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Case Summary posted by the Task Force on Access to Justice

<i>Gabbens bergtäkt (Sweden); RÅ 1993 ref. 97</i>	
<i>1. Key issue</i>	Public concerned and the public interest – When an individual appeals a permit decision, both private and public interests can be invoked to advocate his or her cause.
<i>2. Country/Region</i>	Sweden
<i>3. Court/body</i>	The Supreme Administrative Court (Regeringsrätten)
<i>4. Date of judgment</i>	1993-11-16
<i>5. Internal reference</i>	RÅ 1993 ref. 97
<i>6. Articles of the Aarhus Convention</i>	art. 2 para.5 and art. 9 paras. .2 and 3
<i>7. Key words</i>	Public concerned, standing, scope of review, public interest
<i>8. Case summary</i>	<p>The County Board issued a permit for a quarry. Two neighbours appealed the decision, mainly invoking public interests to advocate their cause. The National Licensing Board allowed the appeal, but stated that it was prevented from taking into account the appellants' arguments regarding the public interest. The trial was to be confined to the arguments concerning disturbances affecting the neighbours' living conditions or property rights.</p> <p>The neighbours applied for judicial review at the Supreme Administrative Court. The Court first stated that the permit was issued under the Environmental Protection Act, and that according to that legislation both private and public interests should be weighed against the interests to operate a certain activity. The Court agreed with the Licensing Board that the neighbours were entitled to appeal the permit decision, as they lived in the vicinity of the quarry and were to be affected by noise, vibrations, air pollution and other emissions from the activities at the site. The Court overturned the Licensing Board's decision that arguments must be limited to private interests, however. According to the Court, a basic principle in public law is that those who have the right to appeal should have the possibility to invoke all arguments of importance to the decision, unless the legislation expressly says otherwise. No such provision was included in the Environmental Protection Act, despite the fact that the legislation designated the Environmental Protection Agency to defend the public interests. This inclusion did not debar those who have the right to appeal the possibility to invoke public interests opposing the issuing of the permit. In fact, if the neighbours were prevented from doing so, the National Licensing Board would not be able to undertake that weighing of all interests as required according to the Environmental Protection Act.</p>

9. address	<i>Link</i> http://www.rattsinfosok.dom.se/lagrummet/index.jsp http://www.unece.org/fileadmin/DAM/env/pp/a.to.j/Jurisprudence_prj/SWEDE N/SE_RA_1993ref97_Gabbens_Bergtakt/SE RÅ 1993 ref 97 Gabbens bergt äkt.pdf
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