



15 June 2015

**Ministry of the Environment and Energy
Sweden**

Division for Legal Services

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

**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)**

Sweden has been invited by the Compliance Committee to comment on the communicant's, i.e. Mr Stümer's, response to the questions from the Committee in the letter dated 29 April 2015 and his letters with comments to Sweden's response to the Committee's questions. The letters from Mr Stümer are dated 13 May 2015, 25 May 2015 and 29 May 2015.

Sweden wishes to make the following comments.

The Committee's question 7

Since Mr Stümer has questioned the reference made to chapter 8 paragraph 22 in the Planning and Building Act (1987:10) in Sweden's response to question 7 (about the basis or criteria on which the municipality identified who were the concerned parties) Sweden would like to reiterate that the building permit for the two wind turbines on the properties Näs 1:4 and Strängnäs Knutsberg 1:2 was issued under the Planning and Building Act (1987:10).

Under Chapter 8, Section 20 of the Planning and Building Act an application for a building permit shall be accompanied by the drawings, specifications and other relevant information needed for the examination.

In the specific case about the building permit for these two wind turbines in Strängnäs, the Land and Environment Court (i.e. the District Court) considered whether the investigation that formed the basis for the decision to grant the building permit was sufficient for the balancing

of interests to be carried out when assessing the suitability of the land for the measure applied for, Chapter 2, Section 1 of the Planning and Building Act. According to that provision, the provisions of Chapters 3 and 4 of the Environmental Code shall also be taken into account in the assessment.

In the view of the Court, the absence of a bird inventory for the specific area meant that the application for the building permit didn't fulfil the requirements stipulated in Chapter 8, Section 20 of the Planning and Building Act. On account of this, the Court, varied the decision of the County Administrative Board and set aside the decision of the Planning and Building Committee in the Municipality of Strängnäs to issue the building permit.

Since the matter was initiated at the Planning and Building Committee before 2 May 2011 the older wording of the Planning and Building Act was applied in the court proceedings, this in accordance with the transitional provisions to the Planning and Building Act (2010:900).

The Committee's question 8

Sweden confirms the information provided by Mr Stümer in his letter dated 25 May 2015, i.e. that Sweden by mistake has stated an incorrect date for the decision by which the County Administrative Board of Södermanland dismissed/rejected appeals (i.e. found appeals inadmissible) when answering the Committee's question 8. The correct date of this decision (403-2013-11) is 15 December 2011 (and not 15 March 2011). The correct date is however given in the Swedish response to the Committee's question 11.

The Committee's question 9

Mr Stümer criticizes Sweden for "carelessness with quote", when answering the Committee's question 9 about the basis for the District Courts's decision to reject the Communicant's appeal (Case P 129-12).

Firstly, Sweden would like to correct the date stated for this judgment in the question by the Committee. The date of the judgment is 15 May 2014 (and not 2013).

Secondly, the District Court didn't reject (avvisa) Mr Stümer's appeal. The District Court refused (avslog) Mr Stümers appeal. Mr Stümers appeal of the building permit had already been rejected by the County Administrative board.

Thirdly, the translation of the part of the District Court's judgment concerning the County Administrative Board's rejection (avvisning) of Mr Stümer's appeal was not intended as a quote. It's Sweden's view that

the translation is correct and shows that the District Court made an overall consideration of everything that had emerged in the case before it came to the same conclusion as the County Administrative Board, i.e. that Mr Stümer had no right to challenge the building permit. The District Court found that no information had emerged showing that the wind turbines would cause Mr Stümer inconveniences.

The Committee's question 11

Sweden notes that Mr Stümer has answered the Committee's question 11 and specified how far away he lives from the previously proposed location of the wind turbines. Sweden has no reason to question the information given by Mr Stümer, i.e. that he lives 2 000 meter from the previously proposed location of the wind turbines.

The Committee's question 12

Sweden would like to clarify that the Diocese of Strängnäs is no public authority according to article 2.2 of the Aarhus Convention.

Paragraph 5 in the draft chronology/ summary of facts

Mr Stümer claims that Mr Johan Andersson got no information from the Municipality of Strängnäs about the application for the building permit. As previously stated by Sweden the information sent on 31 March 2009 by the municipality of Strängnäs to concerned parties was sent to the owners of all the properties mentioned in the letter. One of the properties mentioned is Helgarö-Våla 1:1, at the time partly (1/4) owned by Mr Johan Andersson. According to information from the Municipality of Strängnäs the information sent on 31 March 2009 by the municipality was indeed sent to Mr Johan Andersson.

Paragraph 5 in the draft chronology/ summary of facts

Mr Stümer has questioned the information provided by Sweden that a factor that is commonly taken into account in cases concerning the building of wind turbines is if the proposed wind turbine would cause the appellant inconveniences of any kind. According to Mr Stümer the County Administrative Boards never make assessments of all the circumstances of the individual cases.

Sweden would like to reiterate that the distance was not the only factor taken into account by the County Administrative Board when it determined who was a concerned party and therefore given standing in the case (decision 15 December 2011, 403-2013-11) is. The County Administrative Board made an overall consideration of everything that had emerged in the case before it came to its conclusions. The County Administrative Board found that no information had emerged showing

that the wind turbines would cause Mr Stümer inconveniences.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Egon Abresparr', written over a light blue rectangular highlight.

Mr. Egon Abresparr
Director-General for Legal Affairs