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In case no. 7825-23, **AA** (Appellant) v. the **Swedish Police Authority** (Respondent), the Supreme Administrative Court delivered the following judgment on 7 February 2025.

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

The Supreme Administrative Court grants the appeal, overturns the ruling of the administrative court of appeal and affirms the ruling of the administrative court.

## **BACKGROUND**

1. A requirement in order for a person to be able to be appointed as a public security guard is that he or she, with regard to abidance with the law and other circumstances, is suitable for the assignment. In the event that a public security guard no longer fulfils the requirement of suitability, the Swedish Police Authority may revoke the appointment.
2. The Swedish Police Authority decided to revoke AA's appointment as a public security guard by reference to his failure to fulfil the requirement of suitability. The following was stated in the decision. AA's brother is part of a criminal network engaged in, *inter alia*, the sale of narcotics and which is deemed to possess a great capacity for violence. Until recently, AA was registered in the population register at the same address as the brother, and the brothers have regular contact with one another. There is a risk of influence and a conflict of loyalty with the authority's mission.
3. AA appealed to the Administrative Court in Gothenburg which granted the appeal and set aside the decision of the Swedish Police Authority. The administrative court stated that the ground for a decision to revoke an appointment as a public security guard must rest on objectively observable facts. According to the court, the Swedish Police Authority could not point to any specific events or other

information which established that AA's relationship to the brother entailed a risk that AA was exposed to influence or a risk of a conflict of loyalty with the Swedish Police Authority's mission. Accordingly, there were no grounds for revoking his appointment.

4. The Swedish Police Authority appealed to the Administrative Court of Appeal in Gothenburg which overturned the judgment of the administrative court and affirmed the decision of the authority. The administrative court of appeal was of the opinion that the investigation in aggregate showed that there was a risk of influence and a conflict of loyalty according to which AA did not fulfil the stringent suitability requirement imposed on a public security guard.

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

5. AA claims that the Supreme Administrative Court shall overturn the ruling of the administrative court of appeal and affirm the ruling of the administrative court. He states the following.
6. While growing up, he lived together with his brother in the parental home. The brother moved from home without reporting the new registered address and was accordingly incorrectly registered for a time at the parental home. He distances himself from his brother's lifestyle and has only sporadic contact with him, primarily in connection with large family gatherings.
7. *The Swedish Police Authority* is of the position that the appeal is to be rejected and states the following.
8. The appointment of persons as public security guards who have connections to organised crime entails risks of grave harm to society. There is an overhanging risk that organised crime will attempt to infiltrate or influence the security industry. Generally, it would be sufficient that a person closely related to the public security guard has connections to a criminal network in order for the

appointment to be revoked, in any case if there is geographic proximity between the public security guard and the closely related person or the network. In this assessment, information regarding contacts between the public security guard and the network criminal may constitute mitigating or aggravating circumstances. There should be no requirement of proof that the individual has abused his or her position or has previously had a conflict of loyalty in order for the close relationship to be deemed to entail that the person is not suitable for the assignment as a public security guard.

9. In the current case, the family tie in itself and the fact that the brothers live in the same city entail a risk of a conflict of loyalty and influence. Pressure may come from both AA's brother and from members of the brother's network. It cannot be presumed that the contact between the brothers ceased as soon as they obtained different registration addresses, and it is apparent from AA's own information that he has some contact with his brother.

## **REASONS FOR THE RULING**

### **The question in the Supreme Administrative Court**

10. The question is whether there are grounds for revoking the appointment of a public security guard based on circumstances attributable to a person close to the public security guard.

### **Legislation, etc.**

11. On 1 January 2024, the Public Security Guards Act (2023:421) replaced the previous Public Security Guards Act (1980:578). The decision to revoke AA's appointment was, however, issued before the new act entered into force and, accordingly, the 1980 act is applicable in the case.

12. Pursuant to section 4 of the 1980 act, only persons who, with regard to abidance with the law and other circumstances, are suitable for the assignment may be appointed as public security guards. Section 9, first paragraph states that the Swedish Police Authority may revoke the appointment in the event a public security guard no longer fulfils the conditions set forth in section 4. The provisions correspond in principle to equivalent provisions in sections 9 and 11 of the new act.
13. The preparatory works state that, with regard to the character of the assignment as a public security guard, relatively stringent requirements should be imposed in conjunction with the suitability examination (Government Bill 1979/80:122, p. 67 and Government Bill 2022/23:91, p. 49).

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

14. Sections 4 and 9 of the 1980 Public Security Guards Act state that the suitability examination, both in conjunction with the application for appointment as a public security guard as well as in matters involving revocation of such an appointment, shall pertain to the public security guard himself or herself. What is to be assessed in a matter regarding revocation is thus whether the public security guard, by virtue of his or her actions, or due to other circumstances which may be related to him or her, no longer fulfils the requirement of personal suitability.
15. The fact that the examination is to pertain to the public security guard himself or herself does not preclude also taking into account in the assessment circumstances relating to other persons such as relatives and other persons in the public security guard's environment. The mere fact that such a person has a criminal record or is part of a criminal network, however, cannot form the basis for the conclusion that the public security guard is not suitable for the assignment. In order for this to be the case, there must be specific circumstances which suggest that the connection of the public security guard to the person in question renders the suitability of the public security guard questionable.

16. The specific circumstances adduced by the Swedish Police Authority as grounds for revocation of AA's appointment are that his brother is part of a criminal network, that the brothers were previously registered at the same address and continue to reside in the same city, and that the brothers have contact with one another. However, it has not been asserted that AA has socialised with his brother in criminal environments or other unsuitable contexts. Nor has it been asserted that there has been any attempt to influence or that any specific conflict of loyalty has emerged, much less that AA should have allowed himself to be influenced or to act disloyally in relation to his assignment as a public security guard.
17. Based on the circumstances to which the Swedish Police Authority has referred, the Supreme Administrative Court cannot conclude that AA is not suitable for the assignment as a public security guard. Accordingly, the appeal is granted.

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Justices Helena Jäderblom, Kristina Ståhl, Thomas Bull, Leif Gäverth and Mats Anderson have participated in the ruling.

Judge Referee: Ragnar Fahlin Strömberg.