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In case no. 5653-20, **AA.** (Appellant) v. the **Swedish Police Authority** (Respondent), the Supreme Administrative Court delivered the following judgment on 28 June 2021.

RULING OF THE SUPREME ADMINISTRATIVE COURT

The Supreme Administrative Court grants the appeal and overturns the rulings of the lower courts.

BACKGROUND

1. A license to possess firearms may only be granted if it can be reasonably assumed that the weapon will not be misused. The requirement entails that only a person who is suitable to possess firearms is granted a weapons license.
2. A license to possess firearms must be revoked by the Swedish Police Authority if, *inter alia*, the license holder is unsuitable to possess firearms or there is otherwise reasonable cause to revoke the license.
3. In February 2020, the Police Authority decided to revoke AA's weapons license on the grounds that he was unsuitable to possess firearms.
4. The Police Authority concluded that AA was an active member of the Nordic Resistance Movement (NMR). According to the Police Authority, the Nordic Resistance Movement is a far-right, extremist, militant, Nazi organisation which has a violent image. Several of its members have been found guilty and suspected of serious and ideologically motivated violent crimes. The organisation asserts the right to self-defence and, within the organisation, there is a fascination with firearms. In such an environment, in the Police Authority's opinion, it cannot be ruled out that AA's weapons could be used in criminal contexts.

5. AA appealed to the Administrative Court in Jönköping which rejected the appeal. According to the administrative court, there is an imminent risk of pressure, threats and violence which could deprive AA of the possibility to maintain control over his weapons. His surroundings are such that weapons should not be present in it. For that reason, he is unsuitable to possess weapons.
6. The Administrative Court of Appeal in Jönköping rejected AA's appeal. The administrative court of appeal considered that AA frequents and actively participates in a violent environment which renders him unsuitable to possess firearms.

CLAIMS, ETC.

7. AA claims that the Supreme Administrative Court is to overturn the rulings of the lower courts and states the following.
8. The preparatory works for the weapons legislation state that each individual matter regarding revocation shall be conducted by means of an independent assessment in which consideration shall be primarily given to circumstances pertaining to the license holder. The Police Authority has not conducted an examination of his actual circumstances but, rather, the Authority is of the opinion that all persons associated with the Nordic Resistance Movement are unsuitable to possess firearms. Revocation presupposes that the person in possession of the weapon turns out to be unsuited to possess firearms. Inherent in this is that specific circumstances must have come to light which relate directly to the possessor's person. The Police Authority has not presented any evidence in support of the alleged risk that he, due to his membership in the Nordic Resistance Movement, will be subjected to pressure, threats and violence which may cause his weapons to be misused. The decision to revoke constitutes an impermissible encroachment on his freedom of opinion and association.

9. *The Police Authority* is of the opinion that the appeal is to be rejected and states the following. Case law from the courts shows that it is entirely possible to consider circumstances which are not directly connected to the personal characteristics of the person in possession of a weapon. An overall assessment is to be carried out in respect of the applicant's circumstances and not only the applicant's own criminal behaviour but also his connections to criminal environments or criminal persons. It is the environment comprised of the Nordic Resistance Movement which renders AA unsuitable as a person to possess weapons. It is not the organisation as such which constitutes an unsuitable environment but, rather, the individuals in the organisation.

REASONS FOR THE RULING

The question in the case

10. The question in the case is whether there are grounds for revocation of a person's license to possess firearms due to such person's engagement in a violent organisation.

Legislation, etc.

11. Chapter 2, Article 1, first paragraph (1), (4) and (5) of the Instrument of Government states that everyone shall be guaranteed the freedom of expression, freedom to demonstrate and freedom of association.
12. Chapter 2, section 1 of the Weapons Act (1996:67) states that a license is required to possess firearms or ammunition. According to section 5, first paragraph, a license may be granted only if it can be reasonably assumed that the weapon will not be misused. The requirement entails that a weapons license may only be granted to a person who is suitable to possess firearms, i.e. a person who meets the requirements pertaining to compliance with the law, judgment and reliability

as should be imposed on a person who possesses such a weapon (HFD 2015 reported case no. 20 and HFD 2016 reported case no. 33).

13. According to Chapter 6, section 1, first paragraph, a license to possess firearms shall be revoked, *inter alia*, where the license holder is unsuitable to possess firearms or there is otherwise reasonable cause to revoke the license.
14. The weapons legislation is based on the principle that only responsible persons may be able to be entrusted with weapons. In each individual matter involving revocation of a weapons license, an independent assessment shall be conducted in which, *inter alia*, inadequacies in the personal suitability to possess a weapon which have come to light are taken into account (Government Bill 1990/91:130, p. 25 f. and 47). There is a prevailing consensus that there is a need for a stringent control of the possession and use of firearms and ammunition. The principal purpose of such control is to counteract misuse of firearms and, to the extent possible, prevent accidents in the handling of weapons. Of particular importance is the effort to prevent weapons from being used in criminal activities (Government Bill 1995/96:52, p. 26).
15. The basis for revocation “reasonable cause” refers primarily to circumstances which can be related to the holder’s person and his possibilities to take care of the weapon (Government Bill 1990/91:130, p. 64). In conjunction with the provision regarding revocation of a license to possess firearms obtaining its current wording, one of the bodies to which the proposal was referred raised the question of whether this basis for revocation could be excluded since all principal reasons for revoking licenses fell within the other bases. However, the government was not prepared to do so as situations may arise in which revocation should be possible, but which are not covered by the other bases (Government Bill 1999/2000:27, p. 59).

The Court's assessment

16. The freedom of expression, the freedom to demonstrate and the freedom of association are established in fundamental laws together with the other so-called opinion freedoms in Chapter 2, Article 1 of the Instrument of Government. The freedom of expression entails the freedom to communicate information and express thoughts, opinions and sentiments, whether orally, pictorially, in writing, or in any other way. The freedom to demonstrate entails the freedom to organise and take part in a demonstration in a public place, and the freedom of association entails a freedom to associate with others for public or private purposes.
17. The freedoms entail a right without intervention or reprisals to express opinions, participate in demonstrations and be a member of organisations. A weapons license may thus not be revoked solely based on a person's opinions or membership in a political organisation or participation in meetings and manifestations arranged by the organisation.
18. AA is active within the Nordic Resistance Movement which is a political party. The organisation is described as violent and extremist and as a part of the Swedish white-power environment (Swedish Government Official Reports 2021:27, p. 55 ff.). The Police Authority has stated that members in leading positions within the Nordic Resistance Movement have committed criminal acts and that several of them have been sentenced for serious violent crimes.
19. AA has stated that his work within the Nordic Resistance Movement consists of opinion formation. He has written articles and has been involved in the Nordic Resistance Movement's radio broadcasts. He has also participated in a couple of demonstrations and has handed out flyers.
20. The lower courts have determined that AA is unsuitable to possess firearms given that the violent environment in which he acts entails a risk that his weapons will

be misused.

21. In order for AA to have been shown to be unsuitable to possess weapons, it is required that he does not meet the requirements of compliance with the law, judgment and reliability that should be imposed on a person in possession of firearms. It has not been alleged that AA has committed a crime or that there is a risk that he will personally misuse his weapons. Nor have any specific circumstances been put forward to suggest that his engagement in the white-power environment entails a risk that he would lose control of his weapons and that they would be misused by someone else. Therefore, the conditions for revoking AA's license to possess weapons are not present. Accordingly, the appeal is granted.

Justices Jäderblom, Knutsson, Baran (dissenting), Gäverth and Jönsson (dissenting) have participated in the ruling.

Judge Referee: Charlotta Alsterstad Lindfors.

DISSENTING OPINION

Justices Baran and Jönsson dissent and find that the appeal should be rejected and stated the following.

1. The constitutionally protected rights entail that a weapons license cannot be revoked solely based on a person's opinions or membership in an association. However, this does not mean that a person who exercises such a right is protected against interventions that follow from law, e.g. the provisions of the Weapons Act.
2. We concur with the majority that AA's weapons license cannot be revoked on the grounds that it has been demonstrated that he is unsuitable to possess firearms.

3. However, a weapons license must also be revoked if there otherwise is any reasonable cause for it. A revocation on this ground arises upon the occurrence of situations in which a revocation may come into question, but which is not covered by any of the other grounds for revocation (see paragraph 15).
4. The other grounds for revocation are linked to the license holder's personal circumstances. In light of the stringent controls which are to prevail in respect of weapons licenses (see paragraph 14) it should, in our opinion, be possible to revoke a license where the license holder's environment is such that weapons should not be present there (*cf.* Swedish Government Official Reports 1998: 44, p. 122). One such environment may be one where persons with extensive criminal records or who are explicitly violent are present or in which the surroundings in some other manner constitute a risk environment.
5. The Nordic Resistance Movement is a violent, extremist organisation and a part of the white-power environment. The organisation has members, of whom several in leading positions, who have committed criminal acts and who have been sentenced for serious violent crimes. We share the position of the Police Authority that the Nordic Resistance Movement constitutes such a risk-filled environment in which weapons should not be present. AA participates in the organisation's activities to a large degree. He is thus actively engaged in a risk-filled environment in which weapons should not be present. Consequently, there is reasonable cause to revoke his weapons license. Such a measure cannot be considered to violate his constitutionally protected rights. Therefore, the appeal is to be rejected.