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In case no. 1208–1210-21, the **Swedish Armed Forces** (Appellant), the Supreme Administrative Court delivered the following judgment on 22 December 2021.

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## **RULING OF THE SUPREME ADMINISTRATIVE COURT**

The Supreme Administrative Court grants the appeals and decides that Uppsala Vatten och Avfall AB shall provide the information to the Swedish Armed Forces requested by the Swedish Armed Forces.

## **BACKGROUND**

1. A public authority shall, at the request of another public authority, provide information in its possession unless the information is classified or it would impede the due course of the work.
2. Uppsala Vatten och Avfall AB is responsible for supplying drinking water in Uppsala municipality. After having discovered increased levels of a contaminant in the groundwater, the company brought an action against the Swedish Armed Forces for damages. According to the company, the contamination was caused by the Swedish Armed Forces having practiced fire suppression exercises with fire-extinguishing foam which contained such substance.
3. The Swedish Armed Forces requested information from the company regarding certain information concerning, *inter alia*, sampling of the groundwater in the Uppsala Ridge. The objective was that the Swedish Armed Forces would be able to adopt a position regarding the company's damages claim.
4. The company decided to provide certain information to the Swedish Armed Forces, but otherwise rejected the request. The company referred to the fact that the information was covered by the secrecy provision applicable to information which discloses, or may contribute to the disclosure of, security or monitoring

measures and the provision applicable to information relating to the operations of a public authority consisting of risk and vulnerability analyses regarding peacetime crisis situations.

5. The Swedish Armed Forces appealed the decisions to the Administrative Court of Appeal in Stockholm and stated that, since the information will be subject to secrecy also while in possession of the Swedish Armed Forces, it is to be disclosed.
6. The administrative court of appeal rejected the appeals. The administrative court of appeal was of the opinion that, even considering the fact that the information would be subject to secrecy while in possession of the Swedish Armed Forces, there was reason, taking into account the express purpose of using the information in damages proceedings, to assume that the measures referred to in the provisions would be contravened in the event the information was provided to the Swedish Armed Forces. Accordingly, the information was classified.

#### **CLAIMS, ETC.**

7. The Swedish Armed Forces maintain their request.

#### **REASONS FOR THE RULING**

##### **Legislation, etc.**

8. According to Chapter 6, section 5 of the Public Access to Information and Secrecy Act (2009:400), a public authority shall, upon request by another public authority, provide information in its possession unless the information is classified or it would impede the due course of the work. The information obligation covers all information in the possession of the public authority, thus not only information from public documents (Government Bill 1979/80:2, Part A, p. 361).

9. Chapter 18 of the Public Access to Information and Secrecy Act contains provisions regarding secrecy for the protection of public interests.
10. Section 8 (1) states that secrecy applies to information which discloses, or may contribute to the disclosure of, security or monitoring measures where it may be assumed that the purpose of the measures will be counteracted if the information is disclosed and the measures pertain to buildings or other facilities, premises or inventories.
11. According to section 13, secrecy applies to information relating to the activities of a public authority consisting of risk and vulnerability analyses regarding peace-time crisis situations, planning and preparations for such situations or managing such situations where it may be assumed that the possibilities of the public to prevent and manage peace-time crises will be contravened if the information is disclosed.
12. The preparatory works relating to both sections 8 and 13 of Chapter 18 state that the provisions have been formulated such that secrecy continues to apply irrespective of the public authority to which the information is provided. It also states that, since secrecy will also apply at the receiving public authority, it may not be assumed that the protected interest of the public will be counteracted if the information is provided to the receiving public authority. Furthermore, the government has stated that there is accordingly no need for any special declassification provision as between the public authorities (Government Bill 2003/04:93, p. 82 f. and Government Bill 2004/05:5, p. 262 ff.).

#### **The Court's assessment**

13. The provision of Chapter 6, section 5 of the Public Access to Information and Secrecy Act thus entails that public authorities are obliged to provide information to each other on condition that the information is not classified.

14. The information relevant in the case concerns, *inter alia*, samplings of groundwater in the Uppsala Ridge. The Supreme Administrative Court finds that the information is subject to secrecy in accordance with Chapter 18, sections 8 (1) and 13 of the Public Access to Information and Secrecy Act.
15. The relevant secrecy provisions will be applicable to the information also at the Swedish Armed Forces. Accordingly, it may not be assumed that the disclosure of the information to the Swedish Armed Forces would contravene the company's security or monitoring measures regarding the water plant or its possibilities to prevent and manage peace-time crisis situations. Accordingly, the information is not classified in relation to the Swedish Armed Forces.
16. The company is thereby obliged to provide the Swedish Armed Forces with the information requested by the Swedish Armed Forces. Accordingly, the appeals are granted.

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Justices Henrik Jermsten, Per Classon, Inga-Lill Askersjö, Kristina Svahn Starrsjö and Helena Rosén Andersson have participated in the ruling.

Judge Referee: Eva Zawiska-Önnertson.