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Case Summary posted by the Task Force on Access to Justice

<i>Perstorp (Sweden); MÖD 2003:98, MÖD 2003:99</i>	
<i>1. Key issue</i>	The definition of the public concerned – When deciding on whom should be given the right to appeal a permit decision, decisive factors are the distance to the activity, the nature of the emissions (discharged substances) and the likely effect from them.
<i>2. Country/Region</i>	Sweden
<i>3. Court/body</i>	Environmental Court of Appeal (Mark- och miljööverdomstolen)
<i>4. Date of judgment</i>	2003-10-17
<i>5. Internal reference</i>	MÖD 2003:98, MÖD 2003:99
<i>6. Articles of the Aarhus Convention</i>	art. 2 para. 5 and art. 9
<i>7. Key words</i>	Public concerned, standing
<i>8. Case summary</i>	
<p>In two cases concerning a chemical plant, a property owner appealed permit decisions claiming she was affected because emissions from the activity would impact her drinking water. She averred that her property was situated next to a small river into which the plant's waste water would be discharged. The company argued that the appeals should be dismissed on the grounds that the appellant lived 12 km from the plant and her water quality would not be affected. The appellant responded that the distance from the plant was not significant as such.</p> <p>The Environmental Court of Appeal allowed the appeal in one case, and dismissed it in the other. In the first case, the court found that the plant's operation was causing emissions of substances (monobutyltenn oxide, xylene and heptane) likely to affect the environment and that those substances were of the kind that are not easily degradable and also toxic in water. The court concluded that the property of the appellant, even though it was situated quite far from the plant, was close to the small river affected by the emissions. The property's well was situated only 12 m from the river. The Court thus found that the appellant was concerned in such a way that she had the right to appeal (MÖD 2003:98).</p> <p>In the other case, the Environmental Court of Appeal found that the substances (formic acid) that might be found in the water as a result of the operation of the plant were generally easily degradable and that nothing indicated that the emissions would have any negative effect on the water quality of the river. On the basis of these facts the Court concluded that, even though the property of the appellant was close to the river and that its well was situated by the river bank, she did not have the right to appeal (MÖD 2003:99).</p>	
<i>9. Link address</i>	<p>http://www.rattsinfosok.dom.se/lagrummet/index.jsp</p> <p>http://www.unece.org/fileadmin/DAM/env/pp/a.to.j/Jurisprudence_prj/SWED_EN/SE_MOD_2003_98_MOD_2003_99_Perstorp/SE_MÖD_2003_98_MÖD_2003_99_Perstorp.pdf</p>