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Case Summary posted by the Task Force on Access to Justice

Gotland (Sweden); MÖD 2004:31	
1. Key issue	Public concerned and omission by public authority – A decision of a supervisory authority not to intervene in a certain activity (a so-called 0-decision) can be appealed and its substance can be challenged by the public concerned.
2. Country/Region	Sweden
3. Court/body	Environmental Court of Appeal (Mark- och miljööverdomstolen)
4. Date of judgment	2004-06-15
5. Internal reference	MÖD 2004:31
6. Articles of the Aarhus Convention	art. 2 para. 5 and art. 9 para.3
7. Key words	Public concerned, individual's standing, stakeholders, neighbours, authority's omission
8. Case summary	
<p>Two neighbours complained about disturbances from a windmill to the supervisory authority, the municipal Environmental Board. The municipal Board decided not to undertake any measures in response to the complaint (a so-called 0-decision). The neighbours appealed to no avail to the County Board and the Environmental Court.</p> <p>On appeal, the Environmental Court of Appeal found that the neighbours were affected by the activity and, according to established environmental case law, thus had the right to appeal the decision from the supervisory authority not to intervene to protect their interests.</p> <p><i>See also MÖD 2003:19</i></p>	
9. Link address	http://www.rattsinfosok.dom.se/lagrummet/index.jsp http://www.unece.org/fileadmin/DAM/env/pp/a.to.j/Jurisprudence_prj/SWED_EN/SE_MOD_2004_31_Gotland/SE_MÖD_2004_31_Gotland.pdf