Government 26.9.2013 M2013/1435/R

Answers to UN from the government.

(VKV are wind turbines)

Re: Communication to the Aarhus Convention Compliance Committee concerning compliance by Sweden with provisions of the Convention in relation to permits issued for wind turbines and the applicable legislation in general (ACCC/C/2013/81)
Thank you for your letter of 26 April 2013, inviting Sweden to comment on the complaints outlined in communication ACCC/C/2013/81.
The communication has been summarized by the Committee as concerning:
"Compliance by Sweden with the provisions of the Convention on access to information, public participation and access to justice in relation to the permitting process for the issuance of permits for two wind turbines near the town of Strängnäs, Sweden, and the applicable legislation in general"
We note that the Committee has requested that the communicant clarifies the communication on several issues fundamental to the response of the communication such as;
1. Clarification on whether the communication is submitted by the communicant as a natural person or on behalf of a group or a legal entity

2. Substantiation of the allegations the communication makes regarding the European Union and relate those allegations to relevant articles of the Aarhus Convention

3. Specification on how Sweden is in non-compliance with article 9 of the Aarhus Convention, both in general and in relationship to the Helgarö wind turbines.

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We share some of the Committee's concerns, which are implicit in these requests, about the clarity of the communication and note the difficulties such issues present for a Party considering its response to a communication.
The government claims that the UN asks questions because the UN has difficulty with the clarity of my notification.

We respectfully submit that the sorts of question asked by the Committee in the letter – questions that are perfectly reasonable in our view – should be asked by the secretariat and Committee and answered by the communicant before the communication is formally brought to the attention of the Party concerned.

UN should first have sorted out these problems before they decided to accept the entry.

We would like to highlight the section titled "Processing communications from the public" on page 16 of the UNECE Guidance Document on Aarhus Convention Compliance Mechanism. This states, in the second paragraph, the following:

“If the communication lacks certain mandatory or essential information, the secretariat will resolve any problems by contacting and discussing them with the communicant before forwarding the communication to the Committee.”
The government claims that my notification lacks certain mandatory or essential information. Which?

Had the Guidance Document been followed regarding the handling of this communication a situation where we have to rely on assumptions about the communicant’s allegations could have been avoided.
Then they would not have to answer

Had such a contact been taken the situation where Sweden is asked to comment on an ongoing legal procedure could also have been avoided.
Then they would not had to respond in an ongoing process.

Factual background
Given that the Committee has decided to accept this communication and forward it to Sweden despite the absence of essential information, we have set out a summary of the events as we understand them.
Despite this we reply government says

Our response is based on the content and structure of the information provided. We reserve the right to make additional submissions in light of any further information provided by the communicant in response to the Committee’s request.
Oops, they ask to come in with completions.

As a main rule establishing new wind farms and turbines require a permit under chapter 9 of the Swedish Environmental Code
No Chapter 9 is wrong all the MB applies. Although Chapter 1 and for consultations etc.
Chapter 9. is about Environmentally hazardous activities and health protection sewerage, waste water, ground water, mountains covered, gravel
none have with our errand to do.

If the wind farm or turbine requires a permit under the Environmental Code a building permit under the Planning and Building Act is not mandatory. A building permit is only required in cases where the wind farm or turbine requires notification to the regulatory authority but no permit.
No, the provisions on authorization and planning permission is dependent on the size and number of turbines

On the 10th of January 2008 the Diocese of Strängnäs notified the regulatory authority – the local environmental supervisory authority in Strängnäs - about its construction plans concerning two wind turbines and, at the same time, applied for a building permit for the turbines. An environmental impact statement (EIA) was submitted with the application for the building permit.
But we, the public concerned, got no information

According to the notification the wind turbines are to be located on the properties Näs 1:4 and Knutsberg 1:2. The distance between the intended locations of the wind turbines and the nearest residential property is at least 680 meters.

On the 22th of February 2008 the local environmental authority in Strängnäs decided about precautionary measures to be undertaken by the applicant concerning e.g. the location and height of the turbines and the noise, shadows and reflections from the turbines/rotor blades.
No, error or a pure lie
no precautions are in the environmental impact statement
To specify the sound interference and shadowing are no precautions.
All our questions about the security measures introduced by the MD has never been answered.

One year later
On the 31th of March 2009 a notification of the application for the building permit was sent to known affected parties, i.e. individuals who owned land near the intended installations.
They were asked to comment on the application within three weeks.
On the 3rd of April 2009 there was an announcement about the application for the building permit in the local newspaper made by municipal Committee of Strängnäs. Concerned parties were given the opportunity to comment on the application within three weeks.
Comment on what? We had not got our questions answered. On what would we express ourselves?

It took three years after the building permit application before it was granted
Why so long?
The delay is contrary to the PBL for the expedited procedure.

On the 3rd of November 2010, after providing information to the public and having communicated developments of the case with the communicant,
I got no answers to my questions about safety. See my notification

other individuals and NGOs, the municipal Committee of Strängnäs (the local authority) issued a building permit for two wind turbines with a height of 140 meters each pursuant to the Planning and Building Act.
The communicant, other individuals living in the surrounding areas and two environmental organisations appealed against the decision.

In three separate decisions in December 2011, January 2012 and March 2012, The County Administrative Board of Södermanland found the appeals by the communicant and about 30 other appellants inadmissible based on the judgement that their properties were considered to be situated too far away (further distance than 1 kilometre) from the intended location of the closest wind turbine.
Why three different decisions?
The Government states that the refusal, rejection were due to the distances to VKV.
In the laws are no distance specified.

The County Administrative Board found ten appeals admissible, but not well-founded, hence the appeals were refused.
What is meant by välgrundade (well-foundet) and admissible

Nine of the appellants whose appeals were considered admissible were owners of property adjacent(intilliggande) to the properties were the wind turbines

What is adjacent?
No, not true. only 4 and raw neighbor Lindstrom Åsby 2: 1 was rejected.

were planned to be located (i.e. Näs 1:4 and Knutsberg 1:2). The appeal of one appellant, the owner of Näs 1:5, was found admissible although he doesn't own property adjacent to the properties were the wind turbines were to be located. The distance
Why mention Näs, Arvidsson ?
Again rejection founded on the distance.

between the house on his property and the location of one of the intended wind turbines is 1 kilometre and the distance between the house and the location of the other intended turbine is 1,3 kilometres.
The County Administrative Board compared his appeal to the appeal of the owner to Helgarö-Väla 1:1, which was admissible because Helgarö-Väla 1:1 is adjacent to Knutsberg 1:2. Since the distance between Helgarö-Väla 1:1 and the locations of the planned wind turbines is about 2 kilometres the The County Administrative Board found the appeal by the owner of Näs 1:5 admissible as well.
What is this nonsense? Why compare Näs and Väla?

The communicant and other appellants, both those whose appeals were found inadmissible and those whose appeals were found admissible but was refused after tried on the merits of the case, appealed the decisions by the County Administrative Board to the Court of Appeal - The Land and Environmental Court at Nacka district Court – which is now dealing with the case.
Possibly they do. We are now waiting for a decision for nearly 6 years

The Court held a view of the locus in quo (on-site inspection) on the 3rd of September 2013, which the communicant attended. The court has not yet delivered its judgement.
See my comment of this meeting in the my answers to the UN. Attschment samrad

A judgement by The Land and Environmental Court may be appealed against to the Land and Environment Court of Appeal.
No, only if the higher instance gives leave to appeal, which rarely or never occurs

Question from the Committee
The Committee has set out questions and/or asked for further information on the four issues listed below. It can be noted that the questions asked by the Committee are

very broad and of a very general nature, more relating to the general Swedish implementation of the Convention, than addressing the issues raised by the communicant in relation to the permitting process for the issuance of permits for two wind turbines.
What does that have to do with the matter that the questions are broad and obviously has to do with how the Convention is implemented?
I shall not affect my application to the case only Helgarö but states that it applies to VKV affairs in general in Sweden

1. Information regarding how the decision-making process in relation to the construction of wind turbines in the community of Helgarö complied with articles 4,5,6,7 and 9 of the Aarhus Convention
The courts in Sweden have an independent status within the Swedish constitution. Neither the Government nor any other authority may decide how a court should adjudicate in a particular case.

And precise this do not happen in Sweden when the government orders the MD may not be applied by the courts in matters concerning permits for VKV and the courts obey this order.

Since the court proceedings regarding the permits for the two wind turbines are still pending the Swedish government is hindered to comment on the individual case.
But In my application I have shown that we were not given information. It was possibly added a year later. We did not participate in decisions which may optionally be replaced by samråd but never of any comments in the form of information and answers to questionsThis has already happened regardless of the courts.
Therefore, the government should have answered the question.

2 Information on how Sweden regulates access to information, participation in decision-making and access to justice with respect to the construction of wind turbines.
The building of wind turbines and the establishment of wind farms are activities that are regulated under the Swedish Environmental Code and the Planning and Building Act.
And of course the Machinery Directive. The government never mentions MD Machinery Directive, which is law in Sweden.

A building permit is not mandatory if the wind farm or turbine requires a permit under chapter 9 of the Environ-mental Code (as to avoid overlapping processes)
No, not Chapter 9 MB. see above

A wind farm with more than six wind turbines, or more than two wind turbines with a height that exceeds 150 meters requires a permit according to the Swedish Environmental Code.

If an application regarding the building of wind turbines does not exceed six wind turbines or three wind turbines with a height that exceeds 150 meters a permit can be replaced by a notification to the regulatory authority under chapter 9 of the Environ-mental Code.

No, see above
They have not even managed to read MB. They mix up Chapter 9 on waste, etc. and Fourth Chamber 16.kap general for review.

If an application is dealt with by a notification the applicant will also need to apply for a building permit.
No support is available in Swedish law to solely the views in opinions (notifications) is sufficient grounds for the permit. Inter alia must be samråd.
MB 6 § 4 "those who intend to engage in an activity or take a measure to samråd."
In Section 2 sets out what must be included in a samråd.
The government has not read this and therefore refers to what the municipality has done.
The law says, however, that it is the operator Church who shall samråda. That has not happened.

Regarding the two wind turbines relevant for this communication, with a height of 140 meters each, no permit under the Environmental Code was needed.
Instead the applicant chose to make a notification to the regulatory authority and apply for a building permit.
MB applies to all activities or actions. What is meant by the activity or action specified in MB. Building VKV is such a business

More in-depth information of the permitting process and how it relates to the commitments made under the Aarhus Convention is found in the Annex to this letter.

Further questions from the UN.

3 Information on the conditions that apply under Swedish law for NGOs to have locus standi before Swedish courts in matters that come within the purview of the Aarhus Convention.
UN asks about how the public concerned is treated in the Swedish justice under the Aarhus Convention, where the issue is included in Articles 3 and 4, and 5 and 6 and 7, 8 and 9

Regarding the Swedish implementation of article 9 of the Aarhus Convention in respect of access to justice for NGOs see the Annex to this letter.
The government responds by deal with only Article 9, justice

4 In practice which are the requirements for individuals to be able to appeal construction permits and detail plans for wind mills? Do they need to live within a certain distance from the installation – if so how close? Do individuals need to own land near the installation to be able to appeal the decision?
UN asks whether the right of appeal in practice about the distances and raw neighbors or local residents
A construction permit or a detail plan for wind mills can be appealed by an individual if that individual is considered to be a concerned party. Concerned parties according to Swedish law are those who have a direct concern of private interest.

What Swedish law specifies standing rules?
The only thing close is 16 MB § 13 and the PBL.

The Supreme Court and The Environmental Court of Appeal have applied a generous attitude regarding who may be considered to be
Court and The Environmental Court of Appeal have applied a generous attitude regarding who may be considered to be
Nonsense, when most standing are rejected as we have shown in the case Helgarö
This is not true in matters relating to the environment such as wind turbines.
We have shown that after ruling in Europe Courts modified the Swedish government its rules on standing in MB from 3 years and 200 members for 3 years and 100 members which is still a way to exclude locus standi. MB Chapter 16 § 13th
In that way, the Swedish Government's showes its reluctance to take into account people's complain.

Concerned by the decision with a judgement form the Supreme Administrative Court in 1997, in line stating that:
"...in principle, every person who may be harmed or exposed to other kinds of inconvenience by environmentally harmful activity in a permit decision is considered a party in interest. However, a mere theoretical or completely insignificant risk of damage or detriment is not sufficient." (RÅ 1997ref. 38).
Why this quote from 1997? When MB is from 1999? and when I showed verdict from the Supreme Environmental Court in 2012 Hanöbukten where all standing were rejected.
This reference is directly misleading since most and largest VKV has been built after that date.

Once it is established that the applicant is allowed to appeal, the scope of review is complete, meaning that he or she can invoke all kinds of interests in favour of the cause. No arguments are precluded. Thus the appellant can plead any private or public interest in the case.
Wrong again. This is the very core of my complain that all references to safety regulations in MD on orders from the government may not be mentioned in the permit process. No questions or account of safety regulations according to the MD can by order from the government be required. No questions on the subject are answered

Owning land near a planned installation qualifies an individual as a concerned party.
Nonsense again. Not in the case Helgarö where even raw neighbor Lindströms complain has been rejected

However an individual does not have to own land to qualify as a concerned party. In case law individuals living within sight and at a distance of 550 meters from a planned construction of wind turbines have been considered as concerned parties (RÅ 1992 ref. 81).
Nonsens.1992 when VKV was 50 m high. Now they are over 200m high.
The fact is that no law specifies distance.
In case the observatory at Onsala receiving standing despite the distance of each of VKV was over 10km.

Conclusions on the communication

Sweden contests the admissibility of the communication and urges the Committee to close the communication.
Sweden denies that the notification is inadmissible and requests the Committee to close the message.

As the Committee is aware, paragraph 21 of the Annex to decision I/7 of the Meeting of the Parties, states:
“The Committee should at all relevant stages take into account any available domestic remedy unless the application of the remedy is unreasonably prolonged or obviously does not provide an effective and sufficient means of redress”
Fucking insolence.
Government therefore denies because my complaint is unreasonable or obviously does not provide an effective and adequate redress.

Legal proceedings at The Land and Environmental Court at Nacka district Court has not been completed, hence there are still available domestic remedies concerning this case and it is Sweden’s view that the communication should therefore not have been admitted at this stage.
But the fact is that the UN decided on trial.
We have been waiting for verdict for over 5 years.
Even without judgment, we have demonstrated facts that we have not been informed, unable to participate in decisions and we gave examples of judgments where the MD is not applied.

Even if the Committee were to allow the compliance procedures to continue in relation to this communication, based on our understanding of the allegations of non-compliance, there is nothing to suggest in this communication that Swedish domestic law fails to comply with any of the articles of the Convention listed in the communication (i.e. articles 4, 5, 6, 7 and 9).
Oh, and the government writes.
"There is no evidence of notification that the Swedish national law fails to comply with any of the articles of the Convention specified in the notice (ie Articles 4, 5, 6, 7 and 9)" despite the government above refused to comment on the Articles indicated.

If the Committee decides not to close the communication in accordance with our request above we invite the Committee to confirm that there is no issue of non-compliance raised by the communication.
The government invites UN to confirm that there is no criminal offenses raised by the communication.
This I do not understand. What should the UN confirm? Throughout my whole notification I complain violation of applicable laws. Do they have not even read my complain?
We hope that the information provided in this letter provides useful clarification to the Compliance Committee. However, should the Committee require any further information, please do not hesitate to contact us.
Yours sincerely

F U!

Annex – Access to information, public participation in decision making and access to justice in Sweden

Access to Information in permitting processes
A General Principle of Public Access
The right of access to environmental information is guaranteed under the general principle of public access, prescribed in Chapter 2 of the Freedom of the Press Act (TF). This constitutional law principle is by tradition very strong in Swedish law, and secrecy of public documents is limited. Among other things, it provides all individuals – whether a citizen of Sweden or of another country – with a right to read official documents (in paper or electronic form) held by public authorities, including the courts (TF 2:1 and 14:5). For a small fee, they can also get copies of the documents (TF 2:13). The request for access can be made anonymously. Official documents are such documents that:
• are held by the authority (TF 2:3),
• have been drawn up or received by the public authority
(TF 2:6–7), and
• that are not deemed secret under TF 2:2 in the specific case.
Most documented environmental information held by public authorities will be public and accessible. The procedure for management of public documents and the grounds for secrecy are specified in the Public Access to Information and Secrecy Act (OSL). Some environmental information is also accessible and free to everyone online.
Odd that this is the same misleading way to inform decisions about wind turbines that all authorities and courts are using.
First, describes the authority of all the rules, mentions all the provisions of MB which makes it impossible to put up VKV , then decides it directly contrary to the rules and gives permit. In my whole notification I show that we have not been informed and when we asked for information, we first received it after the JO intervention. Sure exist TF Freedom of the Press but can we know what documents we had access to when we received information.
The government reported that TF applies to environmental information but the fact is that it applies to all information and for all publications. Not only environmental information. In my notification I dwell long time on the issue of JO and our attempt to get information. I show that even the Ombudsman can not induce the authority to submit the documents that the government claims are showing that market surveillances has been implemented. I show that the authorities will answer questions but not the questions we asked. For example, when we ask Arbetsmiljöverket on signage at the machine wind turbine is sufficient to fulfill the MD's safety.

Seeking Remedies for Refusal of Access to Environmental Information
Seeking Remedies for refusal of access to environmental information
What do you mean?
No one has refused to disclose the existing document except the document, which should show that the market survilliance under the MD has been implemented.

JO has merely accepted a response from the Swedish Work Environment Authority that I got the famous 640 documents showing anything other than market

surveillance, namely inspections under the Work Environment Act not related to MD. The simple reason why I have not received the documents requested on the market surveillance is of course that these documents are not available because the market surveillance is never done

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Requests for public access are handled by the authority holding the relevant documentation. Such a request must be handled promptly. If an authority has refused a request or granted access but with reservations as to how the information may be used, the applicant is generally entitled to appeal against the decision (TF 2:15 and OSL 6:7).
They have not refused but said that I already received the documents. Which is wrong as above.

(What has the below to do in our case?)

Appeals are generally made to an administrative court of appeal. A decision of such a court may be appealed to the Supreme Administrative Court. The Supreme Administrative Court must then first grant a leave of appeal, which is mainly done in cases of precedential interest.
But the higher courts rarely or never leave to appeal when they can interpret "precedential interest" Just as they please.
But other conditions for leave to appeal is, changing conditions and improper judgment.

If the request is made to a land and environment court, an appeal is handled by the court of appeal and then by the Supreme Court (OSL 6:8). The appeal must be made within three weeks from the day when the appellant was notified of the decision (the Administrative Procedure Code, FL, 23 § and the general Administrative Court Procedure Act, FPL, 6a §) or, if a decision from the land and environment court, within three weeks from the date of the decision (OSL 6:10 and the Code on Judicial Procedure, RB, 52:1). The appeal must be formulated in writing, stating the appealed decision and the wanted change in the decision (FL 23 §, RB 52:1 and 3). The appeal is delivered to the decision-making authority, which then sends the appeal to the court, after having checked that it has arrived in time, together with the all the other case-documents (FL 23–25 §, see also FPL 6a § and RB 52:2 and 4). Before sending over the appeal the authority has the opportunity to review their decision. If the decision is manifestly wrong, they have a duty to correct it, provided that this can be done rapidly and simply without detriment to a private party (FL 27 §).
What does this have with to do in our case?
Would the government here show that Sweden has many active laws that give the possibility of appeal? Is this again a issue of misleading?
In both our notification and in our responses we write that we do not get our cases reviewed in the trial in which all applicable laws including MD is included. We prove this by court decision which refers to government orders that the MD is not included in matters relating to permits for VKV.
Our complaint involves that protection regulations according to MD may not be included in the legal trial at whatever level it occurs.
Rules on how the decision should be made protect the individuals' possibilities to seek remedies for refusal of access to environmental information.

There are rules on how the decision to be made that protects the ability of individuals to be tried on refusal of access to environmental information.
Sure, but what helps rules when the authorities do not follow them. Or, as in our case, when the authorities and the government gives false information about the documents to show that the market survilliances have been implemented.

A public authority's decision to refuse access to public documents must be communicated with the party that made the request. The decision should be written. The decision must state the reasons for refusal and inform about the applicant's access to appeal, and when and how such appeal should be made (FL 20-21 §§). A request for public access is often handled by a civil servant at the authority. In these cases, the individual can request the assessment and a written decision of the authority, which they need to be able to appeal denied access. The civil servant must inform the individual of these matters (OSL 6:3 §).
But what does this have to do in our case?
No one has refused but only left false statements.
In our case, we ask all the time copies of documents showing that the market surveillance according to MD have been implemented. We have never received these documents but only left the government's response to the Work Environment Authority has carried out such surveillances. Such surveillances are the result of the law MD, is legally binding and violations are punishable. So important measures must of course be documented. Since no records exist the only possible conclusion is that the surveillances have not been implemented.

The situation may be somewhat different if the authority doesn't follow the above described due procedure. For example, the individual cannot appeal the decision if there is no written decision, or if he or she has not been informed of the decision and available remedies. Inadequate or improper administrative procedure may be brought to the attention of the Parliamentary Ombudsman, who may criticise the authority, and also bring charges for misuse of office according to Section 20:1 of the Penal Code (BrB).
What ? that do not stand in the Law on Ombudsman. He can only criticize nothing else. He also just like any other can of course sue someone. But it never happens that the Ombudsman does that.

Generally, the Ombudsman's decision will stay at criticism.
Right. Why then write something else above?

Such criticism carries much authority, stating an administrative practise that is generally followed. However, it does not provide any remedy for the individual. The Ombudsman cannot make the authority to provide access to the information in the relevant individual case.
That's right, you can not. So why write about this? Who will be deceived?

Following the described appeals procedure, the court that handles the appeal will be provided with all the case-documentation. This case documentation will normally include the information to which access is disputed.

Sure, the court shall obtain all documents in the case, but laws according to MD should they know without the complainant submits these too.

The court will then decide on the access to the information. As the administrative court procedure is of reformatory character,
What is meant?

the court steps into the decision-making role, and decides whether or not to give the appellant access to the relevant information.
No, this can not mean that a court precludes a law relating to the case.

Participation in decision-making
Administrative procedure in environmental law cases.

Municipalities and special environmental public authorities act as administrative decision-makers under the Environmental Code.
Who? Municipalities and?
Is it the Environmental Committee of the provincial government they mean?

Two officials that the Government appoint?County administrative boards handle nature conservancy matters, water law cases, and permitting, supervision and control of environmentally hazardous activities, such as permits for building wind turbines and wind farms. Much of their decision-making competence is, however, delegated to municipal authorities, which stand for most of the supervision. Some national authorities are also involved in administrative decision-making in relation to environmental matters.
What is this nonsense?
The issue of permits for VKV the municipality is not involved.
The politicians in the city council gets involved only alone when they decide to authorize the County Administrative Board's decision on the permit.
This amendment of the municipal planning monopoly enshrined in the Constitution, the Constitution, was completed without further in 2009.

The municipalities and county administrative boards supervise and enforce the Environmental Code, mainly through inspections and review of environmental reports and notifications of different kinds, and delivering enforcement orders and administrative sanctions, ex officio or in response to complaints.
Never mind, misleading nonsense.
No, the county administrative boards are designed to perform government orders, government directives.
They have never answered the questions of security according to MD.
They seldom or never completed inspections of VKV.

They will also decide on many kinds of licenses and exceptions. The local and regional authorities handle and decide administrative cases quite independently from the Government and central agencies.
This is directly ridiculously misleading.
The county administrative boards are to obey government orders, directives.

As a general rule, the ministry or a superior authority cannot intervene in an individual administrative procedure.
If this should be the general rule it is broken it anywhere and anytime.
But what's the matter. Is government lying deliberately?
What then is the government directives?

An administrative procedure in environmental law matters can look very different in different kinds of cases.
Our cases are always about vkv.
In general, however, it will be initiated either in response to a complaint or an application (for example application for dispensation or a permit, as prescribed by law), or on the authority's own initiative. The authority must initiate, handle, and finish such a procedure in response to the private initiative, or when their public tasks under law call for action.
The County Administrative Board is the agency that first dealing VKV matters.

This means that they must start a case, move the case along – with all the due procedural measures involved – and finish it through an administrative decision, even when they decide not to take further action. Due administrative procedure means, among other things, that the authority has to communicate the developments of the case with concerned parties (FL 17 §), to provide a reasoned decision (FL 20§), and access to the materials (FL 16 §), etc.

Well, what does this have to do with thing tour case?
In our case, the provincial government have not dealt with the matter in several years and in addition just before the municipality's decision on planning permission when the provincial government announced that the case Helgarö was completed for them.

Access to justice
Appeal and administrative review
Why does the Swedish government not answer on the UN's a issue about the Aarhus Convention? Why does not the government relate to Article 9 in its answer?
Does the government not know the Convention and therefore have not read article 9?

A final administrative decision may be appealed. A municipal decision is generally appealed to the regional county administrative board, and further to the land and environmental courts. The decision of a higher authority is, however, generally appealed to the land and environmental courts directly.
Aarhus Convention states clearly that the complaint shall be considered by an independent organization. The Provincial Board is not a independent organization. They are obliged to execute the decisions of political power.
The government has changed the opportunity to appeal through legislative amendment means that the complainant can complain once in environmental court and no more. For lamentation the higher courts require leave that rarely or never is provided. See comments above.

An administrative decision may also be reviewed by the original decision-making authority, independently of the appeal. The administrative authority has a legal duty

(FL 27 §) to change a clearly incorrect decision, at least if such correction is simple and quick, but the decision cannot be to the detriment of other parties.
Why is this included? What does that have to do with Article 9 in our case?

This administrative review procedure is therefore of limited use in cases involving several parties of conflicting interests. Administrative review can be made in response to an application or on the authority's own initiative. Administrative appeal is submitted to the decision-making authority for forwarding to the appellate body.
This is not true that county administrative board decisions lead to trial in MMD.
If no appeals the regional authority decides it is fixed, isfinal, just as court rulings.

This system provides opportunity for review and hence correcting an incorrect decision without having to go to court.
Misleading wrong!
In matters relating to VKV the Government's directive means not to set obstacles to the expansion of VKV. The County Board shall approve VKV without restriction.

In environmental cases there is no obligation to apply for such review before appealing an administrative decision.
Therefore the provincial government need not to correct inaccuracies.
Awesome!

The administrative appeals procedure in Sweden is as a rule reformatory and one of full appeal.
nonsense. see above

This means that the administrative courts decide cases on the merits as well as legality of the appealed administrative decision, and that they can replace the appealed decision with a new one. Within the limits of the claim, the court takes on the role of the authority that made the appealed decision, and thus in principle acts as a public authority making an administrative decision.
nonsense. see above

The ultimate responsibility for the investigation of the case rests with the court according to the "ex officio principle". The point of departure is that the original decision-making authority should have ensured sufficient decision-making material, but if needed the court has to take on this responsibility. They should therefore look beyond the appealed decision and scrutinise the decision-making materials. The court may then order the parties to provide materials, or they can acquire it themselves.
Yeah, ? Sure they can, but what has that got to do with their orders from government to ignoring safety rules in according to MD?

Planning law decisions
The municipalities decide on plans and permits under the Planning and Building Act (PBL).
But not when it comes to big VKV. see above
The municipalities also can decide in cases when they act or react as a supervisory body relating to violations of the act. Building permits and decision relating to violations of the act are subject to administrative appeal, first to a county

administrative board, and further to the land and environmental court (PBL 13:3 and 13:6),
Appeal decision of ln and MMD.

according to the procedure described above. The courts
Note that here the Government states that the LN is a court (court) which it is not due to the Convention. Ln is not independent from political power. If the provincial government (LN) also is a court that is not free from political power is this contrary to the Constitution of Government and also against the very foundations of democratic governance.

decide the case on the merits and replace it with a new decision. The rules of evidence build on each party showing grounds for their claims, and the court weighs the evidence and decides the case based on the claims and the facts and materials of the case. However, the “ex officio principle” makes the procedure easier for the individual: as the decision-making authority and the court have fundamental responsibilities for ensuring a correct and appropriate decision under law, and therefore a basic responsibility for the evidence
Right. The Court has the responsibility to correct in the sense of ensuring that all the matter relevant laws also MD will form the basis for a decision.
.
Appeal can be made by concerned parties (FL 22 §)
No. Administrative courts and provincial governments regularly rejects appeal according to FL § 22.
They announced simply that decisions can not be appealed under FL § 22 which is directly wrong. Where shall the complainant turn when the complainant received this rejection?
. Environmental NGOs (specified in MB 16:13) have standing in appeal cases concerning detailed plans entailing revoking shore protection, or concerning projects and plans requiring Environmental Impact Assessment (EIA) (PBL 4:34, implementing Directive 2001/42/EC).

PBL 4:34, about detailed plan refers to MB provisions on environmental impact assessment. Directive 2001/42 / EC on the assessment of certain plans and programs on the environment Paragraph 7 states that Member States shall ensure that their conclusions pursuant to paragraph 5, including the reasons for not requiring an environmental assessment pursuant to Articles 4-9, are made available to the public.

Article 6 of the Directive specifies rules for consultation(samråd).

Which consultation (samråd) outlined above has been implemented in the case Helgarö or generally in Sweden in matters on VKV?

Appeal concerning detailed plans can only be made by persons that have submitted their views in the decision-making procedure, according to PBL Chapter 5, and their views have not been met (PBL 13:11).

EIA decisions
In Swedish Law, the EIA procedure is carried out by the operator in a procedure supervised and controlled by the regional county administrative board.

No for the public concerned, the law for consultations under MB PBL. County Board does not control this.

Rules on the EIA-procedure are found in MB Chapter 6, and the Ordinance on EIA. The resulting EIA documentation, the environmental impact statement, is attached to the permit application (MB 6:1 and 22:1), and submitted to the permit authority – a county administrative board or a land and environmental court.
That has not happened in Helgarö and so does it not take place in Sweden in general. See my reference to teaparty in my notification.

The EIA is available through public access, and anyone may submit comments and opinions to the authority.
Not at a tea party.
According to the "ex officio principle", the permit authority can and should take such relevant statements into account in the following procedure. A permit application, including the EIA, and the permit authority's decision must generally be announced in local newspapers, etc., thus informing the public of such access.
In the course of the permit procedure, the authority will review the final EIA, both on its procedural and substantive legality according to MB Chapter 6. A proper EIA documentation is a precondition for the permit procedure, and an insufficient or lacking EIA means that the permit application is refused or the EIA sent back for adjusting or complementing work. The permit authority's EIA decision can only be appealed together with the connected permit decision (MB 6:9). In these permit procedures, appeal can be made by concerned parties, including concerned public authorities (MB 16:12), and environmental NGOs fulfilling the requirements in MB 16:13. It is not necessary to have participated in the consultations during the EIA process.
There is no need for specific rules on injunctive relief in the Swedish EIA procedure, as the permit procedure is preconditioned by an approved EIA procedure and resulting statement. Moreover, the permit decision is generally suspended pending an appeal. The operation will therefore not be able to start before the EIA is reviewed.
The provisions of § 7 MB 6 followed never particularly paragraph 3, the impact on health, never followed when health is dependent on the security regulations applied in MD

Means of Access to Justice
The absolutely most common means of access to justice in environmental matters is found in the administrative procedure.
What is the meaning?
A member of the public can start a procedure by complaining to a supervisory authority about an environmental matter and ask for administrative action in his or her interest.
No, when we complain to the provincial government they never take up the issues of security according to MD.

Based on case law and administrative practice, the authority must then make a decision, either to act or not.
No they will not answer questions about safety according to according to MD.

There are no formal limitations on what the appellant may claim in this procedure. The appellate authority or court can make any kind of decision, including annulling, altering or remitting the appealed decision. Complaints on the state bodies' actions, such as poor administrative procedure, are handled by the court together with an appeal of an administrative decision concerning the substantive matter of law.
What is this balderdash? Who works with whom in matters of complaints against government agencies?

The Parliamentary Ombudsman (JO) and the Chancellor of Justice (JK) supervise the public administration and the courts – both in response to complaints from the public, and on their own initiative.
Supervise maybe but they can not change the decision.
We have reported several cases JK who always refused them.

The JK also handles claims for damages from the state. The ombudsmen have disciplinary functions, and act through opinions.
No, not the ombudsman but JK
Damn that they can not distinguish between the concepts or that they again just want to mislead.

They have the competence to prosecute civil servants for misuse of office. JO cannot intervene in an individual case, and only scrutinize the administrative handling of the case. Both the JO and the JK, however provide important complaint handling mechanisms in the Swedish system.
No. They are obliged to protect the state and thus political power.

Aside from prosecution for misuse of office, or the opinions of the ombudsmen, complaints on inappropriate administrative action, inaction or omission is handled in the administrative appeals procedure, as described above. The administrative authority may also review their earlier decisions, based on a complaint of such administrative inappropriateness. In cases where an earlier decision is clearly inaccurate, the authority must review the decision, if this can be done simply and without detriment to any party to the case (FL 27§).
But nothing happends if they do not .

As an appeal is submitted to the original decision-making authority for forwarding to the correct appeal body, the authority has an opportunity to review the case.
If they want to.

Legal Standing
A permit decision or a supervisory decision may be appealed by a person who is affected by the decision affects him or her adversely (chapter 16, section 12 of the Environmental Code; section 22 of the Administrative Procedure Act). Environmental NGOs have a right to appeal under chapter 16, section 13 of the Environmental Code, as well as under a number of special acts.
Who?
Why are courts not referring to the secondary laws that provides the ability to complain when rejecting a complaint?

Standing for individuals

The Supreme Court and The Environmental Court of Appeal have applied a generous attitude regarding who may be considered to be concerned by the decision with a judgement form the Supreme Administrative Court in 1997, in line stating that: "...in principle, every person who may be harmed or exposed to other kinds of inconvenience by environmentally harmful activity in a permit decision is considered a party in interest. However, a mere theoretical or completely insignificant risk of damage or detriment is not sufficient" (RÅ 1997ref. 38).
Why are the Swedish government repeating the same nonsense again?
I have commented on this nonsense above.

Once it is established that the applicant is allowed to appeal, the scope of review is complete, meaning that he or she can invoke all kinds of interests in favour of the cause. No arguments are precluded. Thus the appellant can plead any private or public interest in the case.

And again the same shit. Our references to and requirements for the application of according to MD is always rejected.

Standing for NGOs
The standing criteria do not change according to the nature of the claimant as long as the person, company or organisation represents their own interest as a member of the public concerned, stakeholder, operator of a business, owner of real estate etc. As with civil rights protected by the ECHR and its case law, both natural and legal persons represent interests that they can defend by legal means in the environmental courts.
Yes, but not when it comes to machines wind turbines and according to MD.

According to chapter 16 section 13-14 in the Environmental Code a "non-profit association whose purpose according to its statues to promote nature conservation, environmental protection or outdoor recreation interests" may appeal decisions on permits, approvals or exemptions.
But is effectively prevented by the provisions of 3 years and 100 members of the MB 16 §13

From recent case law follows that also supervisory decisions can be appealed. Additional criteria for such NGO standing are that the organisation has been active for at least 3 years in Sweden and has at least 100 members or else can show that it has the "support from the public".
according to MB also indicates that one has locus standi if one has the support of the public.
But what this represents support and generally, the Court rejects the charge and always like matter Hanöbukten there was not enough names on the list of a flyer.
How can support be proved ?

A proposal to remove the criteria on nationality and time for activity was circulated for referral by the Ministry of the Environment during 2012. It was well received by most of those responding to the referral and internal discussion on how to proceed with the proposal is ongoing.
Bullshit, who liked what? Wind Mafia? Was the public concerned asked?

For more in-depth information concerning the Swedish implementation of the Convention se the Swedish implementation report for 2011

http://www.unece.org/fileadmin/DAM/env/pp/reporting/NIRs%202011/Sweden_NIR_2011_e.pdf

From this text, the government has cut and pasted.