

Supreme Court delivers judgment in PFAS case

The Supreme Court has ruled that more than 150 residents in Ronneby, who have high levels of PFAS in their blood as a result of PFAS-contaminated drinking water, have suffered personal injury within the meaning of the Product Liability Act.

The drinking water from the Brantafors waterworks in Ronneby municipality contained very high levels of PFAS. This came from firefighting foam used in fire drills at Blekinge Air Wing. The contaminants in the water have led to residents in the area having high levels of PFAS in their blood.

More than 150 residents filed a lawsuit against the municipal water company, demanding that the court declare the company liable to compensate them for personal injury.

The action was based on the Product Liability Act, which transposes the EU directive 85/374/EEG on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products. According to that Act, damages must be paid for personal injury caused by a safety defect in a product, such as drinking water. The damages may relate to costs, loss of income and physical or mental suffering caused by the personal injury.

The District Court upheld the action. The Court of Appeal concluded that the high levels of PFAS in the residents' blood entail that they are at an increased risk of suffering from certain adverse health effects and diseases in relation to people who have not been subjected to the same exposure. However, according to the Court of Appeal, this risk of future harm did not constitute personal injury. The Court of Appeal therefore rejected the action.

The Supreme Court notes that the risk of a physical defect occurring in the future cannot, in principle, in itself be regarded as a personal injury. Unlike the Court of Appeal, however, the Supreme Court considers that the investigation provides sufficient support to conclude that such a defective condition has already arisen in each of the appellants in the form of elevated levels of PFAS in the blood. As a result, the appellants are considered to have suffered personal injury.

- The residents have, through drinking water, been exposed to high levels of PFAS in their blood, leading to an increased risk of certain negative health effects and diseases, explains Jonas Malmberg, Justice of the Supreme Court. The court's assessment is that the high levels of PFAS in the residents' blood represent such a considerable physical deterioration of their bodies that they have suffered a physical defect which in terms of the law of damages is a personal injury, Jonas Malmberg concludes.

The residents' claim has been for the court to declare that they have suffered a personal injury in a legal sense. This is what the Supreme Court has done. On the other hand, it has not been part of the Supreme Court's review to take a position on the extent to which the personal injuries have resulted in any damage that entitles them to compensation.

Case No: T 486-23