

This translated ruling is provided for information purposes only. Only the Swedish-language versions are the official rulings.

In case no. 441-22, the **Public Representative for Social Insurance** (Appellant) v. **AA** (Respondent), the Supreme Administrative Court delivered the following judgment on 24 April 2023.

RULING OF THE SUPREME ADMINISTRATIVE COURT

The Supreme Administrative Court grants the appeal, overturns the rulings of the lower courts and finds that AA is not entitled to compensation from the occupational injury insurance for the dental costs.

BACKGROUND

1. Persons who are employed in Sweden are insured against occupational injuries by virtue of the occupational injury insurance which is part of the public social security insurance. *Occupational injury* means an injury resulting from an accident or other harmful effect at work. Any person who suffers an occupational injury may receive economic compensation for necessary costs of care.
2. In order for an injury caused by accident to constitute an occupational injury, there must be a connection between the insured's work and the accident. This case addresses what is required for such a connection to be deemed to exist when work is done at home.
3. AA, who worked as a producer, had an accident in May 2020 which caused a tooth injury and resulted in dental costs. AA worked at home because his employer had ordered remote work in order to reduce the spread of covid-19. While he was working, an electrical cable disconnected from his computer and fell to the floor. He bent down to retrieve the cable at the same time as his three-year-old son, who was playing under the desk, quickly rose up. His son's head struck his chin, which caused AA to incur a tooth injury.

4. The Social Insurance Office determined that the tooth injury was an occupational injury and decided to grant AA compensation for his dental costs.
5. The Public Representative for Social Insurance appealed the decision to the Administrative Court in Stockholm and claimed that it was to be overturned. The public representative stated that the requirement of a connection between work and accident should be higher in conjunction with work at home than with incidents at the workplace. It should be required that the injury occurred during work and as a direct consequence thereof. Even if AA carried out his work duties at home, the accident itself is not related to his work. Instead, the injury was caused by an event relating to his private life and, furthermore, the accident was caused by a family member. According to the Public Representative, the accident accordingly did not have a sufficiently close connection to AA's work, and the costs were thus not to be compensated by occupational injury insurance.
6. The administrative court was of the opinion – with reference to the employer's instructions and the prevailing government recommendations regarding work at home – that AA's home was equivalent to his workplace at the time of the accident. Since the accident occurred while AA carried out his work duties, there was such a connection between the work and the accident that it constituted an accident in the course of work. The administrative court was thus of the opinion that he was entitled to compensation for his dental costs and rejected the appeal.
7. The public representative appealed the judgment to the Administrative Court of Appeal in Stockholm which rejected the appeal. The administrative court of appeal was of the opinion that the accident had such a connection to AA's work that the tooth injury constituted an occupational injury. The administrative court of appeal stated that there was no support for the position of the public representative that, in conjunction with work at home, there is requirement of a more direct and tangible connection between the work and the accident in order to constitute a compensable injury.

CLAIMS, ETC.

8. *The Public Representative for Social Insurance* claims that the Supreme Administrative Court, by way of amendment to the rulings of the lower courts, shall find that the tooth injury is not to be accepted as an occupational injury and that AA is not entitled to compensation for dental treatment. The public representative states the following.
9. In the determination of whether an accident at home is covered by occupational injury insurance, no difference should be ascribed as to whether the work at home has been performed voluntarily or whether it has been directed by the employer. However, the requirement should be relatively high as to the causal connection. Accidents which do not have a direct relationship to the work should not be covered by occupational injury insurance. Such a restrictive application is supported, *inter alia*, by the fact that accidents at home may be difficult to investigate since the only information regarding the accident itself is often provided by the insured.
10. AA is of the position that the appeal should be rejected and states that he principally works with his computer and that the accident was thereby strongly connected to his work.

REASONS FOR THE RULING**The question in the case**

11. The question in the case is what is required in order for an accident suffered by an insured who works at home to be deemed to have such a connection to the insured's work that a personal injury as a consequence of the accident constitutes an occupational injury covered by occupational injury insurance.

Legislation, etc.

12. Pursuant to Chapter 39, section 3 of the Social Insurance Code, an occupational injury is an injury arising as a consequence of an accident or other harmful effect at work. Section 4 provides that injury means, *inter alia*, a personal injury.
13. A person who suffers an occupational injury can, pursuant to Chapter 40, section 11, obtain compensation for necessary dental care costs.

The Court's assessment*The requirement of a connection between work and accident.*

14. A basic principle of the occupational injury insurance, both the current and its predecessor, is that it shall provide protection against specific risks arising in working life. In order to constitute a work accident, there must thus be a connection between the insured's work and the accident (Government Bill 1954:60, p. 108 f. and Government Bill 2001/02:81, p. 102, as well as HFD 2020 reported case no. 4, section 10 and cases referred to therein).
15. This requirement of connection is currently expressed in Chapter 39, section 3 of the Social Insurance Code in which it is stated that *occupational injury* means an injury resulting from an accident at work. The Code states nothing regarding any distinction between what is required in terms of connection depending on where an accident has occurred. On the other hand, in the legislative history there was a discussion as to whether the connection requirement can be graduated in different situations. Since it was not deemed possible to specify this in the text of the statute, it was left to the application of law, taking into account existing case law, to carve out what was to be applied in this respect (Government Bill 1954:60, p. 108 f.).

16. The statements in the legislative history are from the 1950's, and the examples provided reflect working conditions of the time. However, there are statements therein which remain relevant.
17. As regards accidents which have occurred when the insured performed work at the workplace, it has been assumed that the finding of connection would be generous. It is not necessary that the triggering event is based on a typical danger associated with the work but, rather, a necessary connection is deemed to exist even when the insured has been affected by, as expressed in the reasons, "the dangers of daily life", e.g. insect bites. Accidents which have occurred at the workplace, but which have no genuine connection to the insured's work, however, are not deemed to constitute accidents at work (Government Bill 1954:60, p. 109 and HFD 2019 reported case no. 19).
18. Injuries arising as a consequence of accidents which have occurred outside the workplace can also be deemed to constitute occupational injuries given the fact that, as expressed in the bill, "at the time of the accident, the employee was engaged in the affairs of the employer" or, in any case, performed something in the interest of the employer (Government Bill 1954:60, p. 109; see, also HFD 2018 reported case 73). Accordingly, for example, accidents on route to and from work (cf. HFD 2018 reported case 73), while visiting customers (RÅ 2007 reported case 1), and during training or the like arranged by the employer (RÅ 2010 reported case 85, cf. RÅ 1996 reported case 76) may constitute work accidents. However, case law requires higher requirements in these situations in terms of connection than in conjunction with accidents that take place at the workplace.
19. The question now is how the connection requirement is to be viewed in the context of accidents which have occurred while performing work at home.
20. As regards this question, the following, *inter alia*, was stated in the legislative history. It may be questioned whether the requirement of a connection between

work and accident should be higher when the accident occurs while working at home rather than otherwise given that the home is a place in which the insured is present not only when he or she performs work but also otherwise. Accordingly, it appears justified to exercise certain care in the assessment of such accidents at home which are not directly caused by the work but, rather, are more the result of the dangers of daily life (Government Bill 1954:60, p. 109).

21. These statements mainly have in view employees who had no workplace other than the home, principally those who were employed in cottage industries or comparable work, e.g. seamstresses. In the view of the Supreme Administrative Court, the statements are also relevant to such work as is currently – as a consequence of technical developments and the manner in which culture has developed in the wake of the corona pandemic – performed at home. It is namely the same demarcation problem as arises in respect of that which pertains to work life and to private life respectively.
22. This demarcation problem relates to the fact that, at home, as a rule, there are a number of purely private conditions which may give rise to accidents, everything from possessions to family and pets. In addition, there is no temporal distinction between private life and work life which, in conjunction with work at the workplace, is evident by virtue of the fact that one arrives and leaves the workplace. In conjunction with work at home, on the other hand, private tasks and work duties may be carried out alternately.
23. Against this background, according to the Supreme Administrative Court, there is cause as expressed in legislative history to adopt a certain restrictiveness in the assessment of whether there exists a connection between an accident which occurs at home and the insured's work.
24. In order for a connection between work and accident to exist when work is done at home, a basic condition should be that the accident occurs when the insured is

performing his or her work. Thus, an accident which occurs when he or she is engaged in something else shall not be deemed to constitute an accident at work.

25. However, it would be too far-reaching if all accidents which occurred when work is being performed at home are deemed to be accidents at work. According to the Supreme Administrative Court, consideration must also be given to the cause of the accident. Where the accident is primarily related to private life, the necessary connection between work and the accident is absent. It accordingly does not involve an accident at work.
26. Since the central aspect in the assessment of connection regarding accidents which have occurred when work is done at home, the distinction between work life and private life is, in the view of the Supreme Administrative Court, irrelevant if work at home has occurred voluntarily or whether it has been directed by the employer.

The assessment in this case

27. AA suffered an accident when he worked with his computer and bent down to retrieve an electrical cable which had come loose from the computer. Accordingly, the accident occurred when he performed his work.
 28. What had occurred was that AA collided with his son's head. The accident may thus be deemed predominantly to be based on AA's private life. Thus, there is a lack of connection between the work and the accident such that it may be deemed to involve a work-related accident. Thus, AA is not entitled to compensation from occupational injury insurance for the dental costs.
 29. Accordingly, the appeal brought by the public representative shall thus be granted and the rulings of the lower courts shall be overturned.
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Justices Helena Jäderblom, Kristina Ståhl, Inga-Lill Askersjö, Ulrik von Essen and Magnus Medin have participated in the ruling.

Judge Referee: Elin Nilsson.

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In case no. 3375-22, the **Public Representative for Social Insurance** (Appellant) v. **XX** (Respondent), the Supreme Administrative Court delivered the following judgment on 24 April 2023.

RULING OF THE SUPREME ADMINISTRATIVE COURT

The Supreme Administrative Court rejects the appeal.

BACKGROUND

1. Persons who are employed in Sweden are insured against occupational injuries by virtue of the occupational injury insurance, which is part of the public social security insurance. *Occupational injury* means an injury resulting from an accident or other harmful effect at work. Any person who suffers an occupational injury may receive economic compensation for necessary costs of care.
2. In order for an injury caused by accident to constitute an occupational injury, there must be a connection between the insured's work and the accident. This case addresses what is required for such a connection to be deemed to exist when work is done at home.
3. XX who worked as an economist, suffered an accident in April 2020 which caused a tooth injury entailing dental costs. XX worked from her home since her employer had encouraged it as a consequence of the corona pandemic. When she got up from her desk in order to put her coffee cup in the kitchen and thereafter go and walk with her dog, the dog became excited and jumped up against her. The dog's head collided with her mouth which caused XX to suffer a tooth injury.
4. The Swedish Social Insurance Agency decided not to grant XX compensation for the dental care costs by reference to the fact that the accident had not occurred with a tangible and direct connection to her work.

5. The Public Representative for Social Insurance appealed the decision to the Administrative Court in Stockholm and claimed that the dental injury was to be approved as an occupational injury. The public representative stated that the insurance cover should be equivalent irrespective of whether the insured worked at home or at the workplace so long as the accident occurred during work hours. The Social Insurance Office did not have support for applying, in conjunction with work at home, a higher requirement for a connection – tangible and direct connection – between work and accident than that applicable to accidents occurring at the workplace.
6. The administrative court observed that the matter was one of voluntary remote work since XX's employer had encouraged, but not ordered, its employees to work from home. The court was of the opinion that there was cause to impose a higher requirement on the connection between the work and the accident. Since there was no direct connection between XX's work and the accident, it did not involve an occupational injury. Accordingly, the appeal was rejected.
7. The public representative appealed the decision to the Administrative Court of Appeal in Stockholm which rejected the appeal. The administrative court of appeal was of the opinion that it was irrelevant whether the work at home had been ordered by the employer or whether it was performed voluntarily. Decisive to the matter was whether the work at home was permitted by the employer, as it was in the relevant case. The administrative court of appeal was thus of the position that it was in the interests of the employer that XX worked from home. Since the accident was caused by her dog, however, it was determined that the triggering event did not have a connection with her work. The tooth injury thus did not arise as a consequence of an accident at work.

CLAIMS, ETC.

8. *The Public Representative for Social Insurance* claims that the Supreme Administrative Court, by way of amendment to the rulings of the lower courts, shall find that the tooth injury is to be approved as an occupational injury and that XX was entitled to compensation for the dental treatment.
9. XX has not commented.

REASONS FOR THE RULING**The question in the case**

10. The question in the case is what is required in order for an accident suffered by an insured who works at home to be deemed to have such a connection to the insured's work that a personal injury as a consequence of the accident constitutes an occupational injury covered by occupational injury insurance.

Legislation, etc.

11. Pursuant to Chapter 39, section 3 of the Social Insurance Code, an occupational injury is an injury arising as a consequence of an accident or other harmful effect at work. Section 4 provides that injury means, *inter alia*, a personal injury.
12. A person who suffers an occupational injury can, pursuant to Chapter 40, section 11, obtain compensation for necessary dental care costs.

The Court's assessment

The requirement of a connection between work and accident.

[Paragraphs 13 to 25 have the same content as paragraphs 14 to 26 of case no. 441-22]

The assessment in this case

26. XX collided with her dog in connection with placing a coffee cup in the kitchen in order to thereafter go out with the dog. Accordingly, the accident did not take place while performing her work. On this basis alone, the appeal is rejected.

Justices Helena Jäderblom, Kristina Ståhl, Inga-Lill Askersjö, Ulrik von Essen and Magnus Medin have participated in the ruling.

Judge Referee: Elin Nilsson.