Access to justice in environmental matters

Sverige

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Access to justice at Member State level

1.1. Legal order – sources of environmental law

1) General introduction to the system of protection of environment and procedural rights of persons (natural, legal, NGOs) in the specific national order

The right for individuals and NGOs to challenge environmental decisions, acts and omissions can mainly be found in three different Swedish acts; the Environmental Code, the Planning and Building Act, and the Administrative Procedure Act.

Legislation is the key tool in Sweden with which principles of environmental policy are converted into practical action. Environmental rules in Sweden come in the form of acts, ordinances (decided by the Government) and regulations decided on by the main authorities for the protection of the environment. A hierarchy of these rules means that ordinances and regulations decided on by authorities can never be contrary to the laws.

The Parliament (Riksdagen) is the national law-making body responsible for adopting all acts. The executive power rests with the Government (regeringen), and the Government is in turn responsible to the Parliament. The Government is assisted in its work by the Government Offices, comprising all ministries, and some 400 central government agencies and public authorities. Administrative functions may furthermore be entrusted to regional or local authorities or delegated to other public as well as private bodies.

Government agencies carry out their tasks independently under the laws and other legislation. The relevant ministry is therefore not permitted to intervene in an individual matter that is being handled by an agency.

The main authorities for the protection of the environment are the Swedish Environmental Protection Agency (Naturvårdsverket), the Swedish Chemicals Agency (Kemikalieinspektionen), the Swedish Agency for Marine and Water Management (Havs- och vattenmyndigheten) and the Swedish Radiation Safety Authority (Strålskyddsmyndigheten).

Sweden is divided into 21 counties (län) and 290 municipalities (kommuner). Each county has a County Administrative Board (länsstyrelsen). Constitutionally, each County Administrative Board constitutes a government agency subordinate to the Government with expert staff in various areas, such as environmental protection.

The County Administrative Boards (together with the Land and Environment Courts) are the main licensing authorities in environmental matters. Twelve of the County Administrative Boards have an Environmental Permit Office that issues permits for environmentally hazardous activities in accordance with the Environmental Code. In their decision-making, the Environmental Permit Offices are independent from the County Administrative Boards. The County Administrative Boards are also responsible for “green” issues and supervision concerning water-related activities and larger industrial activities. Additionally, the County Administrative Boards issue permits for waste transportation and disposal, and chemical activities, amongst other things.

Each municipality has an elected assembly, the municipal council (kommunfullmäktige), which is the decision-making body for municipal matters. The municipal council appoints the municipal executive board (kommunstyrelsen), which leads and coordinates the municipal tasks and responsibilities. The Swedish municipalities are responsible for executing and providing a significant proportion of all public tasks and services, including environmental and health protection. The competence to issue plans and permits under the Planning and Building Act resides with the municipalities. For some minor environmentally hazardous activities, licensing is carried out at municipality level.

2) Constitution – main (content of + including references) provisions on environment and access to justice in the national constitution (if applicable) including procedural rights

The Swedish Constitution consists of four fundamental laws: the Instrument of Government, the Act of Succession, the Freedom of the Press Act and the Fundamental Law on Freedom of Expression.

The main provisions are found in the Instrument of Government, which also sets out some principles of relevance to access to justice in environmental matters. Chapter 1 Section 1 states the fundamental provision that the public power is exercised under the law. The public institutions shall promote sustainable development leading to a good environment for present and future generations (Chapter 1, Section 2). All courts, the public administration and others performing functions within the public administration shall observe the principle of equality of all persons before the law and be objective and impartial (Chapter 1, Section 9). It is also stipulated that no act of law or other provision may be promulgated in contradiction of Sweden’s obligations under the European Convention for the Protection of Human Rights and Fundamental Freedoms. The right to a fair and public hearing before an independent and impartial tribunal must be upheld (European Convention for the Protection of Human Rights and Fundamental Freedoms, Article 6).

3) Acts, Codes, Decrees, etc. - main provisions on environment and access to justice, national codes, acts

The main environmental law in Sweden is the Environmental Code (1998:808), which constitutes a framework legislation consisting of the general provisions regarding environmental protection. It applies to all human activities that might harm the environment. The Code contains the environmental principles and provisions providing for environmental quality norms as well as environmental impact assessments. Certain water operations, industrial undertakings, quarries and other environmentally hazardous activities are subject to permit or notification requirements, as specified in Governmental Ordinances. The Code also contains provisions relating to nature protection, flora and fauna, genetically modified organisms, chemicals and waste.

Under the Environmental Code, there are several ordinances decided on by the Government containing more specific rules.

Certain activities are also regulated in special sectoral legislation. Planning and building issues are covered by the Planning and Building Act (2010:900). Infrastructure installations, such as railroads and highways, also have regulations of their own, as do mining and forestry. Fauna is protected, in part, through hunting law.
By statutory authorisation, many of the central administrative authorities are responsible for issuing regulations in the field of operation. The central administrative authorities are often designated as the Swedish competent authorities, such as the Swedish Environmental Protection Agency and the Swedish Agency for Marine and Water Management.
Both the Environmental Code and the Planning and Building Act include special provisions on access to justice. When it comes to sectoral legislation, such as the Game Act, the Forestry Act and the Minerals Act, the provision on access to justice may be found in the general rule in Section 42 of the Administrative Procedure Act.
List of relevant national legislation
• Environmental Code (1998:808) [Miljöbalk (1998:808)]
Access to justice found in Chapter 16, Sections 12, 13 and 14
• Planning and Building Act (2010:900) [Plan- och bygglag] (2010:900)
Access to justice found in Chapter 13
• Administrative Procedure Act (2017:900) [Förvaltningslag (2017:900)]
Access to justice found in Section 42
• Judicial Review of Certain Government Decisions Act
Access to justice found in Sections 1 and 2

4) Examples of national case-law, role of the Supreme Court in environmental cases

The access to justice of the public affected has been developed through case law. The courts most important when it comes to case law in environmental matters are the Land and Environment Court of Appeal and the Supreme Court, both of which may decide on judgments that may become precedents in those cases where their rulings include more general principles. Important case law has also been developed by the Supreme Administrative Court in cases related to i.a. forestry and legal review of Governmental decisions.
Judgments from the Supreme Courts or appeals courts are not binding for lower courts, except where they refer to formal issues in a specific case. The judgments from the Supreme Courts, however, are regarded as guiding and there must be reasons of some importance to deviate from what has been decided.
NJA 2004, p. 590 and NJA 2012, p. 921. The Supreme Court stated that the right to appeal must apply to any person liable to be harmed, injured or otherwise inconvenienced as a result of the activity for which a permit is sought. The risk of injury or inconvenience should concern an interest that is protected by the legal order and should not be purely theoretical or completely insignificant.
MÖD 2011:46. The Land and Environment Court of Appeal stated that an individual affected should be given the right to appeal a decision not to request the withdrawal of a permit for environmentally hazardous activities.
MÖD 2000:43 and MÖD 2004:43. Nearby residents were held to have the right to appeal a decision by a supervisory authority not to intervene against environmentally hazardous activities.
The right of environmental NGOs to appeal public authority decisions under other administrative environmental legislation has also been developed in case law.
NJA 2012 p.921. The Supreme Court affirmed that organisations that meet the criteria in Chapter 16, Section 13 of the Environmental Code have the right to appeal, but in cases where an organisation does not meet the criteria an assessment has to be made of all the circumstances in the particular case. The court concluded that a generous assessment should be made of the right of environmental NGOs to appeal, since they can base their right to appeal on representing public interests, even in situations where no individuals can invoke such interests.
Case law has given environmental NGOs the right to also appeal decisions other than those stated explicitly in Chapter 16, Section 13 of the Environmental Code, including supervisory decisions under the Environmental Code with reference to article 9, point 3 of the Aarhus Convention and Sweden's obligations under EU law. The courts have also given the expression 'decision concerning permits or exemptions' a broad interpretation (MÖD 2012:47, MÖD 2012:48, MÖD 2013:6, MÖD 2014:30 and the judgment of the Land and Environment Court of Appeal of 18 March 2014 in cases M 11609-13 and MÖD 2015:17).
Recent case law from the Supreme Court has given NGOs the right to appeal decisions on building permits, NJA 2020 p. 190, and a decision to adopt a detailed plan that was alleged to interfere with interest of cultural values, judgment 9 July 2020 Ö 6554-19, with reference to a judgment from the Supreme Administrative Court, HFD 2018 ref. 10 II.
In case T 5637-19 from October 2020, the Supreme Court stated that an NGO with only 5-10 members was considered to fulfil the criteria in Chapter 16, Section 13 and hence given the right to appeal.
According to firmly established case law, environmental NGOs have the right to appeal decisions under the Game Ordinance on hunting of species protected by Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, the "Habitats Directive" (see the judgment of the Administrative Court of Appeal in Stockholm in cases 4390-12 and 4396-12 and subsequent judgments).
The Supreme Administrative Court 2014 ref.8. The Supreme Administrative Court gave an environmental NGO that met the criteria in Chapter 16, Section 13 of the Environmental Code the right to appeal the decision of the Swedish Forest Agency to grant a permit for the felling of subalpine forest, partly because decisions on permits for the felling of subalpine forest are covered by article 9, point 3 of the Aarhus Convention.
The Administrative Court of Appeal in Gothenburg in case 1186-16. A decision on a permit for intrusion in historic remains under the Historic Environment Act (1988:950) was held to be covered by article 9, point 3 of the Aarhus Convention. A nature conservation society that met the criteria in Chapter 16, Section 13 of the Environmental Code was therefore held to have the right to appeal the decision.

5) Can the parties to the administrative procedure directly rely on international environmental agreements, or can only the national and EU transposing legislation be referred to?

In Sweden, international conventions do not have direct effect so they must be incorporated in Swedish law to be applicable. However, by ratifying a convention Sweden becomes bound by the convention in terms of international law and national regulations should be interpreted in the light of the convention.
EU regulations apply directly as national law, while EU directives are transposed at the most appropriate level in the hierarchy to meet the given objectives. For provisions of a directive to be transposed into a Swedish ordinance or administrative provision, there must be a statutory delegation in a Swedish act. The provisions on access to justice in EU directives are also incorporated into Swedish law.
Parties involved in administrative or court procedure may, though, rely directly on international environmental agreements in their argumentations.

1.2. Jurisdiction of the courts

1) Number of levels in the court system

Court judgments are not recognised as a formal source of law, but the courts have a role as interpreters of law and other legal regulation. The courts have an independent status within the Swedish constitution. Neither the Parliament nor any other authority may decide on, or otherwise interfere in, matters handled by the courts.
Judgments from the Supreme Courts or appeals courts are not binding on lower courts, except where they refer to formal issues in a specific case. The judgments from the Supreme Courts, however, are regarded as guiding and there must be reasons of some importance to deviate from what has been decided.
There are three kinds of courts in Sweden:
the general courts, which comprise district courts, courts of appeal and the Supreme Court;
the general administrative courts; administrative courts, administrative courts of appeal and the Supreme Administrative Court; and
the special courts, which determine disputes within specific areas such as environment.
Usually the number of levels in the court system, regardless of whether the case concerns administrative decisions or a civil or criminal case, is three. In most cases there is a need for a leave to appeal (review permit) to get access to justice in the highest courts (the Supreme Administrative Court, the Supreme Court and the Land and Environment Court of Appeal). The main rule is that the Supreme Court and the Supreme Administrative Court only grant leave to appeal if the Supreme Court's judgment or decision can have significance as a precedent, i.e. provide guidance on how the courts should assess similar cases. Apart from the precedent reason, the Land and Environment Court of Appeal may also grant a leave to appeal if there may be a reason to change the decision of the Land and Environment Court and it is needed for the Land and Environmental Court of Appeal to be able to better assess whether the Land and Environmental Court has ruled correctly or there are other special reasons to try the appeal such as risk of severe damage to the environment. If the higher court finds that none of these conditions are met, it will not try the case.
It should also be noted that decisions by authorities under the Environmental Code may be challenged through the system of Land and Environment Courts, but only up to the Land and Environment Court of Appeal as the final instance. Appealed decisions from authorities under the Planning and Building Act, as well as property cases, may be appealed to the Supreme Court, but only where the Land and Environment Court of appeal so allows, which is mainly if that court deems that there is a need for precedence regarding a disputed issue.

2) Rule of competence and jurisdiction - how is it determined if there is jurisdiction of the court, cases of conflict between different national tribunals (in different Member States)?

For matters pertaining to environmental law, as well as matters of property registration, planning and building, Sweden has developed a system of special courts. This system consists of five Land and Environment Courts, and the Land and Environment Court of Appeal. Their jurisdiction covers all kinds of decisions made pursuant to the Environmental Code and the Planning and Building Act. They are also competent in cases concerning damages and private actions against hazardous activities.
The five Land and Environment Courts are each incorporated as a special branch within five designated district courts located in various parts of Sweden, each responsible for their respective part of the country (according to law). The Land and Environment Court of Appeal is part of the Svea Court of Appeal and is responsible for the entire country. The Supreme Court in turn hears virtually all cases, including matters of environmental law, of precedential significance.
The administrative courts try some cases regulated in sectoral legislation concerning hunting, forestry and mining.

3) Specialities as regards court rules in the environmental sector (special environmental tribunals), laymen contributing, expert judges

For matters pertaining to environmental law as well as matters of property registration, planning and building, Sweden has developed a system of special courts. This system consists of five Land and Environment Courts, and the Land and Environment Court of Appeal. Their jurisdiction covers all kinds of decisions made pursuant to the Environmental Code and the Planning and Building Act. They are also competent in cases concerning damages and private actions against hazardous activities.
Installations and activities involving a substantial environmental impact must obtain a permit from the Land and Environment Court, as must most kinds of water operations. In these cases, the court is exercising administrative powers usually allocated to authorities. This is a unique situation for Sweden. The Land and Environment Courts also try civil cases related to the environment, decisions appealed from administrative authorities, and handle cases on imposition of conditional fines after application from the supervisory authorities. It should be noted that most decisions from local authorities are first challenged through administrative appeal to the County Administrative Boards and then to the Land and Environment Court.
The system of Land and Environment Courts is specifically designed to deal with the technical complexity of the matters under their authority. The Land and Environment Courts rule on cases with one legally trained judge presiding over the case and a technically trained judge providing the special competence often needed due to the distinctive nature of the matters. In cases relating to environmental permitting, the two judges are assisted by two technical counsellors. Industry and national public authorities nominate the last two. The underlying philosophy is that experts will contribute their experience of municipal or industrial operations or public environment supervision. Depending on the case at hand and the issues involved, more than one technical judge, and then with additional technical/scientific competence, may participate.
The Land and Environment Court of Appeal rules on cases with three legally trained judges, one of whom presides over the case, and one technically trained judge.
All members of the courts have an equal vote. In the majority of cases, though, the chair has a casting vote where voting is tied.

4) Level of control of judges in case of administrative appeals, concept of own motion, what are its limits? Rules on court action on its own motion.

The administrative courts, as well as the Land and Environment Courts, decide cases on their merits in a reformatory procedure, meaning that they may replace the appealed decision with a new one. It should be noted that the administrative court procedure is simpler and less formal than the civil procedure. Another vital difference is that in the administrative procedure the ultimate responsibility for the investigation of the case rests with the court according to the “ex officio principle”. The principle means both that the examining courts (and authorities) have an obligation to ensure that a satisfactory investigation is made of each individual matter and that the courts may base their judgment on causes of action other than invoked by the parties. The Court must, through communication with the parties, ensure that the case is examined properly and that any ambiguities are clarified. It is thus obliged and competent to fully examine the facts/merits of the case. In administrative cases (challenged decisions from authorities and applications on imposition of conditional fines), the Court may, on its own initiative, perform investigations at the location in question if this is deemed necessary in order to examine the case.
In Sweden, in the judicial review procedure the relevant court will review both the substantive and procedural legality of the judgment or decision. There are no administrative procedural rules under Swedish law that set out the scope of the review of the Court. The legislation forms the framework for this review. It consists of both substantive provisions on environmental protection and procedural rules, both specific to environmental cases and general. The Court has the right to try any issues related to this substantive and procedural law framework, and the Courts’ obligation to examine the case on its own initiative does not only apply to substantive issues, but also to procedural issues. The Court would thus raise issues regarding the correctness of a decision, whether it has

been adopted by the competent authority (or whether the authority has abused its powers), whether the required form of a decision has been respected, and also whether the decision is appropriate in relation to the substantive and formal space given to the deciding authority. Though bound by the claims of the parties setting the framework of the process, in these cases the court in principle is put in the same position as the first deciding authority.
When a permit application is appealed and the court finds that the permit should not have been issued because of infringements of procedural or substantive nature, the court may reject the permit application and the permit will then no longer exist. However, if the Court finds that amendments to the permit conditions make it possible to conduct the activities in accordance with the Environmental Code, the court may add additional conditions to the permit, or amend conditions already prescribed by the authority, instead of revoking the permit. In addition, the court may deliver a new decision instead of the appealed one, repealing or changing the old decision, or remitting it back to the administrative decision-maker. As a main rule, they must not deliver a decision beyond the claims of the parties, but exceptions can be made to the benefit of the individual if this is not detrimental to involved private interests.
There is no Constitutional Court in Sweden, nor any abstract norm control. Instead, when a court is dealing with a case, it is obliged to control the legal basis for the decision and must disregard any act or statute which is in conflict with the Constitution or superior norms.

1.3. Organization of justice at administrative and judicial level

1) System of the administrative procedure (ministries and/or specific state authorities)

The Environmental Code

To ensure effective compliance with the general rules of the Environmental Code, many activities and operations are subject to permits. Such activities and operations may not commence without a permit from a competent authority. The permit sets out the scope of the activity concerned and must include the conditions under which the activity may be carried out. If the surveys are not sufficient to decide on “final” conditions, a licence may be issued where certain issues are to be further investigated during a certain period in which provisional conditions on precautionary measures will be applicable. The activities or operations for which permits are compulsory are specified either in the Code or in ordinances issued under the Code based on their typical environmental impact.
The Environmental Code divides competence between the local administration and the Land and Environment Courts. Licensing of very large hazardous activities, such as facilities for nuclear operations, is carried out by the Government. Licensing of larger industrial installations basically following the 2010/75 EU directive on industrial emissions and water activities is carried out by the Land and Environment Courts and licensing of medium-size polluting activities is carried out by the County Administrative Boards Environmental Permit Office. For some minor environmentally hazardous activities, licensing or a notification procedure is carried out at municipality level.
For the purpose of overseeing compliance with the requirements set out in the Environmental Code and ordinances issued under the Code, as well as the requirements set out in permits, the Environmental Code also contains provisions concerning supervision. The supervision is conducted by certain supervisory authorities whose authority and responsibility are set out in the Environmental Code and in an ordinance issued under the Code. With some exceptions, the operative supervisory actions, such as inspections and enforcement, are carried out at regional or local level by the County Administrative Boards or by the municipalities. The County Administrative Boards are generally responsible for the supervision of larger hazardous activities and compliance with legislation based on EU directives. The duties of the County Administrative Board can be transferred to the municipality according to a special procedure. In turn, the municipality is assigned general supervisory responsibility for all other environmentally hazardous activities within the municipality. In addition, there are twelve central government agencies, including the Swedish Environmental Protection Agency, which are assigned operative supervision responsibilities within specific fields, such as chemicals, forestry or agriculture. To ensure compliance with the Environmental Code and ordinances issued under the Code, the supervisory authority may issue an injunction, often combined with conditional fines.

Planning and Building Act

The municipalities are responsible for the planning of land and water areas within their geographical boundaries. It is only the municipality that has the authority to adopt plans and decide whether the planning is to be implemented or not. The municipality must have a current comprehensive plan that covers the entire area of the municipality. The act also contains regulations on detailed development plans, area regulations and building permits.

2) How can one appeal an administrative environmental decision before court? When can one expect the final ruling?

Individuals concerned and NGOs meeting the requirements according to the Environmental Code may appeal an administrative environmental decision made by the County Administrative Board or the Environmental Permit Office of the County Administrative Board to the Land and Environment Court.
Individuals concerned and NGOs meeting the requirements according to the Environmental Code may also appeal administrative decisions according to sectoral legislations such as the Forestry Act and the Minerals Act.
The appeal must be in writing, stating the claim and reasons, and is sent to the authority, which will check that the appeal was made in time and send it to the court.
The appeal process can take different lengths of time depending on the scope of the case. A final ruling by the court may be expected within somewhere between 6 months and one year.

3) Existence of special environmental courts, main role, competence

Sweden has special courts for matters pertaining to environmental law as well as matters of property registration, planning and building. There are five Land and Environment Courts and one Land and Environment Court of Appeal. Their jurisdiction covers all kinds of decisions made pursuant to the Environmental Code and the Planning and Building Act. They are also competent in cases concerning damages and private actions against hazardous activities. The five Land and Environment Courts are each incorporated as a special branch within five designated district courts located in various parts of Sweden, each responsible for their respective part of the country (according to law). The Land and Environment Court of Appeal is part of the Svea Court of Appeal and is responsible for the entire country.

4) Appeal against environmental administrative decisions delivered by competent authorities and appeal against Court orders and decisions (levels)

The Environmental Code

The routes of appeal in cases concerning licensing, dispensation exemptions or injunctions according to the Environmental Code are as follows:
Local municipality – County Administrative Board – Land and Environment Court – Land and Environment Court of Appeal (leave to appeal needed)
County Administrative Board – Land and Environment Court – Land and Environment Court of Appeal (leave to appeal needed)
Land and Environment Court – Land and Environment Court of Appeal (leave to appeal needed) – the Supreme Court (leave to appeal needed)
In certain cases, the Government decides on permissibility for very large hazardous activities, such as facilities for nuclear operations. Decisions by the Government cannot be appealed but may be subject to a legal review by the Supreme Administrative Court.
The applicant and the other parties in the procedure, as well as certain other stakeholders, can appeal against a permit decision. The right to appeal also applies to non-profit organisations or other legal persons with the primary purpose of promoting nature conservation and environmental protection interests or recreational interests, provided they also meet certain other specified requirements.

Planning and Building Act

Municipal decisions on planning and building licensing according to the Planning and Building Act are appealed directly to one of the Land and Environment Courts and may be appealed further to the Land and Environment Court of Appeal (leave to appeal needed).
Decisions on licensing according to the Planning and Building Act are first challenged through administrative appeal to the County Administrative Board and then, via the Land and Environment Court, to the Land and Environment Court of Appeal. If that court gives permission to appeal its ruling, the case may end up in the Supreme Court. Leave to appeal is still needed, as at the Land and Environment Court of Appeal.
Other sectoral legislation related to the environment
Some cases are dealt with in a different manner. For example, some decisions on hunting, forestry, mining and infrastructure projects are appealed to the administrative courts or to the Government.
Decisions by the County Administrative Boards on licence hunting according to the Game Act – Administrative Court – Administrative Court of Appeal (leave to appeal needed) – Supreme Administrative Court (leave to appeal needed)
Decisions by the Swedish Forest Agency according to the Forestry Act – Administrative Court – Administrative Court of Appeal (leave to appeal needed) – Supreme Administrative Court (leave to appeal needed)
Decisions of the Mining Inspectorate on exploration permits according to the Minerals Act – Administrative Court – Administrative Court of Appeal (leave to appeal needed) – Supreme Administrative Court (leave to appeal needed)
Decisions of the Mining Inspectorate on exploitation concessions according to the Minerals Act – the Government
Decisions concerning infrastructure projects that are decided by national authorities can be appealed to the Government.

5) Extraordinary ways of appeal. Rules in the environmental area. Rules for introducing preliminary references

Judicial review by the Supreme Administrative Court
The Supreme Administrative Court is the supreme general administrative court and considers determinations on appeal from any of the four administrative courts of appeal in Sweden. The Supreme Administrative Court can also, under certain circumstances, examine whether a decision made by the Government is in contravention of the rule of law. This institution is known as judicial review pursuant to the Judicial Review of Certain Government Decisions Act.
According to this act, a prerequisite for judicial review is that the decision involves an examination of the individual's civil rights or obligations as referred to in Article 6.1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, or, if the applicant is an environmental NGO, the government decision refers to Article 9.2 of the Aarhus Convention.
Preliminary rulings from the EU Court
All parties in an ongoing case may petition that the court trying the case request a preliminary ruling from the EU Court. This may be done regardless of which court is reviewing the case. It is up to the court to decide whether or not a preliminary ruling is necessary.

6) Are there out of court solutions in the environmental area as regards solving conflicts (mediation, etc.)?

In Sweden, there are no out-of-court solutions such as mediation in environmental cases.
In civil cases, however, e.g. compensation for environmental damage, it is mandatory for the court to try to mediate, either by itself or by involving an external mediator.

7) How can other actors help (ombudsperson (if applicable), public prosecutor), accessible link to the sites?

The Ombudsmen
The Parliamentary Ombudsmen (JO) and the Chancellor of Justice (JK) are both designated to ensure that public authorities and their staff comply with laws and other statutes and fulfil their obligations in other respects. They have a disciplinary function and act through opinions and prosecution for administrative misconduct.
The Ombudsmen ensure in particular that the courts and public authorities, in the course of their activities, act with objectivity and impartiality and that the fundamental rights and freedoms of citizens are not encroached upon in public administration.
Supervision is exercised by the Ombudsmen in assessing complaints made by the public and by means of inspections and such other inquiries as the Ombudsmen may find necessary.
Public prosecutor
The regulation on environmental crimes is under general public prosecution.
The public has very limited access to criminal proceedings, as the power to prosecute is the prerogative of the public prosecutor.

1.4. How can one bring a case to court?

1) Who can challenge an environmental administrative decision (relevance of the concept of concerned public and NGOs)?

There are provisions in the Environmental Code and in administrative law that make it possible to appeal against the decisions of public authorities in general. These decisions may concern permits, other approvals, exemptions and supervision.
Appealable judgments and decisions may be appealed by anyone who is the subject of a decision against them. It has not been specified in Swedish law who should be considered a person concerned; this is decided on a case by case basis. Under Swedish law, it is generally not specified that ‘person’ refers to both natural and legal persons. Decisions and judgments may be directed to legal persons and it is possible that legal persons may suffer harm from a permit decision and could therefore also have standing on that ground.
The preparatory work of the Environmental Code explains that the concept of standing shall be interpreted widely and shall be decided on a case by case basis by the court. According to case law, any person who may suffer harm or be subjected to some other detriment as a result of the activity for which a permit is being sought has the right to be a party and to appeal a decision if the risk of harm or detriment concerns an interest that is protected by the legal system and is not solely theoretical or wholly insignificant.
NGOs who meet the requirements stipulated in the Environmental Code may challenge many administrative decisions. The requirements are that the NGO is a non-profit association whose purpose according to its statutes is to safeguard nature conservation or environmental protection interests. The association furthermore must have conducted activities in Sweden for at least three years and have at least 100 members or, by some other means, show that its activities are supported by the public. In respect of shore protection, the provisions also apply to non-profit associations whose purpose according to their statutes is to promote outdoor interests.

2) Are there different rules applicable in sectoral legislation (nature conservation, water management, waste, EIA, IPPC/IED, etc.)?

Rules on legal standing can be found in the Environmental Code, Chapter 16, Sections 12 and 13, in the Planning and Building Act and in sectoral legislation. Some of this sectoral legislation lacks specific regulation on standing. In these cases, the general rule on standing found in Section 42 of the Administrative Procedure Act is applicable.
The general right of environmental NGOs to appeal environmental matters, including permit decisions, is regulated specifically in both the Environmental Code and in a number of sectoral legislations, such as the Minerals Act. These environmental NGOs also have an explicit right to apply for judicial review of permit decisions by the Government according to the Act on judicial review of certain government decisions. Regarding sectoral legislation which does not

specifically refer to the rule of standing for NGOs in the Environmental Code, such as the Forestry Act and the Game Act, the right for NGOs to appeal has been opened up by case law.

3) Standing rules applicable for NGOs and individuals (in administrative procedure and at judicial level, for organisations with legal personality, ad hoc groups of representatives of the public, standing for foreign NGOs, etc.)

The standing rules according to the Environmental Code, the Planning and Building Act, and the Administrative Procedure Act are the same regardless of whether the case concerns standing for administrative review, standing for judicial review in the court of first instance or standing for appealing decisions of courts of first instance.

The Environmental Code:

Chapter 16 Section 12

Appeals may be made against appealable judgments or decisions by:

any person who is the subject of a judgment or decision against them;

local employees' associations that organise workers in the activity to which the decision relates in the case of judgments and decisions concerning permits for environmentally hazardous activities;

national employees' organisations within the meaning of the Codetermination at Work Act (1976:580), the corresponding employers' organisations and consumer associations in the case of decisions taken by a County Administrative Board or a central administrative authority pursuant to an authorisation issued in accordance with chapter 14, provided that the decision does not relate to an individual case; and

authorities, municipal committees or other bodies which have a right of appeal pursuant to specific provisions in this Code or to rules issued in pursuance thereof or pursuant to the Act (2010: 897) on border river agreements between Sweden and Finland.

The provisions of this section shall be without prejudice to the right of appeal provided by the Code of Judicial Procedure.

Chapter 16 Section 13

Appealable judgments and decisions concerning permits, approvals or exemptions issued pursuant to this Code, concerning withdrawal of the status of protected areas pursuant to Chapter 7, or concerning supervision pursuant to Chapter 10 or questions relating to provisions adopted pursuant to this Code, may be appealed by a non-profit association or other legal person:

whose primary purpose is to safeguard nature conservation or environmental protection interests;

that is not run for profit;

that has conducted activities in Sweden for at least three years; and

that has at least 100 members or, by some other means, shows that its activities are supported by the public.

The right to appeal pursuant to the first paragraph also applies if the appeal only refers to a condition or other provision in the judgment or decision, and also if the judgment or decision is the result of an assessment pursuant to Chapter 22, Section 26 or Chapter 24, Section 2, 3, 5, 6 or 8 of this Code, or an assessment pursuant to Chapter 7, Section 13, 14 or 16 of the Water Operations (Special Provisions) Act (1998:812). However, the right to appeal pursuant to the first paragraph does not apply to judgments or decisions relating to the Swedish Armed Forces, the Swedish Fortifications Agency, the Swedish Defence Materiel Administration or the National Defence Radio Establishment.

Anyone who wishes to appeal pursuant to the first or second paragraph must do so within the time limit set for the parties and for other concerned persons.

Chapter 16 Section 14

The provisions of section 13 on the right of certain non-profit associations to appeal also apply in respect of shore protection to a non-profit association which, according to its statutes, has the purpose of safeguarding recreational interests.

The Planning and Building Act

The Planning and Building Act regulates the right for environmental NGOs referred to in Chapter 16, Section 13, of the Environmental Code to appeal a decision to adopt, amend or set aside a detailed development plan likely to have a significant environmental impact given that the planned area may be used for certain types of activity, and a decision to adopt, amend or set aside a detailed development plan which means that an area will no longer be covered by shore protection.

For individuals, the general rule on standing in the Administrative Procedure Act is applicable. According to case law, an individual may usually appeal building permits and development plans which may affect them personally (they are neighbours or living within or directly adjacent to the area to which a municipal plan applies).

Chapter 13 Section 8

Provisions on who may appeal a decision referred to in Sections 2 a, 3, 5 and 6 can be found in Section 42 of the Administrative Procedure Act.

Chapter 13 Section 11

A decision to adopt, amend, or repeal a detailed development plan or area regulations may only be appealed by someone who, prior to the expiration of the review period, has presented opinions in writing that have not been approved.

Curtailment of the right to appeal as determined by the first paragraph does not apply if:

the decision has gone against the affected party through the proposal being amended after the review period; or

the appeal is based on the decision not having been established according to the regulations prescribed by law.

Chapter 13 Section 12

A non-profit organisation or other legal entity of the kind referred to in Chapter 16, Section 13 of the Environmental Code may appeal a decision to adopt, amend or repeal a detailed development plan that can be assumed to result in a significant environmental impact owing to the fact that the planned area may be used for activities or measures indicated in Chapter 4, Section 34 of this Act.

Chapter 13 Section 13

A non-profit organisation or other legal entity of the kind referred to in Chapter 16, Section 13 of the Environmental Code, or a non-profit organisation of the kind referred to in Chapter 16, Section 14 of the Environmental Code, may appeal a decision to adopt, amend or repeal a detailed development plan that entails an area no longer being covered by shore protection in accordance with Chapter 7 of the Environmental Code.

The Administrative Procedure Act

Section 42

A person whom the decision concerns may appeal against it, provided that the decision affects them adversely and is subject to appeal.

The Administrative Procedure Act also gives provisions regarding who may appeal against decisions according to:

the Minerals Act (1991:45)

the Forestry Act (1979:429)

the Heritage Conservation Act (1988:950)

the Game Act (1987:259)

the Fishing Act (1993:787)
the Road Act (1971:948)
the Act on Construction of Railways (1995:1649)
the Electricity Act (1997:857)
Judicial Review of Certain Government Decisions Act
Section 1
An individual may apply for judicial review of such decisions by the Government which include an examination of the civil rights or obligations of the individual within the meaning of Article 6 (1) of the European Convention of 4 November 1950 on the Protection of Human Rights and Fundamental Freedoms.
Section 2
An environmental organisation referred to in Chapter 16, Section 13 of the Environmental Code may apply for judicial review of such permit decisions by the Government covered by Article 9 (2) of the Convention of 25 June 1998 on access to information, public participation in decision-making processes and access to judicial review in environmental matters.

4) What are the rules for translation and interpretation if foreign parties are involved?

The main rule is that the language in courts and administrative authorities is Swedish, though there is a special regulation (Act 2009:724 on National Minorities and National Minority Languages) giving citizens in certain municipalities in the north of Sweden the right to speak i.a. Finnish or Sami in court. The general rules on translation and interpretation in administrative authorities and courts are codified in the respective procedural rules.
According to the Administrative Procedure Act, Section 13, an authority shall use an interpreter and ensure that documents are translated if necessary in order for the individual to be able to exercise their right when the authority has contact with someone who does not have mastery of Swedish.
According to the Code of Judicial Procedure, Chapter 5, Section 6, for a party, witness or other person who is to be heard before the court and does not have mastery of Swedish, the court may employ an interpreter. If a suspect or a prosecutor in a criminal case does not have mastery of Swedish, an interpreter should be hired for a court hearing. By reference to Section 48 of the Court Matters Act, this provision is also applicable in administrative cases at the Land and Environment Courts.
If a party, witness or other person who is to be heard before the court does not speak Swedish, the court shall, if necessary, employ an interpreter. The court may also, in other instances where necessary, hire an interpreter or translate documents (according to Section 50 of the Administrative Court Procedure Act).
The court may, if necessary, according to the Code of Judicial Procedure, Chapter 33, Section 9, translate documents that are sent in or sent out by the court. The court is obliged to translate a document in a criminal case, or the most important parts of it, for the suspect or at the request of an appellant, if a translation is essential to enable the suspect or appellant to exercise their right. The translation may be made orally if this is not inappropriate for the purposes of the document or the case or any other circumstance. By reference to Section 48 of the Court Matters Act, this provision is also applicable in administrative cases at the Land and Environment Courts.

1.5. Evidence and experts in the procedures

1) Evaluation of evidence – are there any limits in obtaining or evaluating evidence, can the court request evidence on its own motion?

Both administrative authorities and all Swedish courts involved in environmental cases have extensive obligations to examine a case and ensure that it is examined to the extent needed, and, for this purpose, to ask the parties questions throughout the procedure. The Court may even carry out investigations at a location if it deems it necessary. New facts are thus added to the case throughout the procedure and the Court must also consider any additional facts provided by the Parties. There is thus no partial preclusion requirement. It should be noted that this does not apply in civil cases tried by the Land and Environment Courts.
As the ultimate responsibility to investigate the case according to the “ex officio principle” in the Environmental Code lies with the administration and the Land and Environment Courts, which both have technicians participating in the decision-making, there are no stipulations in Swedish law that an individual or an environmental NGO should have to present expert opinions, even if the proceedings are initiated by them. Accordingly, a Swedish administrative authority or court can never order an individual or an environmental NGO to produce such experts (although a court may require such an expert opinion from an applicant for a permit or an operator of an environmentally hazardous activity). Also, there are no requirements under Swedish law that individuals or environmental NGOs should have to present or bear the costs of experts or witnesses.

2) Can one introduce new evidence?

The ex officio principle at both administrative and judicial levels means there are no limits to how and when new evidence can be introduced. Having said that, it is still primarily up to the party to be responsible for presenting the evidence. This can be done both at the very beginning of a case and later during the court procedure. Evidence may also be introduced in the next instance during an appeal. It should be noted that administrative cases are handled differently from civil cases, where the possibility to present new evidence is more restricted.
Written documents which are relied upon as evidence must be submitted to the court without delay. The same applies to items which are relied upon as evidence and can be moved to court. If necessary, the court may order the party which relied on the evidence to submit this within a specified time. Such an order must include information that the case may be decided even if the party has not provided the evidence. At a hearing, witness hearings may be held. The testimony may be required to be given under oath.

3) How can one get expert opinions in the procedures? Publicly available lists and registries of experts.

In administrative cases, the court often at its own initiative refers a case or specified questions to authorities, e.g. national authorities, with expert knowledge within certain fields. This is also practised at appeal level.
Any party may present experts to strengthen their legal action. Any party may also ask the court to call for expert witnesses, such as experts from environmental authorities.
It is very common for an applicant for a permit to present multiple experts to speak on their behalf. There may also be situations where it is of great advantage, albeit not essential, for individuals and environmental NGOs to be able to present experts of their own or expert reports to prove the veracity of their claim. Mostly such reports are made by experts working within the NGOs themselves and consequently they are mostly free of charge. Another way to obtain expert reports is to resort to independent researchers from universities or to other outside experts who may offer to make such a report for free or for travel expenses and, if needed, compensation for accommodation. Sometimes, though, if the case concerns a very large and/or complicated issue, the environmental NGOs pay to engage an outside expert.
There are no publicly available lists and registries of experts.
3.1) *Is the expert opinion binding on judges, is there a level of discretion?*
Expert opinions are not binding on the judges and can be disregarded.
3.2) *Rules for experts being called upon by the court*
According to Chapter 22 Section 12 of the Environmental Code, the Land and Environment Court, where a special investigation or valuation is necessary for assessment of the case, may appoint one or more experts to deliver an opinion in the case after carrying out a preliminary investigation. Such an

investigation shall be carried out as soon as possible. If it is necessary in view of the nature of the case or the purpose of the investigation, the court shall notify the parties by suitable means of the time when the investigation will take place. This possibility is available when the court is trying first instance permit cases. It is not a general option for environmental cases. However, the rule is also applicable when the Land and Environment Court of Appeal tries cases which are appealed.
If a case concerns an activity or a measure that affects the aquatic environment, the court shall obtain an opinion from the County Administrative Board that is the relevant water authority if the investigation in the case gives reason to assume that any factor of importance for the environmental quality standard does not conform to the basis for such a standard and the non-compliance is relevant to the ability to determine reasonable and appropriate environmental conditions.
3.3*) Rules for experts called upon by the parties*
An appeal shall include the grounds of appeal and in what respect the reasons for the decision are, in the appellant's view, incorrect, and the evidence relied on and what is to be proved by each specific piece of evidence. This may include expert opinions if the party so wishes.
In civil cases, the plaintiff has to present the claims, causes of action and evidence that is invoked. This may be completed later on during the process.
Experts called upon by parties are regarded during the process as witnesses and not as experts called upon by the court.
3.4*) What are the procedural fees to be paid and when in relation to expert opinions and expert witnessing?*
There are no procedural fees in relation to expert opinions and expert witnesses.
In administrative cases, the court will cover costs for witnesses called by the court. Experts assisting a party, though, are in principle not regarded as witnesses. The party invoking an expert opinion has to do so at its own expense, and its costs will not be compensated or covered by the opposite party even if the former party wins the process.
In civil cases, the costs will initially be covered by the party that has invoked the witness/expert. In the end, the loser pays principle will apply in civil cases.

1.6. Legal professions and possible actors, participant to the procedures

1) Role of lawyers, compulsory or not, how to contact, publicly accessible internet link to registry or website of the bar, perhaps of specialised lawyers in the environmental field

Anyone who is a party in an environmental case may use a legal representative or assistant. This person must be suitable for the assignment, but does not have to be a lawyer. Swedish environmental legislation does not, however, require legal representation, neither for the administrative nor the judicial review procedure, and not even for appeals to the Environment Court of Appeal or to the Supreme Court.
Most of the environmental NGOs which operate at national level (e.g. Greenpeace Sweden, the Swedish Carnivore Association, SOF-Birdlife, the Swedish Botanical Society, and others) and local level have no legal representatives employed. The biggest environmental NGO in Sweden, the Swedish Society for Nature Conservation, is the only Swedish environmental NGO which currently has three employed legal advisors.
There are no publicly accessible internet links to a registry or website of all specialised lawyers in the environmental field. However, the Swedish Bar Association has a search function on its website. Lawyers who are not members of the Association are naturally not included.
1.1. *Existence or not of pro bono assistance*
There is no organised pro bono assistance available.
There are only a few law firms engaged in representing the public concerned in environmental cases. Furthermore, there are practically no public interest lawyers or law clinics dealing with environmental cases in Sweden.
Attorneys are free to set their own fees, but there are no legal limitations for lawyers to take on this kind of pro bono work.
In civil cases, property cases and applications for permits for water operations the court may, if it considers the fees to be unreasonable, reduce the compensation for litigation costs either at the request of the losing party or on its own initiative. In other administrative cases, each party has to cover its own costs, irrespective of the outcome, and the court will not intervene regarding costs.

2) Expert registries or publicly available websites of bars or registries that include the contact details of experts

No expert registries or publicly available websites of bars or registries that include the contact details of experts exist.

3) List of NGOs who are active in the field, links to sites where these NGOs are accessible

The list below is not exhaustive. In alphabetical order:
Birdlife Sweden
Climate Action
Greenpeace Sweden
Nordulv
Protect the Forest
Swedish Botanical Society

4) List of international NGOs, who are active in the Member Stat

Swedish Outdoor Association
Association for Protection of the Swedish Landscape
River Rescuers
Swedish Carnivore Association (SCA)
Swedish Society for Nature Conservation
Urbergsgruppen
WWF

1.7. Guarantees for effective procedures

1.7.1. Procedural time limits

1) Time limit to challenge an administrative environmental decision (not judicial) by an administrative body (either superior or same level)

As a general rule, for the administrative authorities and the administrative courts an appeal of a decision must have been received by the decision-making authority or administrative court within three weeks of the date on which the appellant received the decision through that authority. However, if the appellant is a party representing the public, the appeal must have been received within three weeks from the date of the decision being notified. The decision-making authority or administrative court then makes sure that the appeal was made within the right time limit and sends the appeal to the court or authority which will try the case.
When it comes to decisions and judgments from the Land and Environment Courts, with the exception of preliminary decisions during the preparation of the case the time for appeal is linked to the date of the ruling.

2) Time limit to deliver decision by an administrative organ

There are no clear provisions protecting the interest of the public concerned to have their cases handled in a timely manner by an administrative organ, except for a very general statement in the Administrative Procedure Act: a case must be handled as simply, quickly and cost-effectively as possible without compromising the rule of law. However, if an authority assesses that the decision in a case initiated by an individual party will be materially delayed, the authority shall inform the party thereof. In such a notification, the authority shall provide the reason for the delay. If a case initiated by an individual party has not been settled in the first instance within six months, the party may request in writing that the authority shall decide the case. The Authority shall, within four weeks from the date of such a request, either decide the matter or, in a special decision, reject the request. Such a decision to reject a request that the case be decided may be appealed to the court or administrative authority competent to review an appeal against the decision in the case.

3) Is it possible to challenge the first level administrative decision directly before court?

The routes of appeal in cases concerning licensing, dispensation exemptions or injunctions are as follows:

Local municipality – County Administrative Board – Land and Environment Court – Land and Environment Court of Appeal (leave to appeal needed)[1].

County Administrative Board – Land and Environment Court – Land and Environment Court of Appeal (leave to appeal needed).

Land and Environment Court – Land and Environment Court of Appeal (leave to appeal needed) – the Supreme Court (leave to appeal needed).

Many environmental cases start at the County Administrative Board or a Land and Environment Court, which means that the decisions may be challenged directly to court.

The Government, in certain cases according to the Environmental Code, decides on permissibility for very large hazardous activities, such as facilities for nuclear operations. The Government also tries certain appeals according to the Code and sectoral legislation, such as the Minerals Act. Decisions by the Government cannot be appealed but may be subject to a legal review by the Supreme Administrative Court.

4) Is there a deadline set for the national court to deliver its judgment?

There are no set rules for the national courts to deliver judgments.

In first instance permit cases at the Land and Environment Courts, the Environmental Code provides that the Land and Environment Court shall deliver the judgment as soon as possible in view of the nature of the case and other circumstances (Chapter 22, Section 21 of the Environmental Code). This also applies when the Land and Environment Court of Appeal tries a case. If a main hearing has been held, a judgment shall be delivered within two months of the conclusion thereof, unless exceptional circumstances exist.

In other administrative cases there are no such rules. In civil cases, the general rule is that the judgment should be delivered within 14 days from the main hearing. It should be noted that, according to the Priority Review Act, a party may ask for priority of a case handled at a court.

5) Time limits applicable during the procedure (for parties, submitting evidence, other possible deadlines, etc.)

There are no fixed legal time limits applicable during the procedure. The administrative organ or the court trying a case decides on a case to case basis the time limits and deadlines for submitting evidence, opinions and other material needed.

1.7.2. Interim and precautionary measures, enforcement of judgements

1) When does the appeal challenging an administrative decision have suspensive effect?

Under Swedish law, appeals have suspensive effect unless otherwise provided by the law. Normally a decision according to the Environmental Code and the Planning and Building Act can only be executed when the decision can no longer be contested through a legal remedy. There are some exceptions to the rule according to special legislation, such as protective hunting according to the Game Act and exploration permits according to the Minerals Act.

Normally a permit according to the Environmental Code cannot be utilised until the possibility of appeal has passed. Permit decisions may, however, be combined with a “go-ahead decision” enabling the applicant to start their activity. As with permits, orders from a supervisory authority do not take legal effect until they are finally decided on appeal. If there is an urgent need, the authority can decide that the order shall take effect even if it is appealed.

2) Is there a possibility for an injunctive relief during the administrative appeal by the authority or the superior authority?

As long as the matter has not been delivered to the superior authority, the first deciding authority may revise and stop an execution of its own decision, if this is not to the detriment of a private opposing party.

If a go-ahead decision has been granted or the case concerns a decision where the rule on an appeal’s suspensive effect is not applicable, the public concerned can ask the authority for an injunction of that decision. According to the Administrative Procedure Act, Section 48, an authority trying an appeal may decide on injunctive relief.

3) Is there a possibility to introduce a request for such a measure during the procedure and under what conditions? Possible deadline to submit this request?

A request for injunctive relief may be made at any time during the procedure, but is normally made at the same time as the appeal itself. Such a request may also be repeated if not successful.

4) Is there immediate execution of an administrative decision irrespective of the appeal introduced? Under what conditions?

Under Swedish law, appeals have suspensive effect unless otherwise provided by the law. Normally a decision according to the Environmental Code and the Planning and Building Act can only be executed when the decision can no longer be contested through a legal remedy. In those cases where this does not apply, the Environmental Code, as well as the Planning and Building Act, gives the supervisory authority the possibility, if urgent, to decide that a prohibition or an order shall be immediately binding.

There are some exceptions to the rule according to special legislation, such as protective hunting according to the Game Act and exploration permits according to the Minerals Act.

5) Is the administrative decision suspended once challenged before court at the judicial phase?

Appeals normally have suspensive effect unless otherwise provided by the law.

During the court procedure, the court, if requested by one of the parties, can decide on interim measures either to allow or restrict an activity.

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Enligt svensk lag har överklaganden suspensiv effekt om inte annat föreskrivs i lagen. Normalt kan ett beslut enligt miljöbalken och plan- och bygglagen endast verkställas när beslutet inte längre kan överklagas, när det vunnit laga kraft. Det finns några undantag från denna regel enligt särskild lagstiftning som skyddsjakt enligt jaktlagen och undersökningstillstånd enligt minerallagen.

Normalt kan ett tillstånd enligt miljöbalken således inte användas förrän det vunnit laga kraft. Tillståndsbeslut kan dock kombineras med ett verkställighetsförordnande som gör det möjligt för den sökande att starta sin verksamhet trots att tillståndet överklagas. Liksom vad som gäller för tillstånd får ett föreläggande från en tillsynsmyndighet inte rättslig verkan förrän det vunnit laga kraft. Om det finns ett brådskande behov kan myndigheten dock besluta att beslutet ska träda i kraft genast.

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6) Is there a possibility for the national tribunals to provide injunctive relief (conditional upon a financial deposit)? Is there separate appeal against this order on the injunctive relief or the financial deposit?

If a go-ahead decision has been granted or the case concerns a decision where the rule on an appeal's suspensive effect is not applicable, the public concerned can ask the court for an injunction of that decision. This may be done during the whole procedure but is normally done at the same time as the appeal itself.
According to the Court Matters Act, Section 26, a court that is to hear an appeal may decide that the appealed decision may not be enforced for the time being. The legal provision on such "inhibition" is rather vague; the details are found in case law. According to the Environment Court of Appeal and the Supreme Court, inhibition shall be granted when the prospects for the success of the appeal are good. An inhibition may also be granted if the appellant has a legitimate interest in having the decision scrutinised by the court or there are vital interests at stake, for example the risk of irrevocable damage.
There are no requirements, or legal possibilities, to ask the claimant for a financial deposit. There is, however, one exception. If the applicant for a permit for a water operation asks for a decision on an immediate enforceable permit, they must provide a financial deposit.

1.7.3. Costs – Legal aids – Pro bono assistance, other financial assistance mechanisms

1) How can one calculate what costs will be involved when one intends to initiate a procedure - administrative costs, judicial costs, costs for filing a case, experts' fees, lawyers' fees, cost of appeal, etc.

The rules on costs for trials concerning environmental matters are provided in Chapter 25 of the Environmental Code.
As a general rule, the procedures related to administrative environmental matters in Sweden are free of charge. There are no application or court fees, no obligation to pay the opponent's costs, no bonds to be paid for obtaining injunctive relief or other costs to be covered, irrespective of whether the case is subject to an administrative or a judicial review procedure.
As for experts' and lawyers' fees, these have to be calculated on a case by case basis after contact with them.
Each party has to cover its own costs in administrative cases.
The loser pays principle is not applicable as in civil cases. In civil cases, there is also a court fee for the plaintiff, around 300 euros.

2) Cost of injunctive relief/interim measure, is a deposit necessary?

Injunctive relief and interim measures are free of charge.
If, however, the applicant for a permit for a water operation asks for a decision on an immediate enforceable permit, they must provide a financial deposit.

3) Is there legal aid available for natural persons?

Considering that the procedures related to environmental cases in Sweden are free of charge, there is little legal aid available. According to the Legal Aid Act (1996:1619), an appellant may, under certain conditions, get legal aid and certain costs associated with the process paid. The act, however, due to the official principle, has very little significance in cases that are appealed to the Land and Environment Courts. One of the criteria for being awarded legal aid is that the appellant needs legal assistance in addition to advice and that this need cannot be met in any other way. Because of these criteria, there is almost no possibility for individuals to obtain legal aid in environmental cases.

4) Is there legal aid available for associations, legal persons, NGOs with legal personality and without legal personality? If yes, how to request legal aid? Is there pro bono assistance?

Environmental NGOs or other legal persons may never obtain legal aid according to the Swedish Legal Aid Act.

5) Are there other financial mechanisms available to provide financial assistance?

Some of the national authorities provide grants for environmental NGOs which they can use at their own discretion. Most importantly, the Swedish Environmental Protection Agency each year distributes funds to organisations to be used for taking legal action in order to develop case law in the environmental area. Furthermore, the Swedish Transport Administration and the Swedish Consumer Agency provide grants to NGOs to increase public influence in different decision-making processes in the environmental field.

6) Does the 'loser party pays' principle apply? How is it applied by courts, are there exceptions?

The majority of environmental disputes are pursued through cost-free administrative procedures where the appellate levels have an obligation to ex officio examine the case.
The loser party pays principle does normally not apply. Each party only has to bear its own costs, but Swedish environmental legislation does not require legal representation, neither for the administrative nor the judicial review procedure, and not even for appeals to the Land and Environmental Court of Appeal or the Supreme Court. The only exception to the general rule of a free environmental procedure is found in the permitting procedure for water operations. The applicant here has to pay the litigation costs of all those who will be affected by the activity. This circle of people, however, is narrower than the public concerned and consists of those whose real estate will be affected by the activity, for example by flooding, loss of fishing water and so on.
In civil cases concerning economic damages, the general rules on legal procedure apply, which means that the losing party has to pay all the winning party's legal costs; the loser party pays principle in full. Civil cases in environmental matters in Sweden are quite rare. Many civil cases relate to intrusion in the landowner's rights, e.g. to establish a nature reserve, and in such cases the main rule is that the landowner will have their costs covered irrespective of the outcome.

7) Can the court provide an exemption from procedural costs, duties, filing fees, taxation of costs, etc.? Any other national characteristics linked to this topic?

Since no such costs exist in administrative environmental cases, there is no need for rules on exemptions.
In civil cases, the loser pays principle is not absolute, as the rules give the court space to consider facts related to how the process was pursued, if there were reasons for initial claims due to the action of the opposing party etc., and cases where restrictions are imposed on how the landowner may use the land or the land is expropriated for public interests.

1.7.4. Access to information on access to justice – provisions related to Directive 2003/4EC

1) Where are the national rules on environmental access to justice available? Internet link to be provided. Are there other forms of structured dissemination?

The right for individuals and NGOs to challenge environmental decisions, acts and omissions is mainly found in three different Swedish laws; the Environmental Code, the Planning and Building Act, and the Administrative Procedure Act. Generally they state that individuals must be concerned and NGOs must fulfil the requirements set out in the Code in order to have standing.
There is no structured dissemination on where to find the rules on access to justice available in Sweden. However, rudimentary information may be found on the websites of some of the main authorities for the protection of the environment, such as the Swedish Environmental Protection Agency and the National Board of Housing, Building and Planning. Some general information on access to justice can also be found on the website of the Swedish Courts.

2) During different environmental procedures how is this information provided? From whom should the applicant request information?

During the preparation of a matter at an authority or a case at a court, the main rule is that documents are open to the public. The registries where the respective instance is obliged to register all incoming documents in the particular case are also open. Certain information can be kept secret according to provisions in the Public Access to Information and Secrecy Act. For the parties in a case or a matter before an authority, the space to keep document secrets is very restricted.
In permit cases related to water operations and environmentally harmful operations, the Land and Environment Courts and the County Administrative Boards appoint a person or authority to keep a copy of all documents for the public to access instead of visiting the court or the County Administrative Board, also for

such applications that do not need an EIA. This is of particular importance if the proposed activity is located far from the court or the County Administrative Board.
As a general rule, judgments and decisions in cases before courts and authorities must be documented in writing. In addition, there are provisions for judgments to be kept available at the court's office and at the custodian, when notified.
To a large extent, judgments are promulgated in the press and on the website of the court taking the decision in application cases. This applies equally to the County Administrative Boards´ decisions and other authorities.
The Ordinance (2003:234) on the Time for the Provision of Judgments and Decisions contains provisions on the time for delivery of documents, on how documents are to be provided and on information for individuals also. A judgment or decision in a case before a public court shall be sent to the parties on the day of the decision.
The Swedish public principle also means that anyone has the opportunity to read the decision text. Also, in the Administrative Procedure Act and the Code of Judicial Procedure there are provisions on the issuing of judgments and decisions. Provisions in the Environmental Code, the Judicial Code, the Administrative Procedure Act, the Law on Judicial Matters and the Administrative Procedure Act further regulate what a judgment or decision should contain. Every appealable decision and judgement must be accompanied by information on access to justice information.

3) What are the sectoral rules (EIA, IPPC/IED, regarding plans and programmes, etc.)?

The same rules on access to information on access to justice apply regardless of whether the case concerns an administrative environmental case or a civil case according to the Environmental Code, or a case on planning according to the Planning and Building Act.
Plans and programmes not falling under the SEA Directive are, under Swedish law, generally not binding on the public, only indicative or binding on authorities. They are not therefore considered to be such decisions as are appealable by individuals or NGOs. Thus, there are no rules on access to information on access to justice for these kinds of plans and programmes.

4) Is it obligatory to provide access to justice information in the administrative decision and in the judgment?

It is mandatory for authorities giving an administrative decision and courts to provide access to justice information in the decision and/or judgment.

5) Is translation, interpretation provided to foreign participants? What are the rules applicable?

There is no structured dissemination on where to find the rules on access to justice available in Sweden, neither in Swedish nor in any other language. However, rudimentary information may be found on the websites of some of the main authorities for the protection of the environment, such as the Swedish Environmental Protection Agency, and the National Board of Housing, Building and Planning. Some general information on access to justice can also be found on the website of the Swedish Courts. This information may be found in English.
For individuals involved in an ongoing case, the Administrative Procedure Act, Section 13, states that an authority shall use an interpreter and ensure that documents are translated if necessary in order for the individual to be able to exercise their right when the authority has contact with someone who does not have mastery of Swedish.
The court may, if necessary, according to the Code of Judicial Procedure, Chapter 33, Section 9, translate documents that are sent in or sent out by the court. The court is obliged to translate a document in a criminal case, or the most important parts of it, for the suspect or at the request of an appellant, if a translation is essential to enable the suspect or appellant to exercise their right. The translation may be made orally if this is not inappropriate for the purposes of the document or the case or any other circumstance. By reference to Section 48 of the Court Matters Act, that provision is also applicable in administrative cases at the Land and Environment Courts.

1.8. Special procedural rules

1.8.1. Environmental Impact Assessment (EIA) – provisions related to Directive 2003/35EC

Activities subject to the EIA requirements of the EIA Directive are subject to regulation regarding environmental impact assessments, permits etc. according to the Environmental Code or other specific legislation. Among other things, the application for a permit must include an EIA and a technical description of the planned activity or operation.
Provisions regulating when an EIA is required and what information it must contain are set out in Chapter 6 of the Environmental Code and in an underlying ordinance. Neither the Planning and Building Act nor sectoral environmental legislation have specific rules on the procedure or the content of the EIA, but refer to the rules of the Code.
An EIA must be prepared before the application for a permit is made and should be submitted as a supplement to the application. When preparing the permit application and the EIA, the applicant is obliged to consult the County Administrative Board, the supervisory authority and the private individuals likely to be particularly affected by the activity. For activities which typically have a significant environmental impact, the applicant is also obliged to consult central government agencies and the municipality, the public and the organisations that are likely to be affected by the activity. Prior to the consultation, the applicant should provide information about the activity with regard to location, scope, design and possible environmental impacts.
Furthermore, there are mandatory provisions concerning the minimum details that an EIA must contain. Upon receiving the EIA, the permitting authority is obliged to publicly announce the EIA and make it available to the general public, who should be given the opportunity to comment on it.
Not all activities that are within the scope of the EIA Directive fall within the scope of environmentally hazardous activities under the Environmental Code. Some activities that require environmental impact assessment under the Directive (building of industrial areas, shopping malls, parking spaces, subways or tramways, tourist attractions such as ski slopes and lifts, marinas for leisure boats, holiday villages, hotel complexes, camping sites and theme parks) are therefore dealt with under the Planning and Building Act. The environmental impact assessment required under the Directive for the above-mentioned activities is carried out under the Planning and Building Act within the framework of decisions on detailed urban development plans. It is proposed that from 1 July 2021 certain steps related to the EIA will also be conducted in a subsequent building permits procedure, however this is not related to the regulation of the EIA Directive.
In Sweden, the EIA is thus an intrinsic part of the permitting procedure, and this assessment is not made separately to the decision regarding the permit for an activity. The EIA shall be approved only if the direct and indirect impacts of the planned activity are deemed to be adequately described in accordance with the provisions of the Code, and if approved this will be noted in the decision concerning the permit.

1) Rules on standing and access to justice relating to screening (conditions, timeframe, public concerned)

Because of the system described above, the EIA, or any part of it, such as screening, scoping or final authorisation of the EIA itself, cannot be appealed separately. However, the EIA, including both the procedural requirements and the information it contains in a specific case, can be challenged when appealing the permit as such.
Rules on standing are generally that individuals must be concerned and NGOs must fulfil the requirements set out in the Environmental Code.

2) Rules on standing relating to scoping (conditions, timeframe, public concerned)

Because of the system described above, the EIA, or any part of it, such as screening, scoping or final authorisation of the EIA itself, cannot be appealed separately. However, the EIA, including both the procedural requirements and the information it contains in a specific case, can be challenged when appealing the permit as such.

Rules on standing are generally that individuals must be concerned and NGOs must fulfil the requirements set out in the Environmental Code.

3) At what stage(s) can the public challenge the administrative decisions on environmental projects? Deadline to challenge decisions?

Because of the system described above, the EIA, or any part of it, such as screening, scoping or final authorisation of the EIA itself, cannot be appealed separately. However, the EIA, including both the procedural requirements and the information it contains in a specific case, can be challenged when appealing the permit as such.

The final decision on authorisation and, if any, preliminary decisions, e.g. on permissibility or the start of construction works, may be appealed following the general rules, that is three weeks from delivering the decision or three weeks after receiving the decision if from the County Administrative Board.

4) Can one challenge the final authorisation? Under what conditions, if one is an individual, an NGO, a foreign NGO?

The EIA, including both the procedural requirements and the information it contains in a specific case, can be challenged when appealing the environmental permit as such according to the Environmental Code. Decision of the County Administrative Boards may be appealed to the Land and Environment Court and to the Land and Environment Court of Appeal (leave to appeal needed). Decisions of the Land and Environment Court may be appealed to the Land and Environment Court of Appeal (leave to appeal needed) and to the Supreme Court (leave to appeal needed).

The Government, in certain cases according to the Environmental Code, decides on permissibility for very large hazardous activities, such as facilities for nuclear operations. The Government also tries certain appeals according to the Code and sectoral legislation, such as the Minerals Act. Decisions by the Government, including EIA, cannot be appealed, but may be subject to a legal review by the Supreme Administrative Court.

Permit judgments and decisions, including the EIA, may be appealed by anyone who is the subject of a decision against them according to Chapter 16 Section 12 of the Environmental Code. Permit judgments and decisions may also be appealed by environmental NGOs according to Chapter 16 Section 13 of the Code. No foreign NGO can appeal, since there is a requirement that the organisation has to have been operating in Sweden for at least three years. The provision referred to may be regarded as discriminatory and would probably be set aside in court. In a decision of 21 December 2018 from the Supreme Administrative Court, case 4840-18, a Polish NGO was dismissed, but on the grounds that it had not showed that it had the support of the public. In principle, the organisation's reference to the Polish public seems to have been accepted.

Decisions on urban detailed development plans, both those subject to an EIA and those not, are adopted by the municipality according to the Planning and Building Act and may be appealed to the Land and Environment Court and, with leave to appeal, to the Land and Environment Court of Appeal. The Land and Environment Court of Appeal may allow appeal of its ruling to the Supreme Court (leave to appeal needed).

As regards appeals of decisions on urban detailed development plans, persons with the right to appeal are those whom the decision concerns, provided that the decision affects them adversely and is subject to appeal (Chapter 13 Section 8 of the Planning and Building Act). NGOs which meet the requirements in Chapter 16 Section 13 of the Environmental Code also have legal standing according to the Planning and Building Act. A party challenging such a decision must also have made statements against the plan and/or EIA for the plan during the public consultation stage, otherwise the challenge would be precluded (Chapter 13 Section 11 of the Planning and Building Act).

5) Scope of judicial review – control on substantive/procedural legality. Can the court act on its own motion?

There are no administrative procedural rules under Swedish law that set out the scope of the review of the Court. The relevant court will review both the substantive and procedural legality of the judgment or decision. The ultimate responsibility for the investigation of the case rests with the court according to the "ex officio principle". The Court must, through communication with the parties, ensure that the case is examined properly and that any ambiguities are clarified. It is thus obliged and competent to fully examine the facts/merits of the case. The Court may even perform investigations at the location in question if this is needed in order to examine the case. The Court's obligation to examine the case on its own initiative applies not only to material issues, but also to procedural issues. The claims of the parties will set the frame for the process, however the court is not bound by the causes of action invoked and may base its judgment on circumstances other than those invoked.

When a decision on an urban detailed development plan which includes an EIA is appealed to the court and the court finds that the decision contains substantive or procedural infringements, the court repeals the decision on the adoption of the plan. It should be noted that the court does not have the right to change the detailed development plan. The scope for the court in these cases is more narrow, similar to a legal review and in principle restricted to the causes of action invoked by the party. This is regulated in Chapter 13 Section 17 of the Planning and Building Act.

6) At what stage are decisions, acts or omissions challengeable?

The EIA, including both the procedural requirements and the information it contains in a specific case, can be challenged when appealing the permit as such.

7) Before filing a court action, is there a requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures?

No matter who makes the decisions concerning activities under the EIA Directive, the County Administrative Board or the Land and Environment Court when it comes to permits according to the Environmental Code, or the municipality when it comes to certain plans according to the Planning and Building Act, an appeal may be filed directly with the court of appeal according to the route of appeal described above.

8) In order to have standing before the national courts is it necessary to participate in the public consultation phase of the administrative procedure – to make comments, participate at hearing, etc., not meaning the requirement determined under point 12?

There are no requirements under the Swedish Environmental Code regarding participation at the public consultation stage in order to be able to appeal a decision. There are thus no preclusion requirements. Once a decision or judgement on a permit has been issued, it may be appealed by anyone who is adversely affected by the decision.

When it comes to a decision to adopt, amend or repeal a detailed plan which includes an EIA according to the Planning and Building Act, the appellant is obliged to participate in the administrative procedure with the permitting authority as a precondition for being entitled to take a case to national court. A person or NGO may only appeal a decision on an urban detailed development plan if they submitted their opinions on the matter in writing during the initial examination period at the municipality and those opinions have not been considered.

9) Fair, equitable - what meaning is given to equality of arms in the national jurisdiction?

Swedish law requires equal opportunities of the parties in environmental proceedings.

Each party has the same legal rights to call witnesses and experts and to challenge argumentation and experts presented by the other party.

10) How is the notion of "timely" implemented by the national legislation?

There are no clear provisions protecting the interest of the public concerned to have their cases handled in a timely manner by an administrative organ, except for a very general statement in the Administrative Procedure Act that a case must be handled as simply, quickly and cost-effectively as possible without compromising the rule of law. However, if an authority assesses that the decision in a case initiated by an individual party will be materially delayed, the authority shall inform the party thereof. In such a notification, the authority shall report the reason for the delay. If a case initiated by an individual party has not been settled in the first instance within six months, the party may request in writing that the authority shall decide the case. The Authority shall, within four weeks from the date of such a request, either decide the matter or, in a special decision, reject the request. Such a decision to reject a request that the case be decided may be appealed to the court or administrative authority competent to review an appeal against the decision in the case.

In court, a party may apply for priority of a case according to the Priority Review Act.

11) Is injunctive relief available? If yes what are the procedural requirements in order to be eligible for this? Are there special rules applicable to this sector apart from the general national provisions?

Normally a permit or an urban development plan cannot be utilised until the possibility of appeal has passed. Permit decisions may, however, be combined with a “go-ahead decision” enabling the applicant to start their activity. If a go-ahead decision has been granted, the public concerned can ask the court for an injunction of that decision.

1.8.2. Integrated Pollution Prevention and Control (IPPC/Industrial Emissions Directive (IED) – provisions related to Directive 2003/35/EC

1) Country-specific IPPC/IED rules related to access to justice

All activities subject to the requirements of the IPPC/Industrial Emissions Directive require a permit according to the Environmental Code. Before such a permit can be issued, an EIA must be performed.

The rules under the Environmental Code on access to justice are general, and thus also apply to these cases.

2) Standing rules, at what stages can one challenge decisions (if one is an NGO, a foreign NGO, a citizen)? Is the final decision challengeable?

There are provisions in the Environmental Code that make it possible to appeal the final decisions and judgments on permits. Both individuals and environmental NGOs can appeal environmental decisions, but this right is limited in some cases. Preliminary decisions, e.g. regarding permissibility or construction works, taken during the preparation of the case may also be challenged.

According to Chapter 16 Section 12 of the Environmental Code, appeals may be made against appealable judgments or decisions by any person who is the subject of a judgment or decision against them.

NGOs which meet the requirements stipulated in Chapter 16 Section 13 of the Environmental Code may challenge many administrative decisions. The requirements are that the NGO is a non-profit association whose purpose according to its statutes is to safeguard nature conservation or environmental protection interests. The association furthermore must have conducted activities in Sweden for at least three years and have at least 100 members or by some other means show that its activities are supported by the public. In respect of shore protection, the provisions also apply to non-profit associations whose purpose according to their statutes is to promote outdoor interests (Chapter 16 Section 14 of the Code).

3) Rules on standing and access to justice relating to screening (conditions, timeframe, public concerned)

In Sweden, the EIA is an intrinsic part of the permitting procedure, and this assessment is not made separately to the decision regarding the permit for an activity. Because of the Swedish system, the EIA is carried out together with the IED/IPPC process, which means that no part, such as screening, scoping or final authorisation of the EIA itself, can be appealed separately. However, the EIA, including both the procedural requirements and the information it contains in a specific case, can be challenged when appealing the permit as such.

4) Rules on standing relating to scoping (conditions, timeframe, public concerned)

In Sweden, the EIA is an intrinsic part of the permitting procedure, and this assessment is not made separately to the decision regarding the permit for an activity. Because of the Swedish system, the EIA is carried out together with the IED/IPPC process, which means that no part, such as screening, scoping or final authorisation of the EIA itself, can be appealed separately. However, the EIA, including both the procedural requirements and the information it contains in a specific case, can be challenged when appealing the permit as such.

5) At what stage(s) can the public challenge the administrative decisions on environmental projects? Is there a deadline to challenge decisions?

The permit can be appealed. Preliminary decisions, e.g. regarding permissibility or construction works, taken during the preparation of case may also be challenged.

The routes of appeal in cases concerning licensing are as follows:

County Administrative Board – Land and Environment Court – Land and Environment Court of Appeal (leave to appeal needed)

Land and Environment Court – Land and Environment Court of Appeal (leave to appeal needed) – the Supreme Court (leave to appeal needed)

The Government, in certain cases according to the Environmental Code, decides on permissibility for very large hazardous activities such, as facilities for nuclear operations. Decisions by the Government cannot be appealed but may be subject to a legal review by the Supreme Administrative Court.

As a general rule, an appeal of a decision must have been received by the decision-making authority within three weeks of the date on which the appellant received the decision through that authority. However, if the appellant is a party representing the public, the appeal must have been received within three weeks from the date of the decision being notified. The time limit regarding judgments from the Land and Environment Courts follows the general rule for district courts in civil cases, that is three weeks from the passing of the judgment. The decision-making authority or court then makes sure that the appeal was made within the right time limit and sends the appeal to the court or authority which will try the case.

6) Can the public challenge the final authorisation?

In order to challenge the final authorisation, you need to show that you are a party concerned according to Chapter 16 Section 12 of the Environmental Code or an NGO which meets the requirements in Chapter 16 Section 13 of the Code.

7) Scope of judicial review – control on substantive/procedural legality. Can the court act on its own motion? Is it possible to challenge decisions, acts or omissions?

There are no administrative procedural rules under Swedish law that set out the scope of the review of the Court. The relevant court will review both the substantive and procedural legality of the judgment or decision. The ultimate responsibility for the investigation of the case rests with the court according to the “ex officio principle”. The Court must, through communication with the parties, ensure that the case is examined properly and that any ambiguities are clarified. It is thus obliged and competent to fully examine the facts/merits of the case. The Court may even perform investigations at the location in question if this is needed in order to examine the case. The Court’s obligation to examine the case on its own initiative applies not only to material issues, but also to procedural issues. The claims of the parties will set the frame for the process, however the court is not bound by the causes of action invoked and may base its judgment on circumstances other than those invoked.

8) Before filing a court action, is there a requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures?

Regardless of who makes the decisions, the County Administrative Board or a Land and Environment Court, an appeal may be filed directly with a court; the Land and Environment Court if the licensing authority is the County Administrative Board or the Land and Environment Court of Appeal if the permit is issued by the Land and Environment Court.

9) In order to have standing before the national courts is it necessary to participate in the public consultation phase of the administrative procedure – to make comments, participate at hearing, etc., not meaning the requirement determined under point 12?

There are no requirements under the Swedish Environmental Code regarding participation at the public consultation stage in order to be able to appeal a decision. There are thus no preclusion requirements. Once a decision or judgement on a permit has been issued, it may be appealed by anyone who is adversely affected by the decision.

10) Fair, equitable - what meaning is given to equality of arms in the national jurisdiction?

Swedish law requires equal opportunities of the parties in environmental proceedings.

Each party has the same legal rights to call witnesses and experts and to challenge argumentation and experts presented by the other party.

11) How is the notion of "timely" implemented by the national legislation?

There are no clear provisions protecting the interest of the public concerned to have their cases handled in a timely manner by an administrative organ, except for a very general statement in the Administrative Procedure Act that a case must be handled as simply, quickly and cost-effectively as possible without compromising the rule of law. However, if an authority assesses that the decision in a case initiated by an individual party will be materially delayed, the authority shall inform the party thereof. In such a notification, the authority shall report the reason for the delay. If a case initiated by an individual party has not been settled in the first instance within six months, the party may request in writing that the authority shall decide the case. The Authority shall, within four weeks from the date of such a request, either decide the matter or, in a special decision, reject the request. Such a decision to reject a request that the case be decided may be appealed to the court or administrative authority competent to review an appeal against the decision in the case.

In court, a party may apply for priority of a case according to the Priority Review Act.

12) Is injunctive relief available? If yes what are the procedural requirements in order to be eligible for this? Are there special rules applicable to this sector apart from the general national provisions?

Normally a permit cannot be utilised until the possibility of appeal has passed. Permit decisions may, however, be combined with a "go-ahead decision" enabling the applicant to start their activity. If a go-ahead decision has been granted, the public concerned can ask the court for an injunction of that decision.

13) Is information on access to justice provided to the public in a structured and accessible manner?

There is no structured dissemination on where to find the rules on access to justice available in Sweden.

Every party in an ongoing process will be sent the decision or judgment by mail and/or email. This applies to all environmental cases according to the Environmental Code, the Planning and Building Act and the sectoral legislation. It is mandatory for authorities giving an administrative decision and courts to provide access to justice information in the decision and/or judgment.

1.8.3. Environmental liability

1) Which requirements need to be fulfilled for natural or legal persons (including environmental NGOs) to have the decision taken on environmental remediation by the competent authority reviewed by a court or another independent and impartial body in accordance with Article 13(1) ELD?

Anyone, both individuals and NGOs, may request for action pursuant to Article 12(2) ELD from certain supervisory authorities whose authority and responsibility are set out in the Environmental Code and in an ordinance issued under the Environmental Code.

A decision by a supervisory authority not to intervene or to take measures perceived as too lean, in these cases mostly the County Administrative Boards, can be appealed to the Land and Environment Court and the Land and Environment Court of Appeal (leave to appeal needed) even if it states that the authority will take no action. The same rules on standing apply as for permits according to the Environmental Code (Chapter 16 Sections 12 and 13); individuals have to be concerned and NGOs must meet the requirements of the law. In certain cases, though, the supervisory authority is the municipality. If the decision is taken by a local authority, appeal must first be made to the County Administrative Board before it may be challenged at court.

2) In what deadline does one need to introduce appeals?

A request for action from a supervisory authority can be made at any time. A decision from the authority may be appealed within three weeks from the decision received by the party. Judgments from the Land and Environment Court must be appealed within three weeks from when they are passed.

3) Are there requirements for observations accompanying the request for action pursuant to Article 12(2) ELD and if yes, which ones?

A request may be delivered anonymously and the authority is still obliged to start an investigation to see whether there is any substance in the submission. According to the Administrative Procedure Act, Section 19, an individual can initiate a case with an authority through an application, notification or other petition. The petition should state what the case is about and what the individual wants the authority to do. It should also be clear which circumstances are the basis of the individual's request, if this is not obviously unnecessary. An individual party initiating a case shall participate by submitting, as far as possible, the investigation that the party wishes to invoke in support of its request. However, there are no rules on the need for such a request to be accompanied by scientific underpinning or data, but of course it makes the case stronger if such data is available. If a request is incomplete or unclear, the authority shall primarily assist the individual in rectifying their request. If necessary, the authority shall work to make the party clarify or supplement the request. An authority must always ensure that a case is investigated to the extent required by its nature.

4) Are there specific requirements regarding 'plausibility' for showing that environmental damage occurred, and if yes, which ones?

There are no specific requirements regarding plausibility for showing that environmental damage occurred.

5) Is a certain manner required and/or time limits set, and if yes, which ones, as regards the notification of the decision by the competent authority to the entitled natural or legal persons (including the entitled environmental NGOs)?

After receiving a request for action and after investigating the case, the supervisory authority has to make a decision on how to proceed. According to Section 9 of the Administrative Procedure Act, each matter shall be handled as simply, rapidly and economically as is possible without jeopardising legal security. The decision must be made in writing.

According to Section 33 of the same act, an authority that announces a decision in a case shall, as soon as possible, notify the party of the complete content of the decision, unless this is clearly unnecessary. If the party is entitled to appeal the decision, they must also be informed of the procedure. The authority decides how the notification is to be made; however, a notification must always be in writing if a party so requests.

6) Does the MS apply an extension of the entitlement to request action by competent authority from damage to the environment in cases of imminent threat of such damage?

There is no need for such an extension of entitlement.

7) Which are the competent authorities designated by the MS?

With some exceptions, the operative supervisory actions, such as enforcement, are carried out at regional or local level by the County Administrative Boards or the municipalities. The County Administrative Boards are generally responsible for the supervision of larger activities and compliance with legislation based on EU directives. The duties of the County Administrative Board can be transferred to the municipality according to a special procedure. In turn, the municipality is assigned general supervisory responsibility for all other environmentally hazardous activities within the municipality. In addition, there are twelve central government agencies, including the Swedish EPA, which are assigned operative supervision responsibilities within specific fields, such as forestry or agriculture. When it comes to liability according to Article 12 of the ELD, the County Administrative Boards are the supervisory authorities.

To ensure compliance with the Code and legislation issued under the Code, the supervisory authority may issue an injunction. Such injunctions may differ depending on the activity concerned and the actions needed. Should a permit holder disregard a condition set out in the permit, or otherwise breach environmental legislation, the supervisory authority may order them to rectify the matter, or start a procedure to revoke or restrict the scope of the permit. Injunctions can also include an order to cease operations or to prohibit an operator from starting a specific operation. To ensure compliance with an injunction, the supervisory authority may also impose conditional fines. Should the operator fail to observe the injunction, the supervisory authority may turn to the Land and Environment Court for a ruling on the fines, which will then be subject to enforcement.

8) Does the MS require that the administrative review procedure be exhausted prior to recourse to judicial proceedings?

A decision by a municipality must undergo administrative appeal at the County Administrative Board prior to a possibility to have it tried in court.

A decision by a County Administrative Board can be appealed to the Land and Environment Court and the Land and Environment Court of Appeal (leave to appeal needed) even if it states that the authority will take no action. The same rules on standing apply as for permits according to the Environmental Code (Chapter 16 Sections 12 and 13).

1.8.4. Cross-border rules of procedures in environmental cases

1) Rules on involving other countries? At which stage of the procedure is there a possibility to challenge environmental decisions?

Chapter 6 of the Environmental Code and the Ordinance on Environmental Assessments include regulation on involving other countries in the EIA process. If a harmful activity or measure is likely to have a significant environmental impact in another country, or if a country that may be significantly affected by the activity or the measure so requests, the Swedish Environmental Protection Agency shall:

inform the competent authority of the other country about the activity or measure, its possible cross-border consequences and the type of decision that may be made; and

give the competent authority of the other country reasonable time to comment on whether it wants to participate in the environmental assessment.

If the other country wishes to participate in the environmental assessment, the Agency shall give the other country the opportunity to participate in a consultation process on the environmental impact assessment and the final permit *application*.

2) Notion of public concerned?

When consultations are to take place with another country according to Chapter 6 Section 13 or 33 of the Environmental Code, the Swedish Environmental Protection Agency shall agree with the responsible authority in that country on how the consultation is to be carried out so that the authorities and the public concerned in the other country are given the opportunity to submit comments within a reasonable time, which should be at least 30 days. For the purpose of completing consultations with other countries, the Swedish Environmental Protection Agency may announce information in Sweden, in another country in the European Union and in another country that is a party under the Espoo Convention on Environmental Impact Assessments in a Transboundary Context. Before an announcement is made in another country, the Agency must consult that country's responsible authority.

3) Do NGOs of the affected country have standing? When and to what court should they submit their appeals? What procedural assistance are they eligible for (legal aid, request for injunctive relief, interim measures, pro bono)?

When it comes to participating during consultation with other countries, foreign NGOs are part of the public concern.

The general rule on standing for NGOs can be found in Chapter 16 Section 13 of the Environmental Code. This rule, however, excludes foreign NGOs, since it clearly states that an NGO needs to have been operating in Sweden for at least three years. Due to the 1974 Nordic Environmental Protection Convention, special legislation exists, however, on non-discrimination of Nordic environmental NGOs.

As the current Swedish legislation does not provide standing for foreign NGOs, there are no specific procedural rules on when to appeal, procedural assistance etc.

In the EU context, the current Swedish provision is to be regarded as discriminatory. In a decision of 21 December 2018 from the Supreme Administrative Court, case 4840-18, a challenge from a Polish NGO was dismissed, but on the grounds that the organisation had not shown that it had support by the public. The judgment with reasoning regarding the support by the public in Poland indicates that a court would set aside the current provision and not dismiss a foreign NGO on the ground that it has not been operating in Sweden.

The problem has been discussed in Governmental bill regarding EIAs, and the provision has been found discriminatory and thus should be altered, but so far nothing has happened.

4) Do individuals of the affected country have standing? What procedural assistance are they eligible for (legal aid, request for injunctive relief, interim measures, pro bono)?

If an individual living in another country can show that they are a person whom the judgment or decision concerns and that the decision affects them adversely according to Chapter 16 Section 12 of the Environmental Code or Section 42 of the Administrative Procedure Act, they have the same rights as an individual living in Sweden, including the right to injunctive relief where such is possible.

As for legal aid and pro bono help, there is no such help available for any party in environmental matters. The general rules will apply and are motivated by the ex officio principle for the decision-maker to examine the case.

5) At what stage is the information provided to the public concerned (including the above parties)?

If a harmful activity or measure can be assumed to have a significant environmental impact in another country, or if a country that may be significantly affected by the activity or action so requests, the Swedish Environmental Protection Agency shall inform the other country of the activity or measure. If the other country wishes to participate in the environmental assessment, the Agency shall give the other country the opportunity to participate in a consultation process on the environmental impact assessment and the final permit application.

When consultations are to take place with another country, the Swedish Environmental Protection Agency shall agree with the responsible authority in that country on how the consultation is to be carried out so that the authorities and the public concerned in the other country are given the opportunity to submit comments.

6) What are the timeframes for public involvement including access to justice?

When consultations are to take place with another country according to Chapter 6 Section 13 or 33 of the Environmental Code, the Swedish Environmental Protection Agency shall agree with the responsible authority in that country on how the consultation is to be carried out so that the authorities and the public concerned in the other country are given the opportunity to submit comments within a reasonable time, which should be at least 30 days.

A decision may be appealed within three weeks from when the decision or judgement is made.

7) How is information on access to justice provided to the parties?

Section 33 of the Administrative Procedure Act stipulates that an authority that announces a decision in a case shall, as soon as possible, notify the party of the complete content of the decision, unless this is clearly unnecessary. If the party is entitled to appeal the decision, they must also be informed of the procedure. The authority shall at the same time inform the party of dissenting opinions that have been recorded in accordance with section 30 or in accordance with special provisions in another constitution. A notice of how to appeal must contain information about what requirements are placed on the form and content of the appeal and what applies in terms of filing and appeal time.

A similar rule can be found in Section 30 of the Court Matters Act. In cases where a decision can be appealed, the parties shall be informed of this. If the decision means that the case has been decided, the parties shall be informed of what they must observe in an appeal. If the case has not been decided, the parties shall be informed that they may, on request, obtain such information from the court. If leave to appeal is required on appeal, the parties shall also be informed of this and of the grounds on which such leave may be granted.

8) Is translation, interpretation provided to foreign participants? What are the rules applicable?

According to the Administrative Procedure Act, Section 3, an authority shall use an interpreter and ensure that documents are translated if necessary in order for the individual to be able to exercise their right when the authority has contact with someone who does not have mastery of Swedish.

The court may, if necessary, according to Code of Judicial Procedure, Chapter 33, Section 9, translate documents that are sent in or sent out by the court. The court is obliged to translate a document in a criminal case, or the most important parts of it, for the suspect or at the request of an appellant, if a translation is essential to enable the suspect or appellant to exercise their right. The translation may be made orally if it is not inappropriate for the purposes of the document or the case or any other circumstance. By reference to Section 48 of the Court Matters Act, that provision is also applicable in administrative cases at the land and environment courts.

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[1] There are some exceptions to this main rule: Decisions on environmental sanction fees and on legally binding land use plans are challenged directly to the Land and Environment Court and not via the County Administrative Board.

Last update: 22/09/2021

Access to justice falling outside of the scope of EIA, IPPC/IED, access to information and ELD

1.1. Decisions, acts or omissions concerning specific activities falling within the scope of EU environmental legislation outside the scope of the EIA and IED Directives[1]

1) What are the applicable national statutory rules on standing for both individuals and NGOs wishing to obtain a) an administrative review and b) a legal challenge before a national court in respect of the procedures for adopting the decision, act or omission and its content (in particular, the conditions to be fulfilled and any time-limits that apply to the submission of a challenge)? How effective is the level of access to national courts in light of the CJEU case law and any related national case law?

On a high level, the Swedish review procedures cover most of the provisions of the Aarhus Convention. There are, however, some limitations in the access to justice due to leave to appeal obligations and standing restrictions for environmental organisations, which gives rise to conformity concerns. There is also a lack of information regarding the possibility of the public concerned to appeal permit decisions under the Environmental Code.

The Environmental Code constitutes a framework legislation that consists of the general provisions regarding environmental protection. It applies to all human activities that might harm the environment. The Code contains the environmental principles and provisions providing for environmental quality norms as well as environmental impact assessments. Certain water operations, industrial undertakings, quarries and other environmentally hazardous activities are subject to permit or notification requirements specified in Government ordinances. The Code also contains provisions relating to nature protection, flora and fauna, genetically modified organisms, chemicals and waste. Thus, the Code regulates issues concerning the EIA, the IPPC/IED Directives and the ELD Directive, as well as other environmental decisions, acts and omissions concerning specific activities falling within the scope of EU environmental legislation. The general rules on legal standing in Chapter 12 Sections 12, 13 and 14 of the Environmental Code are also applicable in those cases that fall outside the scope of EIA, IPPC/IED and ELD.

According to Chapter 16 Section 12 of the Environmental Code, appeals may be made against appealable judgments or decisions by any person who is the subject of a judgment or decision against them.

NGOs which meet the requirements stipulated in Chapter 16 Section 13 of the Environmental Code may challenge many administrative decisions. The requirements are that the NGO is a non-profit association whose purpose according to its statutes is to safeguard nature conservation or environmental protection interests. The association furthermore must have conducted activities in Sweden for at least three years and have at least 100 members or by some other means show that its activities are supported by the public. In respect of shore protection, the provisions also apply to non-profit associations whose purpose according to their statutes is to promote outdoor interests (Chapter 16 Section 14 of the Code).

When a permit has been granted through a judgement by the Land and Environment Court, this judgment may be appealed, with leave to appeal, to the Land and Environment Court of Appeal. In second instance, the judgment may, with leave to appeal, be appealed to the Supreme Court. This limits the right to access to a review procedure for decisions issued by the Land and Environment Court in the first instance. Consequently, in situations where the initial permit decision is taken by the Land and Environment Court and is appealed to the Land and Environment Court of Appeal, the Swedish review system does not appear to comply with the Convention.

Rules on natural habitat protection originating in the Habitat Directive and in the Bird Directive have been implemented both in Chapter 7 of the Environmental Code and in the Ordinance on Area Protection. Permits are required to conduct activities or take measures that can significantly affect the environment in a Natura 2000 site. Such permits are issued by the County Administrative Boards for smaller activities and measures, but if the activity or measure also requires permits according to EIA- and/or IPPC/IED-related rules, an overall assessment is made and the licensing authority may then be the County Administrative Board or the Land and Environment Court, depending on the type of activity in question.

Rules on species protection originating in the Habitat Directive and in the Bird Directive have been implemented both in Chapter 8 of the Environmental Code and in the Species Protection Ordinance, the Game Act and the Fishing Act. The Species Protection Ordinance includes regulation on protection of wild birds, wild animal species and plant species protected in the stated directives. In individual cases, the County Administrative Boards may, under certain circumstances, grant exemption from the prohibitions. Decisions on exemptions or omissions concerning species protection can be appealed under the same regulations as those applicable in other cases under the Environmental Code. The authorities' decisions are appealed to the Land and Environment Court and, after leave to appeal, to the Land and Environment Court of Appeal.

Decisions on protective hunting are, if the requirements based on the Habitat Directive and on the Bird Directive are met, taken by the County Administrative Boards according to the Game Act and the Game Ordinance. The decision can be appealed to the Administrative Court and, with leave to appeal, to the Administrative Court of Appeal and the Supreme Administrative Court. Rules on standing can be found in Section 42 of the Administrative Procedure Act. A person whom the decision concerns may appeal against it, provided that the decision affects them adversely and is subject to appeal. According to established case law, environmental NGOs also have the right to appeal decisions under the Game Ordinance on hunting of species protected by the Habitats Directive and the Bird Directive.

In order to start a mine in Sweden, three different permits are needed. An exploration permit gives access to the land and an exclusive right to explore within the permit area, while an exploitation concession gives the holder the right to exploit a proven, extractable mineral deposit for a period of 25 years according to the Minerals Act. A permit according to the Environmental Code is also needed. Exploration for minerals may affect water quality and nature. However, the rules on standing when it comes to exploration permits are limited through case law. The general rule for individuals can be found in Section 42 of the Administrative Procedure Act. In case law, the Administrative Court of Appeal has ruled that only those who own the land where the exploration will take

place and others with special rights, such as land tenants and holders of hunting and fishing rights, in the same area have standing. NGOs have no standing and cannot appeal an exploration permit, not even if the exploration affects nature or water. When it comes to permits according to the Environmental Code, the ordinary rules in Chapter 16 Sections 12, 13 and 14 apply.
Chapter 16 Section 13 stipulates that an NGO must have been conducting activities in Sweden for three years in order to have legal standing. This requirement of a three-year period of conducting activities in Sweden appears to be contrary to the Aarhus Convention and general EU law principles of non-discrimination. This restriction means that no environmental organisations from other EU Member States may have standing before the Swedish courts. There may be industrial emission activities that affect the environment in other Member States, but environmental organisations from these other Member States would not be able to bring a case regarding these activities in Sweden. (There is an Environmental Protection Convention between Denmark, Finland, Norway and Sweden, which at least ensures that environmental organisations from these countries will have standing before Swedish courts). In the EU context, the current Swedish provision is to be regarded as discriminatory. In a decision of 21 December 2018 from the Supreme Administrative Court, case 4840-18, a challenge from a Polish NGO was dismissed, but on the grounds that the organisation had not showed that it had support by the public. The judgment with reasoning regarding the support by the public in Poland indicates that a court would set aside the current provision and not dismiss a foreign NGO on the grounds that it has not been operating in Sweden. The problem has been discussed in a Governmental bill regarding EIAs, and the provision has been found discriminatory and thus should be altered, but so far nothing has happened.
The Planning and Building Act refers to the general rules in Section 42 of the Administrative Procedure Act and, by reference to the rules in Chapter 16 Sections 13 and 14, NGOs have been given the right to standing, but in principle only in cases regarding detailed municipal land use plans. The narrow scope, though, has been expanded through recent case law from the Land and Environment Court of Appeal and the Supreme Court.
According to Chapter 13 Section 11 of the Planning and Building Act, the appellant is obliged to participate in the administrative procedure with the permitting authority as a precondition for being entitled to take a case to national court. Hence, the right to appeal for persons concerned and NGOs is, when it comes to urban detailed development plans, limited to those who have submitted their opinions on the matter during the initial examination period at the municipality and those opinions have not been considered. This rule appears to be contrary to the Aarhus Convention.

2) What is the scope of the administrative review (if applicable) and the judicial review (if applicable)? Does it cover both procedural and substantive legality?

There are no administrative procedural rules under Swedish law that set out the scope of the review of the Court. The relevant court will review both the substantive and procedural legality of the judgment or decision. The ultimate responsibility for the investigation of the case rests with the court according to the “ex officio principle”. The Court must, through communication with the parties, ensure that the case is examined properly and that any ambiguities are clarified. It is thus obliged and competent to fully examine the facts/merits of the case. The Court may even perform investigations at the location in question if this is needed in order to examine the case. The Court’s obligation to examine the case on its own initiative applies not only to material issues, but also to procedural issues. The claims of the parties will set the frame for the process, however the court is not bound by the causes of action invoked and may base its judgment on circumstances other than those invoked.

3) Before filing a court action, is there a requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures?

Regardless of who makes the decisions, the County Administrative Board or a Land and Environment Court, an appeal may be filed directly with a court; the Land and Environment Court if the licensing authority is the County Administrative Board, or the Land and Environment Court of Appeal if the permit is issued by the Land and Environment Court.
If the first decision is taken by a local authority, with few exceptions an appeal must first be made through administrative appeal at the County Administrative Board prior to challenging the decision at court.

4) In order to have standing before the national courts is it necessary to participate in the public consultation phase of the administrative procedure – to make comments, participate at hearing, etc.?

There are no requirements under the Swedish Environmental Code regarding participation at the public consultation stage in order to be able to appeal a decision. There are thus no preclusion requirements. Once a decision or judgment on a permit has been issued, it may be appealed by anyone who is adversely affected by the decision.
An exception to this general rule is decisions of a municipality regarding detailed development plans under the Planning and Building Act. To challenge such decisions, the appellant must have raised the objections during the preparatory procedure in the consultation phase.

5) Are there some grounds/arguments precluded from the judicial review phase?

No grounds or arguments are precluded from the judicial review phase.
The absence of litigation costs in administrative cases means that each party has to cover its own costs. This may result in an unequal situation, but this is intended to be regulated by the ex officio principle and the burden on the court to investigate the case, not just to clarify foggy parts.

6) Fair, equitable - what meaning is given to equality of arms in the national jurisdiction?

Swedish law requires equal opportunities of the parties in environmental proceedings.
Each party has the same legal rights to call witnesses and experts and to challenge argumentation and experts presented by the other party.
The absence of litigation costs in administrative cases means that each party has to cover its own costs. This may result in an unequal situation, but this is intended to be regulated by the ex officio principle and the burden on the court to investigate the case, not just to clarify foggy parts.

7) How is the notion of “timely” implemented by the national legislation?

In the Swedish judicial system, there are no binding time limits within which a court must handle a case. Sweden has incorporated the European Convention on Human Rights (ECHMR) into Swedish law through the Act on the European Convention for the Protection of Human Rights and Fundamental Freedoms. Article 6(1) of the ECHMR states that everyone shall have the right to ‘a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law’.
There is a possibility for a party to ask for priority of a case according to the Priority Review Act.

8) Is injunctive relief available? If yes what are the procedural requirements in order to be eligible for this? Are there special rules applicable to each sector apart from the general national provisions?

Normally a permit or an exemption cannot be utilised until the possibility of appeal has passed. Hence there is no need for injunctive relief in these cases. There is, though, a possibility to decide that such decisions, as well as decisions from the supervisory authority, shall be directly executable. If appealed, the higher instance (irrespective of whether this is a County Administrative Board or a court) can decide on injunctive relief following the general rules.

9) What are the cost rules to bring a challenge on access to justice in these areas? What are the possible consequences if one loses a case before court? What are the safeguards against the costs being prohibitive, and do these include express statutory reference to a requirement that costs should not be prohibitive?

There are no costs for bringing a case to court according to these rules.
Each party only has to bear its own costs, but the Swedish environmental legislation does not require legal representation, neither for the administrative procedure nor for the judicial review procedure, and not even for appeals to the Environmental Court of Appeal or the Supreme Court. The only exception to

the general rule of a free environmental procedure is found in the permitting procedure for water operations. The applicant here has to pay the litigation costs of all those who will be affected by the activity.
In civil cases concerning damages, the general rules on legal procedure apply, which means that the losing party has to pay all the winning party's legal costs; the loser party pays principle in full. In civil cases, the litigant has to pay a court fee, around 300 Euros.
Because of this there is no need for rules to safeguard the cost being prohibitive.

1.2. Decisions, acts or omissions concerning the administrative procedure to be followed to comply with national implementing legislation for the Strategic Environmental Assessment (SEA) Directive 2001/42/EC[2]

1) What are the applicable national statutory rules on standing for both individuals and NGOs wishing to obtain a) an administrative review and b) a legal challenge before a national court in respect of the procedures for adopting the decision, act or omission (in particular, the conditions to be fulfilled and any time limits that apply to the submission of a challenge)? How effective is the level of access to national courts in light of the CJEU case law and any related national case law?

Chapter 6 Sections 3 to 19 of the Environmental Code sets out the rules for strategic environmental assessments for plans and programmes falling under the SEA Directive. The rules are applicable to all plans and programmes drawn up for a number of sectors, setting out the framework for future authorisations for the projects listed in Annexes I and II to Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment, and all plans and programmes which have been deemed to require an assessment in accordance with the Habitat Directive.
In Sweden, the SEA is an intrinsic part of the planning procedure, and this assessment is not made separately to the decision regarding the plan or programme. The SEA shall be approved only if the direct and indirect impacts of the plan or programme are deemed to be adequately described in accordance with the provisions of the Code, and, if approved, this will be noted in the decision concerning the plan or programme.
Because of this system, the SEA, or any part of it, such as screening, scoping or final authorisation of the EIA itself, cannot be appealed separately. However, the EIA, including both the procedural requirements and the information it contains in a specific case, can be challenged when appealing the plan as such.
Spatial planning
Sweden has no cross-sector planning for land on the national level; however, there is national-level maritime planning. By 2021 there will be three maritime spatial plans for separate geographical zones. National transportation infrastructure planning also affects the conditions of municipal and regional physical planning.
Like the national planning, the regional planning is relatively limited. The Planning and Building Act stipulates that the municipalities are responsible for the planning of the use of land and water within their geographical boundaries.
The municipality must have a current comprehensive plan that covers the entire area of the municipality. In this plan, the municipality shall present the basic characteristics of its intended use of land and water areas. The plan also has to indicate how the municipality intends to take into account national and regional goals, plans and programmes of significance for sustainable development within the municipality. The stipulations in a comprehensive plan are not legally binding. But if statements are clear and well developed, the practice of the courts show that these plans can have a strong guiding effect.
If the land is unexploited, then an urban detailed development plan process generally needs to be initiated. A detailed development plan enables the municipality to regulate the use of land and water areas in a particular area and is regularly required for all operations listed in Annexes I and II of the EIA Directive and for all public and environmental private projects which have been deemed to require an assessment in accordance with the Habitat Directive.
The detailed development plan regulates what are public spaces, development districts and water areas, and how they are to be used and designed. The stipulations in a detailed development plan are binding for adjudication of subsequent building permit applications.
According to the Planning and Building Act, Chapter 13, Section 1, a municipal decision on comprehensive plans may be appealed by any member of a municipality to the Administrative Court and, with leave to appeal, to the Administrative Court of Appeal and the Supreme Administrative Court within three weeks of the decision. In these cases, the administrative courts only try the legality of the municipality's or region's decision. There is no requirement to participate in the public participation stage of the administrative procedure. There is no cost involved in bringing a challenge of a comprehensive plan to court. Each party is only responsible for its own costs, even if it loses the case. The comprehensive plan does not enter into force until the possibility of appeal has passed. Hence there is no need for injunctive relief in these cases.
Municipal decisions on detailed development plans according to the Planning and Building Act, Chapter 13, Section 2, are appealed directly to one of the Land and Environment Courts and may be appealed further to the Land and Environment Court of Appeal (leave to appeal needed). In its judgment, the Land and Environment Court of Appeal may decide to grant permission to appeal the judgment to the Supreme Court, if the decision is of interest as a precedence. The Supreme Court still decides on whether or not to grant leave to appeal.
The Planning and Building Act regulates the right for environmental NGOs referred to in Chapter 16, Section 13, of the Environmental Code to appeal a decision to adopt, amend or set aside a detailed development plan likely to have a significant environmental impact given that the planned area may be used for certain types of activity, and a decision to adopt, amend or set aside a detailed development plan that stipulates that an area will no longer be covered by shore protection. The right to standing for environmental organisations applies provided that decisions on the matter can be expected to have an adverse environmental effect.
For individuals, the general rule on standing in the Administrative Procedure Act is applicable. According to case law, an individual may usually appeal building permits and development plans which may affect them personally (they are neighbours or living within or directly adjacent to the area to which a municipal plan applies).
According to Chapter 13 Section 11 of the Planning and Building Act, the appellant is obliged to participate in the administrative procedure with the permitting authority as a precondition for being entitled to take a case to national court. Hence the right to appeal for the persons concerned is, when it comes to urban detailed development plans, limited to those who have submitted their opinions on the matter during the initial examination period at the municipality and those opinions have not been considered. This rule appears to be contrary to the Aarhus Convention.

2) What is the scope of the administrative review (if applicable) and the judicial review (if applicable)? Does it cover both procedural and substantive legality?

Planning cases may only be challenged at court.
There are no administrative procedural rules under Swedish law that set out the scope of the review of the Court. The relevant court will review both the substantive and procedural legality of the judgment or decision. The ultimate responsibility for the investigation of the case rests with the court according to the “ex officio principle”. The Court must, through communication with the parties, ensure that the case is examined properly and that any ambiguities are clarified. It is thus obliged and competent to fully examine the facts/merits of the case. The Court may even, on its own initiative, perform investigations at the location in question if this is needed in order to examine the case. The Court’s obligation to examine the case on its own initiative applies not only to material issues, but also to procedural issues.

The scope of the review in planning cases, however, is more restricted than in other administrative cases, and in principle just focuses on the issues raised by the appellant, Chapter 13 Section 17 of the Planning and Building Act.

3) Before filing a court action, is there a requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures?

The decisions on planning taken by the municipality according to the Planning and Building Act may be appealed directly to the Land and Environment Court and, with leave to appeal, to the Land and Environment Court of Appeal and, finally, to the Supreme Court (leave to appeal needed) if the Land and Environment Court of Appeal provides for this in its judgment (when a precedence is desired).

4) In order to have standing before the national courts is it necessary to participate in the public consultation phase of the administrative procedure – to make comments, participate at hearing, etc.?

When it comes to a decision to adopt, amend or repeal a detailed development plan according to the Building and Planning Act, the appellant is obliged to participate in the administrative procedure with the permitting authority during the public consultation phase as a precondition for being entitled to take a case to national court. A person may only appeal a decision on a detailed development plan if they have submitted their opinions on the matter in writing during the initial examination period at the municipality and those opinion have not been considered.

5) Is injunctive relief available? If yes what are the procedural requirements in order to be eligible for this? Are there special rules applicable to each sector apart from the general national provisions?

The urban detailed development plan does not enter into force until the possibility of appeal has passed, so there is no need for injunctive relief in these cases.

6) What are the cost rules to bring a challenge on access to justice in these areas? What are the possible consequences if one loses a case before court? What are the safeguards against the costs being prohibitive and do these include express statutory reference to a requirement that costs should not be prohibitive?

There is no cost involved in bringing a challenge of a comprehensive or a detailed development plan to court. Each party is only responsible for its own costs, even if they lose the case.

Because of this, there is no need for rules to safeguard against the cost being prohibitive.

1.3. Decisions, acts or omissions concerning the administrative procedures to be followed to comply with the public participation requirements of Article 7 of the Aarhus Convention in respect of plans and programmes not submitted to the procedures set out in the Strategic Environmental Assessment (SEA) Directive 2001/42/EC[3]

Plans and programmes not falling under the SEA Directive are, under Swedish law, generally not binding for the public, only indicative or binding for authorities. They are not therefore considered to be such decisions as are appealable by individuals or NGOs. There is no legal remedy against these legal instruments.

An exception is municipal comprehensive and regional planning according to the Planning and Building Act, which may be challenged through legal review. Any member of a municipality or region has the right to have the legality of the municipality's or region's decision on the plans reviewed by appealing the decision directly to the Administrative Court. The scope of the examination of the court is narrow and the “ex-officio principle” does not apply. In examining the appeal, the court may not take into account circumstances other than those to which the appellant referred before expiry of the appeal period. An appealed decision shall be set aside if it has not come about legally; the decision concerns something that is not a matter for the municipality or the region; the body which took the decision did not have the right to do so; or the decision is otherwise contrary to law or other constitution. There are no requirements for participation in the public participation phase of the administrative procedure before filing a complaint to the court. There are no costs for bringing a case to court, not even if the case is lost.

The administrative procedures to be followed to comply with the public participation requirement of Article 7 of the Aarhus Convention are mainly found in Chapter 6 of the Environmental Code.

In Sweden, the consulting procedures are an intrinsic part of the planning procedure, and this assessment is not made separately to the decision regarding the plan or programme. The plan or programme shall be approved only if the consultation has taken place and if the direct and indirect impacts of the plan or programme are deemed to be adequately described in accordance with the provisions of the Code, and, if approved, this will be noted in the decision concerning the plan or programme.

Because of this system, the procedure itself cannot be appealed separately. However, the procedural requirements and the information contained in a specific case can be challenged when appealing the plan or programme as such.

Chapter 6 of the Code includes regulation on screening, scoping and final authorisation of the plans and programmes relating to the environment, not only those falling under the SEA Directive. The rules are applicable for all plans and programmes if the implementation of the plan, programme or change can be assumed to have a significant environmental impact. This includes action plans necessary to comply with an environmental quality standard, national and municipal waste plans, municipal comprehensive plans (covering the whole municipality), regional planning, municipal plans for supply, distribution and use of energy, regional plans for transport infrastructure, marine spatial planning, national plans for sustainable hydropower and any other plans or programmes relating to agriculture or forestry, fisheries, energy, industry, transport, regional development, waste management, water management, telecommunications, tourism, spatial planning or land use.

The rules stipulate that the authority responsible for the plan or programme shall consult municipalities, County Administrative Boards and other authorities that, due to their special environmental responsibility, can be assumed to be affected by the plan or programme (Chapter 6, Sections 6 and 9). There are no rules stipulating the participation of the public concerned (neither individuals nor NGOs) when it comes to plans and programmes, only when it comes to environmentally hazardous activities. But nothing prevents an authority from consulting the public as well.

Chapter 6, Section 15, stipulates that the authority or municipality, as early as possible in the work on the proposal for a plan or programme, shall produce the environmental impact assessment and make it and the proposal available to the public and the municipalities and authorities that, due to their special environmental responsibility, can be assumed to be affected. They must be given information on how they can take part in the proposal and the environmental impact assessment, as well as how and within what time comments can be submitted. The time for submitting comments must be reasonable.

In a decision to adopt a plan or programme, there shall be an account of how the environmental aspects have been integrated into the plan or programme; how the environmental impact assessment and comments received have been taken into account; the reasons why the plan or programme has been adopted instead of the options considered; and the measures planned to monitor and follow up the significant environmental impact of the implementation of the plan or programme (Chapter 6, Section 16). The plan or programme shall be made available to the public and the authorities and municipalities that, due to their special environmental responsibility, can be assumed to be affected.

There are also general rules in the Administrative Procedure Act that an authority must provide the individual with assistance such that they can protect their interests. The assistance shall be provided to the extent that is appropriate with regard to the nature of the issue, the individual's need for assistance and the authority's activities. It should be given without undue delay (Section 6).

1) What are the applicable national statutory rules on standing for both individuals and NGOs wishing to obtain a) an administrative review and b) a legal challenge before a national court in respect of the procedures for adopting the decision, act, or omission (in particular, the conditions to be fulfilled and any time limits that apply to the submission of a challenge)? How effective is the level of access to national courts in light of the CJEU case law and any related national case law?

Plans and programmes not falling under the SEA Directive are, under Swedish law, generally not binding for the public, only indicative or binding for authorities. They are not therefore considered to be such decisions as are appealable by individuals or NGOs. There is no legal remedy against these legal instruments

2) What is the scope of the administrative review (if applicable) and the judicial review (if applicable)? Does it cover both procedural and substantive legality?

Plans and programmes not falling under the SEA Directive are, under Swedish law, generally not binding for the public, only indicative or binding for authorities. They are not therefore considered to be such decisions as are appealable by individuals or NGOs. There is no legal remedy against these legal instruments

3) Before filing a court action, is there a requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures?

Plans and programmes not falling under the SEA Directive are, under Swedish law, generally not binding for the public, only indicative or binding for authorities. They are not therefore considered to be such decisions as are appealable by individuals or NGOs. There is no legal remedy against these legal instruments

4) In order to have standing before the national courts is it necessary to participate in the public consultation phase of the administrative procedure – to make comments, participate at hearing, etc.?

Plans and programmes not falling under the SEA Directive are, under Swedish law, generally not binding for the public, only indicative or binding for authorities. They are not therefore considered to be such decisions as are appealable by individuals or NGOs. There is no legal remedy against these legal instruments

5) Is injunctive relief available? If yes, what are the procedural requirements in order to be eligible for this? Are there special rules applicable to each sector apart from the general national provisions?

Plans and programmes not falling under the SEA Directive are, under Swedish law, generally not binding for the public, only indicative or binding for authorities. They are not therefore considered to be such decisions as are appealable by individuals or NGOs. There is no legal remedy against these legal instruments.

6) What are the cost rules to bring a challenge on access to justice in these areas? What are the possible consequences if one loses a case before court? What are the safeguards against the costs being prohibitive and do these include express statutory reference to a requirement that costs should not be prohibitive?

Plans and programmes not falling under the SEA Directive are, under Swedish law, generally not binding for the public, only indicative or binding for authorities. They are not therefore considered to be such decisions as are appealable by individuals or NGOs. There is no legal remedy against these legal instruments.

1.4. Decisions, acts or omissions also concerning plans and programmes required to be prepared under EU environmental legislation[4]

Chapter 6 of the Environmental Code includes regulation on screening, scoping and final authorisation of plans and programmes relating to the environment, not only those falling under the SEA Directive. The rules are applicable for all plans and programmes if the implementation of the plan, programme or change can be assumed to have a significant environmental impact. This includes action plans necessary to comply with an environmental quality standard, national and municipal waste plans, municipal comprehensive plans (covering the whole municipality), regional planning, municipal plans for supply, distribution and use of energy, regional plans for transport infrastructure, marine spatial planning, national plans for sustainable hydropower and any other plans or programmes relating to agriculture or forestry, fisheries, energy, industry, transport, regional development, waste management, water management, telecommunications, tourism, spatial planning or land use.

1) What are the applicable national statutory rules on standing for both individuals and NGOs wishing to obtain a) an administrative review and b) a legal challenge before a national court in respect of the content of the plan (in particular, the conditions to be fulfilled and any time limits that apply to the submission of a challenge)? How effective is the level of access to national courts in light of the CJEU case law and any related national case law?

None of the plans and programmes mentioned above are, according to Swedish law, binding for the public, only indicative or binding for authorities. They are not therefore considered to be such decisions as are appealable by individuals or NGOs. There is no legal remedy against these legal instruments.

2) Does the form in which the plan or programme is adopted make a difference in terms of legal standing (see also Section 2.5 below)?

None of the plans and programmes mentioned above are, according to Swedish law, binding for the public, only indicative or binding for authorities. They are not therefore considered to be such decisions as are appealable by individuals or NGOs. There is no legal remedy against these legal instruments.

3) What is the scope of the administrative review (if applicable) and the judicial review (if applicable)? Does it cover both procedural and substantive legality?

None of the plans and programmes mentioned above are, according to Swedish law, binding for the public, only indicative or binding for authorities. They are not therefore considered to be such decisions as are appealable by individuals or NGOs. There is no legal remedy against these legal instruments.

4) Before filing a court action, is there a requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures?

None of the plans and programmes mentioned above are, according to Swedish law, binding for the public, only indicative or binding for authorities. They are not therefore considered to be such decisions as are appealable by individuals or NGOs. There is no legal remedy against these legal instruments.

5) In order to have standing before the national courts is it necessary to participate in the public consultation phase of the administrative procedure – to make comments, participate at hearing, etc.?

None of the plans and programmes mentioned above are, according to Swedish law, binding for the public, only indicative or binding for authorities. They are not therefore considered to be such decisions as are appealable by individuals or NGOs. There is no legal remedy against these legal instruments.

6) Are there some grounds/arguments precluded from the judicial review phase?

None of the plans and programmes mentioned above are, according to Swedish law, binding for the public, only indicative or binding for authorities. They are not therefore considered to be such decisions as are appealable by individuals or NGOs. There is no legal remedy against these legal instruments.

7) Fair, equitable - what meaning is given to equality of arms in the national jurisdiction?

None of the plans and programmes mentioned above are, according to Swedish law, binding for the public, only indicative or binding for authorities. They are not therefore considered to be such decisions as are appealable by individuals or NGOs. There is no legal remedy against these legal instruments.

8) How is the notion of "timely" implemented by the national legislation?

None of the plans and programmes mentioned above are, according to Swedish law, binding for the public, only indicative or binding for authorities. They are not therefore considered to be such decisions as are appealable by individuals or NGOs. There is no legal remedy against these legal instruments.

9) Is injunctive relief available? If yes what are the procedural requirements in order to be eligible for this? Are there special rules applicable to each sector apart from the general national provisions?

None of the plans and programmes mentioned above are, according to Swedish law, binding for the public, only indicative or binding for authorities. They are not therefore considered to be such decisions as are appealable by individuals or NGOs. There is no legal remedy against these legal instruments.

10) What are the cost rules to bring a challenge on access to justice in these areas? What are the possible consequences if one loses a case before court? What are the safeguards against the costs being prohibitive and do these include express statutory reference to a requirement that costs should not be prohibitive?

None of the plans and programmes mentioned above are, according to Swedish law, binding for the public, only indicative or binding for authorities. They are not therefore considered to be such decisions as are appealable by individuals or NGOs. There is no legal remedy against these legal instruments.

1.5. Executive regulations and/or generally applicable legally binding normative instruments used to implement EU environmental legislation and related EU regulatory acts[5]

1) What are the applicable national statutory rules on standing for both individuals and NGOs wishing to obtain a) an administrative review and b) a legal challenge before a national court in respect of the procedure for adopting or the content of the decision, act or omission of the national regulatory act (in particular, the conditions to be fulfilled and any time limits that apply to the submission of a challenge)? How effective is the level of access to national courts in light of the CJEU case law and any related national case law?

EU legislation is implemented in Sweden through acts adopted by the Parliament (Riksdag) or by ordinances adopted by the Government. By statutory authorisation, many of the central administrative authorities are also responsible for issuing regulations within their field of operation.

The Government and other regulatory bodies regularly apply consultation procedure in connection with the preparation of rules that have general interest. The Government will then appoint a commission of inquiry. After a commission of inquiry has submitted its report, the Government forwards it to relevant public agencies, organisations and municipalities in order to hear their opinions on the proposals. This is known as referral of a report for consideration. Anyone, including private individuals, is entitled to submit comments to the Government.

The Government can also adopt rules without having to present a proposal to the Riksdag first. Such rules are known as ordinances. The Instrument of Government sets out what must be decided by law and what can be decided in an ordinance.

There is no Constitutional Court in Sweden, nor any abstract norm control. Instead, when a court is dealing with a case, it is obliged to control the legal basis for the decision and must disregard any act or statute which is in conflict with the Constitution or superior norms. During an ongoing individual case there exists a right of judicial review, meaning that courts and other public bodies have the right to override laws that are contrary to the Constitution and thereby also contrary to EU law. The Swedish right of judicial review for courts is regulated in Chapter 11 Section 14 of the Instrument of Government for Government and in Chapter 12 Section 10 of the Instrument of Government for authorities.

Since there is a need for an individual case in order to also bring up questions on implementation of EU environmental legislation and other regulatory acts, the rules on standing are the same as in any other individual environmental case in Sweden. The main rules for individuals may be found in Chapter 16 Section 12 of the Environmental Code and in Section 42 of the Administrative Procedure Act, and the main rules for NGOs may be found in Chapter 16 Section 13 of the Environmental Code. When a case is open, the individual and NGO with standing may also argue that EU legislation has not been implemented correctly into Swedish law. It is also possible in an ongoing case for individuals and NGOs to bring a legal challenge before the court to ask for the possibility to get a preliminary ruling concerning the interpretation of EU legislation according to Article 267 TFEU.

2) What is the scope of the administrative review (if applicable) and the judicial review (if applicable)? Does it cover both procedural and substantive legality?

There are no administrative procedural rules under Swedish law that set out the scope of the review of the Court. The relevant court will review both the substantive and procedural legality of the judgment or decision. The ultimate responsibility for the investigation of the case rests with the court according to the “ex officio principle”. The Court must, through communication with the parties, ensure that the case is examined properly and that any ambiguities are clarified. It is thus obliged and competent to fully examine the facts/merits of the case. The Court’s obligation to examine the case on its own initiative applies not only to material or procedural issues, but also issues such as whether EU legislation is implemented in a correct way. The Court is bound by the claims of the parties, though not the causes of action invoked, and can base its judgment on circumstances other than those invoked by the parties.

3) Before filing a court action, is there a requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures?

Decisions made by the County Administrative Boards according to the Environmental Code and municipal decisions on planning according to the Planning and Building Act can be directly appealed to the Land and Environment Court. In principle, all other decisions from the municipality are appealed via the County Administrative Board prior to challenge in Court.

4) In order to have standing before the national courts is it necessary to participate in the public consultation phase of the administrative procedure – to make comments, participate at hearing, etc.?

There are no requirements under the Swedish Environmental Code regarding participation in the public consultation stage in order to be able to appeal a decision. There are thus no preclusion requirements. Once a decision or judgement has been issued, it may be appealed by anyone who is adversely affected by the decision.

When it comes to a decision to adopt, amend or repeal a detailed plan or area regulations according to the Building and Planning Act, the appellant is obliged to participate in the administrative procedure with the permitting authority as a precondition for being entitled to take a case to national court. A person may only appeal a decision on a detailed development plan if they have submitted their opinions on the matter in writing during the initial examination period at the municipality and those opinions have not been considered.

5) Is injunctive relief available? If yes, what are the procedural requirements in order to be eligible for this? Are there special rules applicable to each sector apart from the general national provisions?

Normally a permit or plan cannot be utilised until the possibility of appeal has passed. Permit decisions may, however, be combined with a “go-ahead decision” enabling the applicant to start their activity. If a go-ahead decision has been granted, the public concerned can ask the court for an injunction of that decision.

6) What are the cost rules to bring a challenge on access to justice in these areas? What are the possible consequences if one loses a case before court? What are the safeguards against the costs being prohibitive and do these include express statutory reference to a requirement that costs should not be prohibitive?

There are no costs for bringing a case to court according to these rules, not even if the case is lost.

Because of this, there is no need for rules to safeguard against the cost being prohibitive.

7) Is it possible to bring a legal challenge before a national court concerning any related EU regulatory act with a view to a validity reference under Article 267 TFEU, and if so how?[6]

All parties in an ongoing case may petition that the court trying the case request a preliminary ruling from the EU Court. This may be done regardless of which court is reviewing the case. It is up to the court to decide whether a preliminary ruling is necessary.

[1] This category of case reflects recent case-law of the CJEU such as Protect C-664/15, the Slovak brown bear case C-240/09, see as described under the Commission Notice C/2017/2616 on access to justice in environmental matters.
[2] The SEA Directive relates to plans and programmes. These are also covered by Article 7 and Article 9(3) of the Aarhus Convention.
[3] See findings under ACCC/C/2010/54 for an example of a plan not submitted to SEA but subject to the public participation requirements of Article 7 of the Aarhus Convention.
[4] These fall within the scope of both Article 7 and Article 9(3) of the Aarhus Convention. See also relevant case-law of the Court of Justice of the European Union such as Case C-237/97, Janecek and cases such as Boxus and Solvay C-128/09-C-131/09 and C-182/10, as referred to under the Commission Notice C/2017/2616 on access to justice in environmental matters.
[5] Such acts come within the scope of Article 8 and Article 9(3) of the Aarhus Convention. An example of such an act concerns the decision of the national administration that featured in Case C-281/16, *Vereniging Hoekschewaards Landschap*, ECLI:EU:C:2017:774.
[6] For an example of such a preliminary reference see Case C-281/16, *Vereniging Hoekschewaards Landschap*, ECLI:EU:C:2017:774.
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Other relevant rules on appeals, remedies and access to justice in environmental matters

Remedies against administrative passivity

For the purpose of overseeing compliance with the requirements set out in the Environmental Code and legislation issued under the Environmental Code and the Planning and Building Act, as well as the requirements set out in permits, the law contains provisions concerning supervision.
Both affected individuals and NGOs may at any time make a request to the supervisory authority to take actions against an activity. The supervisory authority is often, but not always, the County Administrative Board, but it may also be the local municipality or other another government authority. If the supervision authority then chooses to do nothing, this decision may be appealed to the Land and Environment Court and, with leave to appeal, to the Land and Environment Court of Appeal. The courts can then, if they choose to rule in favour of the appellant, send the case back to the supervisory authority for them to act, or decide e.g. to issue an order on precautionary measures or to prohibit an activity.
Administrative passivity may also be addressed by the Parliamentary Ombudsman (JO) or the Chancellor of Justice (JK), which are both designated to ensure that public authorities and their staff comply with laws and other statutes. They have a disciplinary function and act through opinions and prosecution for administrative misconduct. The Chancellor of Justice may also regulate certain claims for damages directed against the State. The claims for damages that the JK handles are primarily those based on a state authority having made an incorrect decision.
The Chief Parliamentary Ombudsman and the Parliamentary Ombudsmen are required to supervise that those who exercise public authority obey the laws and other statutes and fulfil their obligations in other respects.
The Ombudsmen are required to ensure in particular that the courts and public authorities, in the course of their activities, obey the requirements of the Instrument of Government on objectivity and impartiality, and that the fundamental rights and freedoms of citizens are not encroached upon in public administration. Supervision is exercised by the Ombudsmen in assessing complaints made by the public and by means of inspections and such other inquiries as the Ombudsmen may find necessary.
The Ombudsmen conclude cases with an adjudication which states an opinion as to whether a measure taken by an authority or an official is in breach of the law or some other statute or is otherwise erroneous or inappropriate. The Ombudsmen may also make statements intended to promote uniform and appropriate application of the law. In the role of extraordinary prosecutor, an Ombudsman may initiate legal proceedings against an official who, in disregarding the obligations of their office or commission, has committed a criminal offence. Cases can be pursued to the Supreme Court if there are exceptional grounds for doing so. Individual complaints should be made in writing. The written complaint should indicate the authority to which the complaint applies. A person who has been deprived of their liberty may write to the Ombudsmen without being prevented by any restrictions on sending letters or other documents that may apply to them.
The Ombudsmen cannot intervene in an individual case or apply for or grant injunctive relief, and the institution is therefore not regarded as an effective remedy according to Article 9 of the Aarhus Convention. However, although the JO can only examine a case after it has been decided and their scrutiny is limited to the handling of the case, the opinions have great importance for the understanding of the concept of good governance.

Penalties when public administration fail to provide effective access to justice

Apart from the role of the Ombudsmen, Chapter 20 Section 1 of the Criminal Code (1962:700) states that anyone who intentionally, or through negligence in the exercise of authority, by act or omission, violates what is applicable for the task shall be sentenced to misconduct, a fine or imprisonment for a maximum of two years. If the act, with regard to the perpetrator's powers or the task's connection with the exercise of authority in general, or to other circumstances, is to be regarded as minor, the person shall not be held liable. For instance, municipal officials and politicians in municipal committees and boards are covered by the rules on misconduct in the exercise of their authority. On the other hand, members of state or municipal assemblies, i.e. members of the Riksdag and members of municipal and county council assemblies, are exempt from responsibility for measures they take in this capacity. A public prosecutor can decide to take the accused to District Court.
The Public Employment Act, applicable for all employees of the Parliament and its authorities and for authorities reporting to the Government, stipulates that an employee who intentionally, or through negligence, violates their obligations in their employment, may be given a disciplinary sanction for misconduct. If the error is small, in view of all the circumstances, no penalty may be pronounced. Such disciplinary sanctions are a warning and a salary deduction.

Penalties for the de-facto contempt of the court, e.g. when the judgment of the court is not followed and respected

When it comes to contempt of court by administrations such as municipalities, there are various instruments for controlling municipal activities. However, there are not many different sanctions available apart from those mentioned above. There is, however, a possibility, in certain areas, such as supervision duties under the Environmental Code, for the County Administrative Board to order a municipality to fulfil its obligations regarding supervision (Chapter 26 Section 8).
In summary, it can be stated that there are currently very few legally based opportunities to prevent defiance. The legal situation in Sweden is that the municipalities and their representatives in certain areas can choose to disregard applicable laws and regulations and even court judgments. There are no legal possibilities to demand responsibility or sanction decision-makers other than those mentioned.
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