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Case Summary posted by the Task Force on Access to Justice

Ragnsells (Sweden); MÖD 2011:46	
1. Key issue	Public concerned and omission by public authority – A decision of a supervisory authority not to apply for the revocation or updating of a permit (a so-called 0-decision) can be appealed and its substance can be challenged by those who are affected by the permitted activity.
2. Country/Region	Sweden
3. Court/body	Environmental Court of Appeal (Mark- och miljööverdomstolen)
4. Date of judgment	2011-12-12
5. Internal reference	MÖD 2011-12-12; M 2554-11, MÖD 2011:XX
6. Articles of the Aarhus Convention	art. 2 para. 5 and art. 9. para. 2
7. Key words	Public concerned, individuals' standing, stakeholders, neighbours, authority's omission, permitted activity, revocation of permit, updating of permit
8. Case summary	<p>A company operated a landfill under a permit issued in 2005. A neighbour complained to the supervisory authority (the County Board), claiming that the activity was operated in breach of several conditions in the permit. He asked the Board to initiate proceedings to revoke or update the permit. The authority, however, found no reason to undertake any measures. The neighbour appealed to the Environmental Court. The court dismissed the appeal on the grounds that the possibility to initiate proceedings to revoke or update a permit was the prerogative of the environmental authorities and that, according to consistent case law of the National Licensing Board and the Environmental Court of Appeal, individuals were not allowed to appeal decisions not to undertake such a measure.</p> <p>The neighbour appealed to the Environmental Court of Appeal. This court stated that it is a general public law principle that those who are affected by an environmental decision should have the possibility to appeal the decision, and that this principle should also apply in cases where the activity operates under a permit. With reference to Sweden's international obligations – and thus revising its previous case law – the court found that a neighbour has the right to appeal a supervising authority's decision not to undertake any measure to revoke or update a permit. The court also referred to its case law on the possibility to appeal supervisory decisions concerning activities that operate without permits (cf. MÖD 2003:19 and MÖD 2004:31).</p>
9. Link address	<p>http://www.rattsinfosok.dom.se/lagrummet/index.jsp</p> <p>http://www.unece.org/fileadmin/DAM/env/pp/a.to.i/Jurisprudence_prj/SWED/EN/SE_MOD_2011_46_Ragnsells/SE_MÖD_2011_46_Ragnsells.pdf</p>