

A renewed interest in the application of AB 04/ABT 06 kap 6§ 3

COVID-19 pandemic, ongoing war in Europe, trade sanctions and high energy prices - unprecedented challenges related to price increases on building material puts the building contractor in a precarious situation. To their rescue, AB 04/ABT 06 kap 6§ 3, a provision that allows for price adjustment of fixed-price contracts due to unforeseeable cost changes. However, with a lack of legal doctrine regarding the interpretation of this provision, stakeholder organizations arguing have varying perspectives on its implementation.

In the thesis titled “Increased costs in fixed-price construction contracts due to abnormal price increases in materials” the impact of the recent price increases on building contractors’ finances and negotiations concerning AB 04/ABT 06 kap 6§ 3 are examined through a multiple case-study approach, examining three building projects from the perspective of a single building contractor. Furthermore, the study seeks to assess the reliability of Entreprenadindex as a tool for calculating cost changes in volatile pricing environments, as this could have implications for determining the extent to which a contract should be price adjusted.

The study clearly demonstrates a significant reduction in the building contractor’s financial margins due to increased costs, even though none of the fixed-price projects had been completed at the time of the data collection. There was weak correlation observed between the development of Entreprenadindex and the actual cost

changes for all projects examined. Additionally, the negotiations for price adjustment differed across the analyzed projects, with each project having its own set of proposed solutions.

The findings regarding the financial impact were not surprising, as one would have to look back to the oil crisis in the 1970s to find a period with a similar magnitude of price increases in building materials. Similarly, the variation in negotiations was expected, given the absence of any legal cases addressing the interpretation of AB 04/ABT 06 kap. 6§ 3 at the time, with each party advocating for financially advantageous solutions. However, there was surprising result concerning Entreprenadindex. Contrary to the reports of private and public businesses, stakeholder organizations and industry authorities in late 2021, the study indicates that the index underestimates cost development. Important to highlight - the reason for this discrepancy are uncertain, and unidentified sources of error sources may very well be responsible for this outcome.

Despite this study examines only three building projects, it provides insight into some of the most relevant topics currently confronting the construction industry - What is a fair and just price adjustment, and how do you calculate the cost change which is the basis for such adjustment?

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3 maj 2023

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