

2011-07-21

Case Summary posted by the Task Force on Access to Justice

SWEDEN: Brännö Brygga, NJA 2004 s. 590

<i>1. Key issue</i>	Public concerned (neighbours) – The ambition of the Swedish Environmental Code is to introduce a uniform and generous definition of “the public concerned”. Each person who can suffer any damage or nuisance from an activity – if the risk for such an impact concerns a legally protected interest and is not merely theoretical or insignificant – shall have the possibility to appeal a permit for that activity.
<i>2. Country/Region</i>	Sweden
<i>3. Court/body</i>	Supreme Court (Högsta domstolen)
<i>4. Date of judgment /decision</i>	2004-10-21
<i>5. Internal reference</i>	NJA 2004 s. 590
<i>6. Articles of the Aarhus Convention</i>	art. 2, para. 5 and art. 9.
<i>7. Key words</i>	Public concerned, stakeholders, neighbours, water works
<i>8. Case summary</i>	<p>An association applied for a permit according to the Environmental Code to reconstruct and expand a marina. The Environmental Court issued the permit and a number of neighbours appealed the judgment to the Environmental Court of Appeal (ECoA). The ECoA did not allow the appeal, as the Court was of the opinion that the neighbours lived too far away from the marina to be concerned by the project. This decision was appealed by the neighbours to the Supreme Court (SC).</p> <p>The SC stated that the aim of the Environmental Code is to enable an all-embracing and integrated decision-making process by introducing a set of legally binding principles and general rules of consideration for all kinds of operations with environmental impact. Also the procedural system for examining the different operations has been unified. In line with this, the legislator’s ambition has been to introduce a uniform and generous definition of “the public concerned”. Each person who can suffer any damage or nuisance from an activity – if the risk for such an impact concerns a legally protected interest and is not merely theoretical or insignificant – shall have the possibility to appeal a permit for that activity.</p>

The neighbours claimed that the disturbances from the new marina would substantially increase through the traffic on the water and roads. Also the environmental impact by the building and operating of the marina would be negative. The SC found that the risk for such nuisances and damages was relevant and allowed those neighbours who lived in connection to the bay – 250-450 meters from the marina – to appeal the permit.

9.
address

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