25.5.2015
To
Aarhus Convention Compliance Committee
Aarhus Convention Secretariat
Environment Division
United Nations Economic Commission for
Europe
Palais des Nations, Av. de la Paix 10
1211 Geneva 10
Switzerland

Here are B. Stümers comments to the Government's letter 21 May 2015, M2013 / 1435 / R in the case ACCC/C/2013/8

7. Please explain the basis or criteria on which the municipality identified who were the concerned parties.

The municipality provided no information to the public concerned in the matter Helgarö 31.3.2009 regarding windturbines.

The government refers to swedish Law 1987:10, chapter 8 paragraph 22
This is about comment.
Comment on what?
We got no information according Environmental Code (MB)

According to the Environmental Code, the one who is seeking permission first shall contact the relevant public and show the provided information about the plan to build. Then the applicant shall call for consultations (samråd) and in its EIA taken into consideration the comments received on the consultation meeting.
Only then can the applicant submit his application to the municipality for approval. Consultation provisions according 6 Chapter 4 § Environmental Code and § 7 regulations as EIA must bee included where particularly Section 2 contains provisions on security.

None of this had been made and the public concerned had not received answers to questions about the investigations of the flora, fauna and security one year after application.
Even in 2009 comments were no public answers to the questions given.

The next reference is misleading and inaccurate.

Chapter 5, Section 25, subsection 1, paragraph 2, and provide an opportunity to give an opinion on the application, if the measure
This section is in Swedish
5 kap 25 § 3.e stycket 1.a mening
Om detaljplan och områdesbestämmelser
Om kungörelse 3. andra som har ett väsentligt intresse av förslaget.

Translation:
About zoning plan and area provisions
About public notice

No criteria are mentioned in Chapter 5

The government states that to identify the public concerned a local authority normally consults relevant authorities, Swedish Land Registry, (Lantmäterikontoret). The fact is that the only information given by the Swedish Land Registry is distance between properties and the name of the property owner.
Thus only a distance criteria.

This is also an inaccurate and misleading reference.

8. The Committee has been informed that in three separate decisions (December 2011, January 2012 and March 2012), the County Administrative Board of Södermanland found the appeals by the communicant and approximately 30 other appellants inadmissible because their properties were more than 1 kilometre from the intended location of the closest wind turbine. Were those decisions made only because of distance? If not, what other grounds were there for denying the appeals?

The government answered this question with a NO but this answer is wrong as shown below.
The Government specifies no other grounds than distances.
The government states that the County Administrative Board must make an overall assessment of all the circumstances of the individual case.

The government than specifies the assessments which must be made in three points;
adjacent neighbor means short distance
turbine is visible means distance
and
would cause the appellant inconveniences of any kind.

The third ground has never been applied. Not once has it applied in the preparation county boards gave permission for over 3,000 wind turbines.
The suffering of the peoples in the form of sound and light disturbances has never been investigated scientifically. Disturbances have never been solved other than by stating the distance from the wind turbines.

Note that these tree points are not given in any law. Perhaps they are from the wind industry.

Note that the Government again is careless entering the incorrect date for a decision. There was no decision in 15.3.2011.
Only this carelessness should lead to the government's response should be rejected in its entirety.

The decisions in the County Administrative Board were never grounded in facts.

Complaints were rejected always without grounds for their rejection were stated. The County Administrative Board stated simply that the complaints were " not well founded" and explained never what was meant by not well founded, explained never what was not well founded.
This are no acceptable judgments but obvious abuses of administrative powers.

No other conclusion can be drawn than that the Government does not indicate any grounds other than distance.

9. The Committee has been informed that on 15 May 2013, the District Court rejected the communicant's appeal (Case P 129-12) because no information had been provided showing that his property was located in a neighbourhood that would be particularly affected by the wind turbines, and therefore he had no right to challenge the permit decision. On what basis was this decision made: was it solely because of distance and if so what distance was considered by the District Court?

Government denies again that only the distance was the basis for the decision and states again that the court must take into account other grounds.

Again the government specifies the three points in the answer to question 8; distances and examination of the impact on the public concerned who never has been applied.

Here the government characterize the three points as factors that are commonly taken into account.

Note that only the county boards can request investigations never Courts.

The government states that reason for the rejection is the location of my property hence the distace and nothing else.

Than the government reproduces a quotation from the judgment. but it is easy to conclude that it is not a quote. It can be seen without being able to read Swedish.

Mr. Bernd Stümer's property doesn't share borders with either of properties where the wind turbines are to be located. Nothing in the case indicates that Mr. Stümer's property is located in an area which, with regard to the nature and extent of the measures covered by the building permit, the geography of the area (the conditions of the nature) etc., will be particularly affected.

Swedish
Beträffande Bernt Stümer noterar mark- och miljödomstolen att hans fastighet inte är rågranne med någon utav de fastigheter på vilka vindkraftverken ska uppföras. I målet har inte heller framkommit att Bernt Stümers fastighet är belägen i ett nära grannskap som är särskilt berörda med hänsyn till arten och omfattningen av den åtgärd som avses med bygglovet, naturförhållandena på platsen m.m.

Carelessness with quote can not be accepted.

Again this is only about distance.

Even the case RÅ 1992 ref. 81 is about distances.

Also in this question, the Government states no other basis than the distance.

12. Please each provide a concise account of the communicant's requests for environmental information including:
a. The date of each request
b. The exact information requested
c. The date of any response and the response provided
d. The reason(s) given for refusing to provide the requested information, if any; and
e. The length of any delays in providing the requested information.

Why has not the government asked Strängnäs about the documents that I have sent to the municipality during this time?

If it had done so had it not needed to respond as incorrect.

In my copy of the Ombudsman's decision 11.3.2009 there is no appendix 13.
But this does not matter.

The government states that I have received a copy of the comprehensive plan for the municipality of Strängnäs and all other requested documents held by the municipality.
Note held by the municipality.

But here the question is the information required by law and regulation and which must always be included as a basis for decisions about wind turbines. Not only something held by the municipality.
Already in February 2008 there existed decisions on wind turbines in Strängnäs.
And I wanted copies of the dokuments which according to law must have been the grounds for the decisions.
Such documents did not exist in Strängnäs.
Not even JO could order Strängnäs to leave them because they did not exist.

By not working according to law and regulation the municipality of Strängnäs prevented me from getting the information that I have the right to.

The municipality of Strängnäs prevented me from getting the information that I have the right to by not holding this information.

13. Please each examine the draft chronology/summary of facts set out overleaf and confirm that it is correct, or alternatively make any corrections that you consider are required:

My comments to governmets answers.

Item 2
There was no EIA from the municipality there existed an advertising from a person who requested a building permit. This advertising was not connected to the area's fauna and flora and was not about security at the machines. A distance cited as evidence that the machines are not disturbed or injured people. In a hearing by the environmental court in Nacka, that person and the municipality were in dispute even on the size of the machine.

Item 4
No measures has ever been undertaken by t the applicant

Item 5

Note that some of the public concerned were given the opportunity to make their submissions first over a year later than they had knowledge of the request for a building permit.
During this time the municipality had refused to provide information on the issues of investigation of the flora, fauna and safety which the public had asked.
When the public then asked for this information in its submissions they all were rejected by the person who requested the building permit.

Why again refer to Chapter 8, Section 22 that does not specify the criteria of who belongs to the public concerned.?

Item 6

Very few have the local newspaper.
Court rulings is stating that information through the newspaper is not enough.

Item 8
Why do the government not ask the government's own administrative authority, the County Administrative Board?

What has Mr. Stümer in one of his letters to the County Administrative Board stated what is mentioned above?

Why does the government refuses to comment that wind turbines
are dangerous machines which must comply with Directive 2006/42/EC of
the European Parliament and the Council of 17 May 2006 on Machinery?

It's almost laughable the way in which the government backs of the issues about the Machinery Directive.

What has the answer from the government to do with the date when I left appeal to the municipality?

This answer from the Swedish government is rubbish.

Item 9

Why repeat Government here the previously submitted answer regarding the same issue?

The government states again when determining who shall be granted standing in a case the County Administrative Board must make an assessment of all the circumstances of the individual case.

And again I reply that of course they must do it but in fact they never do it.

This answer from the Swedish government is rubbish.

See my answer om question 8.

Item 11
Why repeat Government here its previously submitted answer regarding the same issue?

Se my answer to question 9.

Additional information.

Agine the government is leaving false information.
County administrative board's decision 15.3.2011 does not exist e.g.
The municipality does not provide information to the public concerned 31.3.2009

That the government does not get accurate data of Strängnäs is in itself nothing strange because the municipality does not have summary of the case or the ability to use the facts contained of the case.

But that the government can not obtain correct information from their own management can not be excused or explained.

Basically, our case consist of two questions:

- What information does the public concerned have the right to get according law to receive in the matters concerning permits for wind turbines?
- What criteria exists for locus standi on matters concerning permits for wind turbines?

On information to locus standi according to law.
Under Swedish law (the PBL and MB) and international law (Aarhus Convention, EU directives) the public concerned has always right to information concerning health and well-being.
This right also includes the right to information that affects people's environment and the right can not be fulfilled if the environment and nature are not examined scientifically.
In our case, this lawful right has been deprived of the fact that no investigations have been made.

On criteria for locus standi in matters regarding wind turbines.
Even in the Swedish Government it should exist awareness of the fact that the criteria for Swedish locus standi does not exist.
In terms of case permission for wind turbines, the courts have carved out a criterion consisting of the distance between public concerned and the hazardous machine wind turbine. This criterion is not supported in any Swedish or foreign law.
The courts use this, not legally existing criteria, in each verdict because it is simple to measure on any map.
Through this management the courts are overriding all binding international law.

When the Swedish court exclusively based their decisions on the information on noise disturbances measured in the dBA submitted by an applicant for a building permit arises the arbitrariness in the matter that is directly unlawful because all sound measurements shall be made by scientifically proven methods.

Infra-sound from wind turbines spread to 10 - 20 km away and are damaging the given people and animals up to at least 5-10 km
Dr. Kelley showed already in the 1980s that the 2 MW wind turbines triggered real disease problems up to just over 3 km away.
This is easily recognizable now with Pricewaterhouse Coopers etc. new measurement techniques with the full spectrum measurements (0.1 - 10 000 Hz) and thereto narrowband analyzes ILFN part, with simultaneous measurement (with proper microphone) also micro barometer to capture the pressure changes in the lowest range (<5 Hz down to 0.1 Hz) (there can a microphone not comply with).

For simplicity, the courts ignore even any account of infra-sound or low-frequency interference. Courts judges here only half the story.
This can not be accepted as a legal right.
Of course it is a fact that the interference from the machines decreases with distance to the public concerned but this slowdown is dependent on many factors such as landscape structures, meteorological conditions etc. Swedish courts are never founding their judgments on these factors
This can not be accepted as applied correctly

Lastly
In our case it is undisputed that the public concerned have not received the information it is entitled to get under the law,
and that the right of locus standi is denied public concerned on illegal grounds.
Without accurate information and without locus standi has also our right to justice been deprived us.

With surprise, we can conclude that Swedish government answers to the questions asked by the Aarhus Convention Compliance Committee 21/05/2015 contains so many errors even of the simple kind not being able to properly set the date and documents.
But that the government can not obtain correct information of their own management the county governments can not be excused or explained.
We citizens of Sweden are accustomed to that government is insulting us in matters relating to the decision to expand the wind power that harms our health and is devastating our nature by casually inability, but through the government's handling of our case in the Aarhus Convention Compliance Committee is the entire United Nations insulted.
This can never be accepted.

Bernd Stümer
Lokus standi