kl. 10:00.

Avhandlingen kommer att försvaras på svenska.

Fakultetsopponent: Professor, Kåre Lilleholt,
Institutt for privatrett: Det juridiske fakultet, Universitet i Oslo.

Organization

Umeå University
Department of law

Document type

Doctoral thesis

Date of publication

25 January 2019

Author

Peter Hultgren

Title

Fel i tjänst: om felbedömning och påföljdsbestämning vid avtal om tjänster i oreglerade fall.
Inadequate performance of service: on defect- and remedy determination in unregulated Swedish service contract disputes.

Abstract

Within the Swedish law of obligation, reasoning from analogies and general principle is a common method for solving disputes. This is due to the Swedish legal history and the Swedish legislative traditions. The Nordic countries never attained a universal civil code. Instead, the Nordic tradition has been to legislate what was considered central types of contracts, leaving the courts to rely on analogies and general principle within a great portion of the law of obligation. This solution has been fine for a long time, but due to a fast developing market in combination with a new political landscape where updating the fragmented legislation to meet the prerequisites of modern contract law doesn't seem to be as important, the method has become more problematic. This is particularly true for service contracts since they can be of widely different character and the norms accessible for analogies and deriving general principles from is of equally diverse characteristics.

With the above stated in mind, the study aims to examine the basis of legal supplementation through analogies and general principles as well as the basis of assessing breach of contract, especially regarding inadequate performance of service (swe: *fel i tjänst*), and determination of remedies for such contractual defects. The study hereby concludes when inadequate performance of service is at hand in unregulated cases and which contractual remedies is available through general principle in such cases.

Keywords

Fel i tjänst, uppdragstagares kontraktsbrott, utfyllning, utfyllande rätt, analogier, allmänna rättsgrundsatser, allmänna rättsprinciper, felbedömning, påföljder, detentionsrätt, fullgörelse, prisavdrag, hävning, skadestånd.

Language

Svenska

ISBN

978-91-7601-995-5

ISSN

1404-9198

Number of pages

422