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Recent developments in Swedish environmental law and practice 2024**General**

As was reported last year, Sweden has since the fall 2022 a conservative Government ruling with the support of the right-winged nationalist Party, the *Sverigedemokraterna*. The political agenda this year has been strongly focusing on green industrialization by way of deregulation, subsidizing green steel investment and suchlike and, above all, facilitating for the development of nuclear power in the country. Legal barriers for this development have been removed and a scheme for subsidies is discussed with the EU Commission. The nuclear industry – among others, state-owned Vattenfall – has made clear that it will not move in that direction unless the taxpayers will have to share the risk and future costs. Even so, from a legal perspective, the field is now open for any such development – traditional largescale installations or SMRs – in all parts of the country. It may also be noted that already in January 2022, the Government decided to grant the application for the world's first (alongside with Finland) final repository and encapsulation plant for spent nuclear fuel.

Sweden's first climate case

Last year, I told about Sweden's first "real" climate action, the *Aurora* case, brought by a group of youngsters to the Nacka Land and Environmental Court; [Climate Trials | Auroramålet \(xn--auroramlet-75a.se\)](https://www.klimat.se/nyheter/2022/12/14/auroramlet-75a-se) After the subpoena was issued against the State was, the Parties agreed to ask the court to make a request to the Supreme Court for a preliminary ruling on whether this kind of action is justiciable according to Swedish law and procedure. Shortly after the ECtHRs judgement in *Klimaseniorinnen* (and simultaneous decisions on *Carême* and *Duarte Agostinho*) in the beginning of April, the Supreme Court granted leave to appeal to this request. One may only speculate, but it is hard to see that the Supreme Court will answer no to that question as European law on the matter stands after *Klimaseniorinnen*. The *Aurora* case will be very interesting to follow since the Government has taken a couple of important steps – such as the removal of the carbon reduction duty – that will increase the emissions of greenhouse gas, while at the same time it does not seem to have any clear plan on how to reach the climate goals (see below).

Forestry

The strong tendency that the Land and Environmental Courts stop controversial operations in the forest having effect on prioritized birds, other protected species and plants

continue as a result of ENGO actions against decisions and omissions by the Forest Agency. Commonly, the courts strike down on the authority's failure to show – or even to try to show – that the operations will not entail damage or disturbance of the birds and other species under the EU Nature Directives. As of a couple of months ago, my list of national cases since 2022 contained 11 decisions from the Land and Environmental Court of Appeal and 66 from the five Land and Environmental Courts (the first instance in such cases). Most of these were brought by the ENGOS, mainly the Swedish Society for Nature Conservation and BirdLife Sweden. The ENGOS success rate is very high, 70% and 75% respectively. These numbers are even more impressive when compared with the success rate in similar actions brought by landowners; 0% and 15% respectively. Further, in the beginning of the year, the Supreme Administrative Court rejected the legal basis for the Forest Agency's practice to cull information from the digital forest registry, vital to the knowledge on protected species and their habitats in the forest. Faced with these setbacks, the Forestry Agency has asked the Government not for more funds in order to improve the enforcement of law, but to change the legislation. As most of this is decided on EU level, it is expected that the Government will propose barriers to ENGOS access to justice in the forest. As the Swedish system for species protection already is under scrutiny of the EU Commission, it is expected that some kind of reaction will come from Brussels in due time.

...and more..?

In my response to the questionnaire, I mentioned two important liability cases about PFAS in the drinking water. In Sweden, we also foresee the biggest criminal case ever in history this coming summer, dealing with illegal trade and disposal of waste. This, the "*Think Pink* case" also has some international ramifications.

Besides that, not much with has happened which merits international reporting. Over the year, the Government has been quite passive. This is partly due to the presidency of the EU, and partly due to internal struggles among the parties to the conservative coalition. However, the efforts to implement REDIII, CRMA and NZIA is ongoing. The first mentioned directive does not seem to pose great challenges, but both Regulations are extremely complicated to implement into our national procedural system (one authority to guide all decision-making, extremely short time limits, weakened possibilities for meaningful public participation, etc). Obviously, the authors of those pieces of legislation have very little experience of environmental procedure and no interest whatsoever in biodiversity.

Even if much is on hold, quite a number of governmental commissions have been designated or are discussed within the Governmental Offices. The subjects concern forestry, species protection, compensation schemes, simplification of environmental permitting procedures, WFD and derogation possibilities as well as the streamlining of classification of the status of water bodies, environmental crime. But on the climate issue, nothing is visible at the horizon so far...



Translation

The sign on the podium reads: The Government's Climate policy. The Minister of the Environment, Romina Pourmokhtari, says: "*Nothing here, nothing there*". In the background, the Prime minister says to one of the coalition's other Party leaders: "*You must admit, she's GOOD!*"