

Malmö Sweden, September 19, 2005

To:

Länsrätten i Skåne län (The Regional Administrative Court of Law of Skåne, Sweden)
P.O. Box 4522
SE-20320 Malmö
Sweden

Re: Appeal for reversal of a municipal decision

I hereby appeal for a reversal of Västra Innerstaden's (an urban area of the City of Malmö) local municipal council's decision on Sept. 24 to deny me the permission to open and operate a private day-care establishment. The council motivates its decision as follows:

The local municipal council of Västra Innerstaden of Malmö decides to dismiss Carolina Kaya's application for permission to establish a private day-care centre with reference to the Education Act (Skollagen 1985:1100) which does not offer any legal room for us to approve such an application.

However, supported by the same Education Act (Skollagen 1985:1100), ch. 2, § 17, which says:

A municipality may support financially private day-care operations ... provided they satisfy the requirements set out in § 3 and the fees are not unreasonable. Such financial support, in terms of amount per child, should not unreasonably deviate from the cost per child in the municipality's own day-care establishments.

... I take the opposite view; the Education Act clearly creates the legal room the local municipal council says is lacking.

In addition, I argue that the decision violates our constitution, specifically the act Regeringsformen (1974:152) ch. 2, § 20, which says:

Limitations in the right to establish and operate private businesses may only be imposed to protect vital public interests...

...and argue that it cannot reasonably be a vital public interest to prevent me and my likes from supporting ourselves – and looking after our children – the way we see fit.

For financial reasons, the council's decision has forced me to hand over my son to a nearby municipal day-care centre, against my husband's and my will. Consequently I argue that the decision also violates the Parental Act (Föräldrabalken (1949:381)), ch. 6, §§ 1-2, which establishes that the parents carry the legal responsibility for their children in terms of care, protection, social guidance and observation. I therefore conclude that the council's decision

disables me from satisfying those legal requirements by forcing me to hand over my child to others who, by legal letters and precedents, do not carry the associated responsibility for it.

Finally I argue that the decision violates the European Convention on Human Rights (of Nov 4, 1950) on the following counts:

Supplementary protocol 1, "Enforcement of certain Rights and Freedoms not included in Section I of the Convention", Article 2:

... In the exercise of any functions which it assumes in relation to education and teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religions and philosophical convictions

This requirement is underscored by Article 14 of the main convention document which says:

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as ... political or other opinion ... or other status.

Consequently, I argue that the government, through the Västra Innerstaden local municipal council of Malmö, does not respect my husband's and my philosophical convictions about how our child should be brought up and educated, not least by so briefly, misleadingly and disrespectfully dismissing my application.

With reference to the above-listed arguments, I appeal to the court to reverse the decision of the local municipal council of Västra Innerstaden of Malmö, referred to above.

Yours faithfully

Carolina Kaya