

From: Lina Oskarsson <email address redacted>
To: Aarhus Compliance
Cc: Valab, Anna Josefsson, Susanne Gerland <email addresses redacted>
Date: 21/08/2015 18:10
Subject: SV: ACCC/C/2013/81 (Sweden) - letter to the parties

Dear Fiona,

Thanks for the letter dated 13 August 2015 in which the Compliance Committee requests Sweden to translate the two decisions by the county board (Länsstyrelsen Södermanlands län) dated 4 January 2012 and 23 March 2012 regarding the building permit (granted by the Planning and Building Committee of the Municipality of Strängnäs for the construction of two wind turbines on the properties Näs 1:4 and Strängnäs Knutsberg 1:2) by 1 September 2015 if possible (or bearing in mind the holiday period, as soon as feasible thereafter).

Sweden could of course provide for the translation of these decisions, but since the Ministry of the Environment and Energy will have to send them (13 pages in total) to an authorized translator for translation (which is both costly and time consuming) we would just like to make sure that these decisions are in fact the documents that the Compliance Committee is interested in.

Sweden has previously, in its response to the communication dated 26 September 2013, informed the Committee about the fact that the communicant, Mr. Bernd Stümer (and others) had appealed the decision by the Planning and Building Committee to grant the building permit to the County Administrative Board of Södermanland (hence, Sweden can confirm that the communicant was indeed one of the persons who appealed the building permit in his own name) and that the County Administrative Board in three separate decisions in December 2011, January 2012 and March 2012, found the appeals (by the communicant and about 30 other appellants) inadmissible and ten appeals admissible (but not well-founded, hence the appeals were refused).

The 3 decisions by the County Administrative Board of Södermanland are;

Decision dated 15 December 2011 (Case no 403-2103-11),
Decision dated 4 January 2012 (Case no 403-4718-2010), and
Decision dated 23 March 2012 (Case nos 403-993-2012 and 403-994-2012).

In the letter with the questions from the Compliance Committee dated 29 April 2015 the Committee asked Sweden to provide an English translation of the Land and Environment Court judgment of 9 March 2015, which Sweden did. In this judgment Svea Court of Appeal (Land and Environment Court of Appeal) processed two cases jointly (Case nos P 5593-14 and P 5594-14). The ruling appealed handled by the Court of Appeal was the judgment of 15 May 2014 by Nacka District Court (Land and Environmental Court) in the cases P 635-12 and P 1924-12 (i.e. Nacka District Court as well processed two cases jointly, Case nos P 635-12 and P 1924-12). The decisions appealed handled by the Nacka District Court were the decisions by the County Administrative Board dated 4 January 2012 (Nacka District Court Case no 635-12), and 23 March 2012 (Nacka District Court Case no 1924-12). Both cases concerned the substantive legality of the Planning and Building Committee's decision to grant a building permit.

Since Bernd Stümer (and Kerstin Stümer) had appealed the County Administrative Board's decision dated 4 January 2012, they were treated as appellants in Nacka District Court Case no 635-12. However, as stated by the Court (page 19) Bernd Stümer and Kerstin Stümer were not parties to the decision appealed (i.e. the County Administrative Board dated 4 January 2012, Nacka District Court Case no 635-12) and therefore the decision could not be deemed to have gone against them, hence their appeals were rejected.

Sweden has previously informed the Compliance Committee about the fact that both the communicant Mr. Bernd Stümer, and others had appealed the decisions by the County Administrative Board to Nacka District Court, Land and Environmental Court.

In the letter to the Compliance Committee dated 10 December 2014 Sweden informed the Committee that Nacka District Court had, in another judgment dated the same day as the cases concerning the substantive legality of the Planning and Building Committee's decision to grant a building permit (i.e. 15 May 2014) rejected the appeal by Bernd Stümer (Case no P 129-12), that Bernd Stümer had appealed that judgment, that Svea Court of Appeal (Land and Environment Court of Appeal) had not granted him leave to appeal (decision 2014-08-21, case 5592-14) and that the decision by the Court of Appeal could not be appealed. The appealed decision handled by Nacka District Court in Case no P 129-12 was the decision by the County Administrative Board dated 15 December 2011 (Case no 403-2103-11) and didn't concern the substantive legality of the Planning and Building Committee's decision to grant a building permit, but the legality of the County Administrative Board's decision to reject Bernd Stümer's (and others) appeal of the Planning and Building Committee's decision to grant the building permit (a decision to which Bernd Stümer was a party).

As mentioned above, the Ministry of the Environment and Energy would like to make sure that the decision/s that the Compliance Committee is interested in is in fact the decisions by the County Administrative Board dated 4 January 2012 and 23 March 2012 (in which Bernd Stümer in not a party)?

If so, and Sweden is requested to translate these decisions, the Ministry of the Environment and Energy will need at least four weeks from today to be able to provide the translations, i.e. Sweden will probably be able to submit the translations by **18 of September** (and that is hopefully in good time before the Committee's 50 th meeting (6-9 October 2015)).

Please do not hesitate to contact me or my colleagues at the Ministry of the Environment and Energy if You or the Committee have any questions concerning this letter or the case.

Kind regards
Lina Oskarsson

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