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Recent developments in Swedish environmental law and practice 2025-2026

General

As previously reported, Sweden has had a conservative government in power since autumn 2022, supported by a right-wing nationalist party. Consequently, the political agenda in recent years has focused strongly on industrialisation, whether green or brown, through deregulation and, above all, the facilitation of nuclear power development in the country. Legal barriers to this development have been removed, and a subsidy scheme has been approved by Parliament, albeit by a slim majority. The background is that the nuclear industry — including the state-owned company Vattenfall — has made it clear that it will not proceed unless taxpayers share the risk and future costs. To my knowledge, this scheme has also been approved by the EU Commission. Moreover, the prohibition on mining for uranium has been revoked. In addition, the municipalities' right to veto such operations have been abolished, although the government has promised to reinstate it "with retroactive effect". At the same time, tax incentives for the development of renewables, such as electric cars solar panels, have been reduced, and plans to subsidise the installation of cables to offshore wind farms have been abandoned. Nevertheless, a scheme for tax refunds for municipalities hosting wind farms is on its way. In summary, most economic incentives for electricity production are now in the hands of the nuclear industry, while the conditions for renewables have deteriorated. Consequently, today's energy market is characterised by uncertainty, which, as everyone knows, is not conducive to economic growth. Another noteworthy general tendency in Sweden is to make wider use of the derogations possibilities under EU law and for the government to have a decisive role in the decision-making.

The implementation of REDIII, CRMA and NZIA

Implementation of REDIII (2018/2001, as revised by Directive 2023/2413), CRMA (Regulation 2024/1252) and NZIA (Regulation 2024/1735) is ongoing, although there is still much to be done. Regarding REDIII, time limits and simplified decision-making procedures will be introduced at the start of summer. However, Renewable Acceleration Areas (RAAs) will not be introduced in any significant way, only for minor issues. It is widely expected that the new REDIII rules will have little effect, as Sweden does not have any systematic problems meeting the directive's requirements, since the procedure is unified under the Environmental Code, and decisions made by the administration meet the time limits as set in the directive.

Regarding CRMA and NZIA, both regulations are complicated to implement in our national procedural system due to factors such as the need for one authority to guide all decision-making, short time limits and limited opportunities for meaningful public participation. An initial consultation paper has been issued for consultation from the Government Offices in this respect and it remains to be seen what happens next.

Sweden's first (real) climate case

In the Aurora case, which I highlighted in the 2023 report, the Land and Environmental Court in Nacka referred a question to the Supreme Court regarding the possibility of bringing such an action under Swedish law. At the beginning of 2025, after the *Klimaseniorinnen* case had been decided by the ECtHR in 2024, the Supreme Court answered in the negative.[1] As the Aurora case was brought by a group of young people acting individually, the Court dismissed the applicants on the basis that they did not meet the 'direct victim' requirement under the ECHR.

Consequently, the young people have now opened a new case against the Swedish state for breaches of Articles 2 and 8 of the ECHR, this time as an association representing those vulnerable to climate change. It is widely expected that the courts will accept the subpoena and hear the case on its merits. However, the outcome is more uncertain. Aurora is arguing that Sweden must perform according to a 'fair share distribution' scheme based on scientific principles (https://climateactiontracker.org/methodology/cat-rating-methodology/fair-share/). In this context it may be noted that the ECtHR instead used an 'equal per capita distribution of responsibilities' as a criterion in *Klimaseniorinnen* and also stated that the Convention's protection covers only the current generation, not future ones. Ultimately, these differences may prove to be decisive.

Forestry

The Land and Environmental Courts continue to stop controversial operations in forests that affect prioritised birds, other protected species and plants, as a result of actions by ENGO against decisions and omissions by the Forest Agency. Typically, the courts rule against the authority's failure to demonstrate — or even attempt to demonstrate — that the operations will not cause damage or disturbance to the birds and other species protected by the EU Nature Directives. The Land and Environmental Court of Appeal's jurisprudence closely aligns with recent CJEU judgements on species protection, including C-473/19 *Skydda Skogen* (2022), C-784/23 *Voore Mets* (2025), and C-131/24 *Virus* (2026). As concerns have been expressed about the last-mentioned case from CJEU, I cite how the Swedish court reasons on this issue:

> In order to assess the significance of the current logging for the three-toed woodpecker's overall habitat, and thus the possibility of restoring the species to a satisfactory level, sufficient investigation into the significance of the logging areas for the species is required. In addition, sufficient investigation is needed into the actual conditions for meeting the species' habitat needs in connection with the area where the logging areas are located. In order for the current logging operations to have no impact on the possibility of restoring the population to a satisfactory level, the remain-

[1] Högsta domstolen beslut 2025-02-19 in case Ö 7177-23.

ing habitats must be sufficiently large and located in such a way in relation to the logging areas that, despite the logging, they enable the continuous ecological function of the three-toed woodpecker. The investigation needs to be based on the conditions in the immediate vicinity of the areas reported for logging and take into account the cumulative effects of both habitat fragmentation through other logging operations and formally protected and voluntarily set-aside forest adjacent to this area. The assessment of local occurrences and regional status needs to be considered in relation to conservation status at the national level.

Compensation to landowners for species protection

The government has proposed a generous compensation scheme for landowners whose forestry operations are restricted due to the protection of birds and species covered by the EU's nature directives. Essentially, when the Forestry Agency or the Land and Environmental Courts decide to restrict or prohibit a certain operation to avoid prohibitions under Article 5 of the Birds Directive (2009/147) or Article 12 of the Habitats Directive (92/43), and when there is no ground for derogation under Articles 9 and 16 respectively, landowners shall receive financial compensation equaling 125% of the market value of the loss. During the legislative process, concerns were raised about whether such a scheme would breach the prohibition of state aid under Articles 107–108 TFEU (see Case C-238/20 *Sātiņi-S SIA* (2022)), but the government chose not to address this issue in its proposal. However, once the consultation process had concluded, the government relented and announced its intention to ask the Commission whether the compensation scheme is compatible with EU state aid rules.

The infringement case on the implementation of WFD

This infringement case began with a communication within EU Pilot in December 2020. The Letter of Formal Notice (LFN) was issued in December 2024. When issuing the LFN, the Commission also published an English press release. In the press release the Commission stated that the WFD requires Member States to establish a Programme of Measures for each river basin district, with the aim of ensuring the good status of European water bodies such as rivers and lakes. These measures must be included in river basin management plans, which are to be drawn up and submitted to the Commission every six years. Each Programme of Measures must include basic controls for different types of water-related activities and discharges. These controls, such as water permits, must be periodically reviewed and updated as necessary. However, the Commission notes that this is not the case in Sweden. For instance, most of Sweden's hydropower dams operate based on permits issued between 1918 and 1978; the outdated nature of these permits may have a negative impact on river biodiversity. Reading the communications in the case, one gets the sense of surprise on the part of the Swedish government, given that a previous case had been closed in 2019 following the introduction of the National Plan for Hydropower Permit Reviews (NAP). This plan introduced a scheme to grant 'modern environmental permits' to hydropower installations. However, as the government has repeatedly postponed the NAP since 2022, causing significant delays to the updating scheme it is hardly surprising that the Commission has lost patience. It is finally worth mentioning that similar infringement cases have been initiated against Austria, Belgium,

Cyprus, Finland, the Netherlands and Slovenia. This suggests that the issues raised in the case against Sweden have wider implications.