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In case no. 1621-23, **AA** (Appellant) v. the **Social Welfare Committee in Kalix municipality** (Respondent), the Supreme Administrative Court delivered the following judgment on 18 January 2024.

RULING OF THE SUPREME ADMINISTRATIVE COURT

The Supreme Administrative Court dismisses the case.

The Supreme Administrative Court affirms the decision of the administrative court of appeal regarding secrecy.

The Supreme Administrative Court determines that Frida Larsson shall be compensated for work as public counsel in the amount of SEK 7,565 (including value added tax).

The Supreme Administrative Court determines that Thomas Ennefors shall be compensated for work as public counsel in the amount of SEK 4,613 (including value added tax).

BACKGROUND

1. A person who is under 18 years of age and exposes their health or development to a tangible risk of harm through the misuse of addictive substances, criminal activity or some other socially degrading behaviour shall, where necessary care cannot be provided with consent, be provided care pursuant to the Care of Young Persons (Special Provisions) Act (1990:52).
2. The Social Welfare Committee in Kalix municipality applied to the Administrative Court in Luleå to provide care to AA, who was 15 years of age at that time, pursuant to the Care of Young Persons (Special Provisions) Act. The committee stated the following in the application. AA lives with his mother and

his sister. Over the last two years, he has progressively isolated himself in the home and has been extensively absent from school. Periodically, he has been aggressive and acted out against family. During the last six months, he has isolated himself in his room, removed the doorknob and has left the room only when no one else in the family has been at home. According to the committee, there was a risk that his socially degrading behaviour could harm his health and development.

3. The administrative court granted the application. According to the administrative court, AA was deemed to engage in socially degrading behaviour in that he gradually isolated himself from the world around him and closed himself up in his room for months and that he had a very extensive absence from school and acted out against his mother and sister which consisted in the main of verbal abuse. Taking into account the consequences the behaviour had on his education and relationships with family members and other relatives, it could be deemed established that, by virtue of the behaviour, he exposed his health and development to a tangible risk of harm. Furthermore, it could be assumed that necessary care could not be provided with consent.
4. AA appealed to the Administrative Court of Appeal in Sundsvall which rejected the appeal. According to the court, AA exposed his health and development to a tangible risk of harm by virtue of his acting out against closely related persons, interrupted school attendance, and his self-isolation in the home. These behaviours were to be cumulatively regarded as socially degrading behaviour creating a risk of social exclusion in the event no change was effected. Given that care could not be provided with consent, the court found that the conditions for care in accordance with the Care of Young Persons (Special Provisions) Act were met.

CLAIMS, ETC.

5. AA claims that the lower courts' rulings are to be overturned and that the application for care is to be denied. He states that self-isolation at home and inadequate school attendance do not constitute such socially degrading behaviour as constitutes grounds for compulsory care.
6. BB consents to the denial of the application for care.
7. *The Social Welfare Committee in Kalix municipality* 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 whether self-isolation in the home can comprise such socially degrading behaviour as constitutes grounds to provide a person care in accordance with the Care of Young Persons (Special Provisions) Act.

Legislation, etc.

9. Section 1, second paragraph of the Care of Young Persons (Special Provisions) Act states that a person who is under 18 years of age shall be provided with care if any of the situations referred to in section 2 or 3 obtains and it can be assumed that necessary care cannot be given to the young person with the consent of the person or persons having custody of the young person and, when the young person has turned 15 years, with their own consent. According to the fifth paragraph, the best interests of the young person shall be the decisive consideration in decisions under the Act.
10. According to section 2, care shall be ordered if, due to physical or mental abuse, improper exploitation, deficiencies in care or some other circumstance in the

home, there is a tangible risk that the young person's health or development will be harmed.

11. According to section 3, first paragraph, care shall also be ordered if the young person exposes their health or development to a tangible risk of harm through the misuse of addictive substances, criminal activity or some other socially degrading behaviour.

The Court's assessment

12. According to the legislative history, the term *socially degrading behaviour* in section 3, first paragraph of the Care of Young Persons (Special Provisions) Act means that the young person acts in a manner which deviates from basic social norms. Where the young person commits a serious crime or crimes which cannot be described as criminal activity, that the young person resides – other than temporarily – in a so-called drug house or another addictive environment or that the young person engages in prostitution or performs in a strip club are presented as examples of socially degrading behaviour other than substance abuse and criminal activity (Government Bill 1989/90:28, pp. 66 f. and 109).
13. The list in the legislative history is not exhaustive, and the term *socially degrading behaviour* may thus pertain also to situations other than those mentioned therein (RÅ 2000 reported case 33). The currently relevant situation is certainly far from the examples provided in the legislative history. However, this cannot be decisive per se as to whether it may be deemed to involve socially degrading behaviour in the sense referred to in section 3, first paragraph of the Care of Young Persons (Special Provisions) Act. In the interpretation of the provision, consideration must be given to the fact that the Care of Young Persons (Special Provisions) Act is protective legislation for young persons, and decisions in accordance with the act are to be taken on the basis of what is best for the young person. The wholesale exclusion from the area of application of the provision of harmful and self-destructive behaviours other than such as are similar

to the examples set forth in the legislative history cannot be regarded as compatible with the purposes of the act.

14. In the interpretation of the provision, however, consideration must also be given to the fact that compulsory care in accordance with the act is an intrusive measure. An application of the provision may therefore not extend beyond what is to be regarded as a reasonable interpretation of its wording (HFD 2015 reported case 7 and HFD 2015 reported case 42).
 15. In the view of the Supreme Administrative Court, the fact that the young person spends in principle all of his or her time in the home and mismanages school attendance cannot normally be deemed to be such socially degrading behaviour as constitutes grounds for taking a decision on the provision of care. In this case, however, AA has, for an extended period of time, isolated himself in the home, even in relation to his family. As a consequence of this, he has also missed a great deal of his schooling notwithstanding that he has attended secondary school and is thereby subject to the obligation to attend school. This nearly total separation from the family and society in general may be deemed to deviate from basic social norms and, as the Supreme Administrative Court perceives it, is covered by the term *socially degrading behaviour* within the meaning referred to in section 3, first paragraph of the Care of Young Persons (Special Provisions) Act.
 16. AA's behaviour may be deemed to have entailed a tangible risk of harm to his health and development and it is apparent from the investigation that care could not be provided with consent. The rulings of the lower courts regarding the provision of care for him were thus correct.
 17. The Social Welfare Committee in Kalix municipality has decided that the care of AA shall cease. The case is therefore dismissed.
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Justices Kristina Ståhl, Inga-Lill Askersjö (dissenting opinion), Leif Gäverth, Mats Anderson (dissenting opinion) and Martin Nilsson have participated in the ruling.

Judge Referee: Emma Millberg.

DISSENTING OPINION

Justices Inga-Lill Askersjö and Mats Anderson dissent and are of the opinion that the reasons, commencing with paragraph 12, should read as follows.

12. A young person may be subjected to compulsory care either pursuant to section 2 of the Care of Young Persons (Special Provisions) Act due to some circumstance in the home, e.g. neglect, or pursuant to section 3, first paragraph due to such young person's socially degrading behaviour. In the event the young person behaves in such a manner as gives rise to a tangible risk of harm to the young person's health and development, this may constitute grounds for providing care both in accordance with section 2 where the parents are not able to provide the young person with sufficient supervision in order to stop the behaviour and in accordance with section 3, first paragraph where the behaviour constitutes socially degrading behaviour within the meaning of the act.

13. It has been asserted in case law that compulsory care in accordance with section 3 is particularly intrusive and may entail placement in a special residential home for young people where the person who is responsible for such care has authority which grants far-reaching restrictions on the young person's freedom of movement and personal integrity. Accordingly, it is critical that an application of the provision does not extend beyond what may be regarded as a reasonable interpretation of the wording of the provision. The mere fact that the young person exposes him or herself to a risk does not entail that there subsists a behaviour which may be designated socially degrading (see HFD 2015 reported case 7 and HFD 2015 reported case 42).

14. In the case now relevant, the Supreme Administrative Court must thus determine whether it is reasonable to interpret the provision in section 3, first paragraph such that socially degrading behaviour may be deemed to extend to self-isolation in the home. Initially, it may be noted that the examples provided in the provision – misuse of addictive substances and criminal activity – are not comparable to self-isolation in the home. The question is thus whether the intention of the legislature has been such that the examples in the provision are to provide guidance as to what is intended by the term *socially degrading behaviour* or whether the term may entail also behaviour which, to a large extent, diverges from the examples.
15. The former Care of Young Persons (Special Provisions) Act (1980:621) (which preceded the current Care of Young Persons (Special Provisions) Act), gave the same examples of socially degrading behaviour presented in section 3, first paragraph of the current act. However, the former act did not use the expression “other socially degrading behaviour” but, rather, instead “other behaviour comparable therewith”.
16. The legislative history relating to the current Care of Young Persons (Special Provisions) Act state that the change in the wording was made primarily to clarify the intent since questions could arise as to whether the examples of behaviour set forth in the legislative history relating to the previous act – prostitution and isolated serious crimes – were linguistically comparable to abuse or criminality. It was also emphasised that cases in which the young person finds himself or herself in unsuitable environments, in a so-called drug house or some other addictive environment or performs in strip clubs, should be covered. Furthermore, it was stated that reference was being made to situations in which the young person behaves in such a manner as deviates from basic social norms. It was stressed that reference was not being made to the young person’s lifestyle but, rather, the manner in which the young person acted or behaved (Government Bill 1989/90:28, pp. 66 f. and 109).

17. The statement that the provision has in view situations in which the young person behaves in a manner which deviates from basic social norms should not be ascribed such a meaning that every behaviour which deviates from something which could be described as a basic social norm will thus be covered. It would be difficult to associate such a view with the principle that an application of the provision is not to extend beyond what may be regarded as a reasonable interpretation of the wording of the provision.
18. According to the Supreme Administrative Court, the statement should instead be viewed in light of the context in which it exists, i.e. the statutory text and the examples of socially degrading behaviour provided in the legislative history for the Care of Young Persons (Special Provisions) Act and the prior legislation. The examples of socially degrading behaviour provided in the statutory text are misuse of addictive substances and criminal activity. The legislative history provides the examples of individual serious crimes, presence in addictive environments, prostitution and performing in strip clubs (see paragraph 16). Even if the examples in the legislative history are not entirely comparable to the examples in the act, they are not incommensurable. Accordingly, the examples in the legislation and legislative history should, taken together, serve as guidance in the assessment of what is socially degrading behaviour.
19. As regards a behaviour in the form of self-isolation in the home, it may be noted that it is a matter of a behaviour of an entirely different sort than that exemplified in the act and the legislative history. Against this background and taking into account the restrictiveness which should characterise the interpretation of section 3, first paragraph of the Care of Young Persons (Special Provisions) Act, self-isolation in the home may not be deemed to be such a socially degrading behaviour as constitutes grounds to provide a young person care pursuant to the provision.
20. The Social Welfare Committee in Kalix municipality has decided that the care of AA should cease. Accordingly, the case should be dismissed.