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In case no. 5515-21, **Uppsala Municipality** (Appellant) v. the **Swedish Authority for Privacy Protection** (Respondent), the Supreme Administrative Court delivered the following judgment on 6 February 2023.

RULING OF THE SUPREME ADMINISTRATIVE COURT

The Supreme Administrative Court rejects the appeal.

BACKGROUND

1. A permit is required in order for an authority to use camera surveillance at a location to which the public has access. In conjunction with the consideration of an application, a balancing between the need for camera surveillance and the right to protection of personal integrity must be carried out. As regards the interest in camera surveillance, special consideration shall be given as to whether the surveillance is necessary for certain stated purposes and, for the assessment of the integrity interest, it is, *inter alia*, of significance how the surveillance is to be carried out and which area is to be surveilled. Permits for camera surveillance are to be granted if the interest in camera surveillance weighs more heavily than the individual's interest in not being surveilled.
2. Uppsala Municipality applied for a permit for round-the-clock camera surveillance of the square, Stora torget, and Pålvel Snickare's lane in central Uppsala. The stated purpose of the surveillance was to prevent and investigate crimes, prevent or discover disturbances of the public order and safety, and to increase public security.
3. The Swedish Authority for Privacy Protection decided to grant the municipality a permit for camera surveillance between 20:00 and 06:00 every day. The permit covers camera surveillance in real time, without interception of sound, with a right to record and store image material. Surveillance may be carried out with fixed

cameras with fixed optics and moveable cameras with optical zoom. The permit is subject to conditions according to which restaurants and outside service areas are to be masked from the camera's field of view.

4. Uppsala Municipality appealed the decision to the Administrative Court in Stockholm which, in part, granted the appeal and decided that the municipality would be granted a permit for camera surveillance between 15:00 and 06:00 every day.
5. Both the Swedish Authority for Privacy Protection and Uppsala Municipality appealed the judgment of the administrative court to the Administrative Court of Appeal in Stockholm which overturned the judgment of the administrative court and affirmed the decision of the Swedish Authority for Privacy Protection. The administrative court of appeal was of the opinion that individuals' interest of not being surveilled during the day and early evening outweighed the municipality's interest in camera surveillance during these times.

CLAIMS, ETC.

6. *Uppsala Municipality* claims principally that the Supreme Administrative Court is to grant a permit for round-the-clock camera surveillance and, in the alternative, that a permit shall be granted from an earlier time of day than 20:00.
7. *The Swedish Authority for Privacy Protection* is of the opinion that the appeal is to be rejected.

REASONS FOR THE RULING

The question in the case

8. The question in the case is during which time of day a municipality may conduct camera surveillance of certain central locations in the city centre.

Legislation, etc.

9. The Camera Surveillance Act (2018:1200) contains provisions regarding camera surveillance which supplement the EU General Data Protection Regulation and implement the EU Data Protection Directive.
10. The purpose of the Camera Surveillance Act is, according to section 2, to provide for the need of camera surveillance for legitimate purposes and to protect natural persons against undue infringement of personal integrity in conjunction with such surveillance.
11. Section 6 provides that, in addition to that prescribed in the Camera Surveillance Act, the EU General Data Protection Regulation, the Act Containing Supplementary Provisions to the EU General Data Protection Regulation (2018:218), the Criminal Data Act (2018:1177), and regulations which have been issued in connection with both acts or which supplement the General Data Protection Regulation or implement the Data Protection Directive, *inter alia*, apply.
12. Section 7 of the Camera Surveillance Act states that a permit is required if an authority will conduct camera surveillance of a location to which the public has access.

13. According to section 8, first paragraph, a permit for camera surveillance shall be granted if the interest in such surveillance weighs more heavily than the individual's interest in not being surveilled.
14. It is apparent from section 8, second paragraph (1) and (2) that, in the assessment of the interest in camera surveillance, particular consideration shall be given as to whether the surveillance is necessary in order to prevent or discover criminal activity or investigate or prosecute offences at crime-prone areas or to prevent or discover disturbances of the public order and safety, or limit the effects of such disturbances. It is apparent from the third paragraph that, in the determination of the individual's interest of not being surveilled, particular consideration shall be given as to the manner in which surveillance is to be carried out, whether technology which promotes the protection of the individual's personal integrity is to be used, and the area to be surveilled.

The Court's assessment

15. In case law regarding previously applicable legislation, the grant of a permit for camera surveillance of streets and squares has been restrictive. This has applied in particular to the possibility of municipalities to surveil streets and squares with cameras. As regards camera surveillance for the purpose of preventing and investigating crimes, it has been required that a location has been deemed to be particularly crime-prone in order for this need to be taken into account in particular in the consideration of the application. In addition, it has been required in principle that other methods which are less invasive of privacy in order to address the criminality have been examined without result (see RÅ 2010 reported case no. 22 I–III).
16. The currently applicable Camera Surveillance Act is intended, *inter alia*, to generally improve the possibility of obtaining a permit for camera surveillance. The following is stated in the preparatory works (Government Bill 2017/18:231, pp. 64 ff., 73 and 142 f.).

17. The municipalities have their own responsibility for public order and safety within the municipality. Against this background, municipalities should have significantly greater possibilities than previously to conduct camera surveillance at locations where crimes and other disturbances of order regularly occur. It is particularly significant that the permit can be granted to a sufficient extent in order to create more secure public environments. Camera surveillance should often be regarded as a natural aid and as a supplement to other measures which in such context need not necessarily be first examined. The fact that special consideration is to be given to certain particularly enumerated purposes entails that the interest in surveillance in such cases weighs heavily and that the permit can also be granted in conjunction with more extensive invasions of privacy.
18. It is critical that the legislation takes into account in a clear way both the interest in preventing crime as well as the interest in investigating and prosecuting future offences. Accordingly, it should be sufficient that a location may be regarded as crime-prone in order for this condition to be taken into account in particular in the consideration of the application. In the assessment of whether a location is to be regarded as crime-prone, there is no limitation as to the type of crime involved.
19. The Camera Surveillance Act should contain provisions regarding which particular considerations are to be taken in conjunction with the consideration of an application. This is a necessary condition for a uniform and appropriate application of law in the area. Within the area of application of the General Data Protection Regulation, this type of provision must be considered as a permissible national specification which adapts the application of the provisions of the regulation for the purpose of ensuring a lawful and fair processing of personal data.
20. However, the determination of what is a lawful and fair processing of personal data is ultimately carried out by an application of the regime in the General Data Protection Regulation. This entails that the consideration of an application within

the scope of the General Data Protection Regulation primarily shall aim at examining whether the camera surveillance is compatible with the regime in the regulation. In a comparable way, the consideration of an application within the scope of the Data Protection Directive shall primarily be based on an assessment of whether the camera surveillance is compatible with the regime in the Criminal Data Act or other personal data regime which implements the Data Protection Directive.

21. The Camera Surveillance Act's permit requirement for certain camera surveillance constitutes a specification of the obligation to conduct an impact assessment which, in many cases, would have nonetheless applied in accordance with the EU law data protection regime.
22. The Supreme Administrative Court can note that a large amount of data regarding persons who are not relevant for the purpose of the surveillance will be processed in conjunction with camera surveillance of large public areas. This must be taken into account in the balancing of interests to be carried out.
23. In order for the processing of personal data to be lawful, the personal data collected must namely be adequate, relevant and limited to what is necessary in relation to the purposes for which the personal data is processed. This principle regarding data minimisation entails that the smallest amount of personal data possible is to be collected and processed, and that personal data is not processed longer than necessary or is used in a manner which is impermissible (*cf.* Government Bill 2017/18:232, pp. 445 and 454).

The assessment in this case

24. Uppsala Municipality has, by means of the decision appealed, been granted a permit to conduct camera surveillance of Stora torget and Pålvel Snickare's lane in central Uppsala between 20:00 and 06:00. It is uncontested that the relevant areas, even during daytime, are to be regarded as crime-prone within the meaning of the

Camera Surveillance Act. What is to be examined by the Supreme Administrative Court is whether the interest of the municipality in surveilling these areas between 06:00 and 20:00 shall be considered to weigh more heavily than the interest of the individual in not being surveilled during this time.

25. The area for which the municipality has received a permit for camera surveillance is a relatively large and centrally situated square with an adjacent lane with businesses and restaurants.
26. In the view of the Supreme Administrative Court, the area is such an area in which it is critical that individuals can move about freely without being surveilled. It is also an area in which a very large number of persons, particularly during the daytime, pass through or stay. This entails that a large quantity of data regarding individuals which, without being relevant to the purpose of the surveillance, will be processed.
27. The interest of an individual in not being surveilled is diminished, however, somewhat by the fact that the individuals who will be the subject of camera surveillance are simultaneously those which the camera surveillance is intended to protect (*cf.* Government Bill 2017/18:231, p. 70 and RÅ 2001 reported case no. 39). The fact that restaurants and outside service areas must be masked from the camera's field of view according to the permit also reduces the infringement of integrity to a certain degree.
28. Even if there are problems with criminality and other disturbances of order in the relevant area throughout the day, the Supreme Administrative Court shares the assessment that the interest in camera surveillance may be considered to weigh less heavily during the daytime relative to evening and nighttime. Even in the early evening, the interest in surveillance may be considered weaker.
29. In aggregate, the Supreme Administrative Court finds that the interests of the municipality in camera surveillance of the relevant area during the daytime and

early evening is not such that it weighs more heavily than the individual's interest in not being surveilled. Accordingly, it was correct of the Swedish Authority for Privacy Protection to only grant permission for camera surveillance between 20:00 and 06:00. Accordingly, the appeal is rejected.

Justices Henrik Jermsten, Thomas Bull, Marie Jönsson, Linda Haggren and Martin Nilsson have participated in the ruling.

Judge Referees: Marlene Frånberg and Emma Millberg.