

SUPREME COURT'S DECISION

delivered in Stockholm on 23 February 2022

Case no.

Ö 1382-21

PARTIES

Appellant

Värmland Enterprise AB, company registration no. 556774-9030

Patron Carls väg 2

683 40 Uddeholm

THE MATTER

Dismissal of summons application

RULING APPEALED

Decision of the Court of Appeal for Western Sweden of 2021-02-16 in case

Ö 1506-21

THE SUPREME COURT'S RULING

The Supreme Court rejects the appeal.

CLAIMS IN THE SUPREME COURT

Värmland Enterprise AB has claimed that the Supreme Court shall reverse the decision to dismiss and remand the case to the district court.

REASONS FOR THE DECISION

Background

1. Värmland Enterprise applied for a summons against Hagfors municipality with a claim that the municipality be ordered to pay a certain sum. The application for summons was written in English. The district court sent a supplementation order to the company. The order stated that the application for a summons could be dismissed if it was not translated into Swedish. Värmland Enterprise responded that the company did not intend to submit a translation.
2. The district court dismissed the application for a summons since, without translation, it was deemed to be so incomplete that it could not form the basis of a judicial process. Värmland Enterprise appealed the decision. The court of appeal concurred with the assessment of the district court and rejected the appeal.

What is at issue in the case

3. The case concerns whether an application for a summons in an action amenable to out-of-court settlement may be dismissed if it is not written in Swedish and is not translated following an order.

The legal framework

Dismissal of an application for a summons

4. Chapter 42, Section 2 of the Swedish Code of Judicial Procedure states what an application for a summons in civil action shall contain. In order for it to form the basis for the legal proceedings and constitute a basis for a statement of defence, the requirements stated by the provision must be met. In the event the requirements are not met, the plaintiff shall be directed to cure the defects. Upon failure to obey the order, the application shall be dismissed if it is so incomplete that it cannot, without considerable inconvenience, be used as a basis for legal proceedings. (See Chapter 42, Sections 3 and 4 of the Code of Judicial Procedure.)

The language in the legal proceedings

5. The language of the legal proceedings is Swedish, and documents submitted to the court shall consequently be in Swedish (see Section 10 of the Language Act, 2009:600). The Code of Judicial Procedure also rests on the assumption that the legal proceedings will take place in Swedish. It must be ensured that both the judges of the court and the parties can fully comprehend the materials in the proceedings. The rule regarding Swedish as the language of the legal proceedings is also relevant to the possibility for the public to gain insight into the legal proceedings. (See, *inter alia*, Government Bill 2008/09:153, p. 29 and the “*German Application for Enforcement*” case, case NJA 2011, p. 345, para. 3.)

6. However, in certain cases, documents in languages other than Swedish may be accepted. It is the task of the court in each individual case to determine if and the extent to which deviations may occur from the general rule that the legal proceedings are to be conducted in Swedish. Frequently, then, certain types of documents – e.g. agreements, letters, opinions and other written

evidence – in Danish or Norwegian should be able to be accepted. In addition, documents of this type in English should often be able to be accepted. On the other hand, documents in languages other than these should normally not be accepted. (See the “*German Application for Enforcement*” case, para. 4.)

7. An application for a summons is the initiating document which establishes the framework of the subsequent proceedings. In a case amenable to out-of-court settlement, the application will also form the basis of the examination of whether a default judgment will be issued in the event no statement of defence is submitted. Against this background, an application for a summons should always be in Swedish. This applies correspondingly to the written statement of defence and any supplemental writs or written submissions which contain additional claims. Normally, written documents which contain the parties’ legal arguments should otherwise be written in Swedish.

8. As regards the right to use national minority languages and other Nordic languages in court, there are special provisions (see Section 10, second paragraph of the Language Act and Sections 13–15 of the National Minorities and Minority Languages Act, 2009:724).

Translation of documents

9. Where necessary, the court may cause documents submitted to the court to be translated (see Chapter 33, Section 9, first paragraph of the Code of Judicial Procedure). Thus, there is no requirement that a translation always be made but, rather, the need may be determined on a case-by-case basis.

10. In 1988, the former provision of the Code of Judicial Procedure according to which the parties could be ordered to submit a translation of a document was repealed. Thus, there is currently no express regulation thereon. The intention of the amendment to the act, however, was not that the courts

were to always be responsible for translation of documents in the legal proceedings which were submitted in a foreign language. It may still be appropriate to order the parties to themselves translate documents which they submit to the court. (See Government Bill 1986/87:89, p. 170 and the “*German Application for Enforcement*” case, para. 6.)

11. In cases amenable to out-of-court settlement, it is the parties who have at their disposal the subject matter of the proceedings and the petitioners who choose whether an application for a summons will be submitted. In such cases, there is no reason, as a rule, to cause translations of the documents to be made at the court’s expense. Exceptionally, however, it may be justified to do so, e.g. when a private person brings an action in a so-called small claims case, where a party would otherwise risk being subject to a time bar, or where there is some other acceptable reason. There may also be cause to give other considerations in the translation question as regards cases which are not amenable to out-of-court settlement and criminal cases, but it should be emphasised that, in the end, it is the court which decides the question. In the event a translation has been made, the court should, where necessary, clarify that the translated text submitted forms the basis for the adjudication.

The assessment in this case

12. Värmland Enterprise submitted an application for a summons written in English. Notwithstanding the district court’s order to translate the application, the company did not submit any document in Swedish.

13. The company has not given any other reason why the court should see to the translation of the document other than the fact it has submitted documents in English in previous proceedings, something that was accepted by various courts. However, this does not constitute any acceptable reason why the public, in lieu of the company, shall bear the cost of a translation.

14. The decision to dismiss Värmland Enterprise's application for a summons was thus correct. Accordingly, the company's appeal is rejected.

Justices of the Supreme Court Anders Eka, Kerstin Calissendorff, Svante O. Johansson, Eric M. Runesson and Stefan Reimer (reporting Justice) participated in the ruling.

Judge referee: Charlotta Törnell