EU FORUM OF JUDGES FOR THE ENVIRONMENT
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SWEDEN

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Questionnaire on the IPPC-directive for the annual conference in Stockholm 2009

*(to be answered by e-mail to **monica.stenberg@dom.se** before 1 august 2009)*

This questionnaire consists of two parts. First, there are some general questions about the implementation and application of the IPPC-directive (Council Directive 96/61/EC of September 1996 concerning integrated pollution prevention and control, codified version in Directive 2008/1/EC of the European Parliament and of the Council) in your country, and the role of the courts. Then, we have constructed a case, where an operator is asking for a permit, and we ask you to fill in the information about how this example would be handled/examined in your country.

General questions about the implementation and application of the IPPC-directive and the role of the courts

1. How many IPPC-plants are there in your country?

Slightly more than 1.000 (according to the Swedish Environmental Protection Agency's report no 5800, February 2008).

2. In what way are questions concerning the application of the IPPC-directive brought to court (litigation, application for a permit, appeal of a permit decision, application for a summons, criminal offence)?

Questions concerning the application of the IPPC-directive can be brought to court in all the ways that are mentioned in the question above. They are usually brought to court in a case regarding application for a permit or in a case regarding appeal of a permit decision.

In Sweden, such questions will normally be tried by an environmental court, either in first instance or after appeal against a decision by an administrative authority. There are five environmental courts in Sweden and their decisions can be appealed to the Environmental Court of Appeal. In some cases, the decisions of the Environmental Court of Appeal can be appealed to the Supreme Court.

The environmental courts are the first instance for cases regarding, inter alia, certain permit applications, private actions for compensation for environmental damage and private actions

for prohibition or precautionary measures. The environmental courts also review decisions issued by supervisory authorities, if the decisions are appealed.

3. Which authority (authorities) issues permits according to the IPPC-directive? How far has the integration according to the directive reached? Can, in your country, one authority issue an IPPC-permit comprising the total environmental impact of the polluting activity (water, air, land, waste etc) or does the company (the applicant) have to send applications to different authorities?

In first instance, IPPC-permits are issued either by one of Sweden's five environmental courts or by one of Sweden's 21 state regional authorities, the county administrative boards. The county administrative boards have a specific independent department that tries applications for environmental permits. Its decisions can be appealed to an environmental court.

In short, one authority can issue an IPPC-permit comprising the total environmental impact of the polluting activity concerned.

As a general rule, all environmental issues are to be tried in one and the same procedure and regulated in one permit. However, in some cases Swedish law may prescribe that two parts of one industrial plant shall be tried by different authorities. This may be the case, for example, where the industrial activity includes both some sort of environmentally hazardous activity on land that is to be tried by the county administrative board and diversion of ground water or other water operations that is to be tried by the environmental court. For such cases, the Environmental Code (Chapter 21, Section 3) prescribes that both matters may be dealt with at a single trial in the environmental court. When reviewing a permit application, the licensing authority must ensure that the application and the EIS have an adequate scope. If an applicant is not willing to include all relevant parts of the activity in the permit application, the application may be dismissed.

4. Which authority or court hears appeals against IPPC-permits? What competence does the authority or court have to change/amend a permit? Can it for example decide about new or changed conditions? Can it just withdraw the permit or parts of the permit?

If the permit is issued by a county administrative board, the permit decision can be appealed to the regional environmental court and the court's decision can be appealed to the Environmental Court of Appeal.

If the permit is issued by an environmental court, it can be appealed to the Environmental Court of Appeal and its decision can be appealed to the Supreme Court.

A court that tries an appeal will review both questions of law and questions of fact and has full competence to reverse or amend the permit. It can, for example, set new or changed conditions for the permit or grant an application that has been rejected. The court is in the same position as the licensing authority. However, the court can only change the permit decision to the extent that it has been appealed.

5. Who – in addition to the operator of the plant - can bring a case concerning IPPC-matters to court by appealing against an IPPC-permit? What about for example people living in the neighbourhood, NGO:s and authorities on different administrative levels (local, regional, national)? What kind of obstacles are there for them to bring a case to court; for instance different kinds of procedural costs?

As a general rule, anyone concerned by a permit decision has the right to appeal against it (Chapter 16, Section 12 of the Environmental Code). This includes people living in the neighbourhood, provided that they might be negatively affected by the permitted activities.

Certain national, regional and municipal authorities also have the right to appeal against a permit decision (Chapter 16, Section 12 and Chapter 22, Section 6 of the Environmental Code).

Local Employees' associations have a right to appeal. For other NGO:s, the right of appeal is restricted to non-profit associations whose purpose according to their statutes is to promote nature conservation or environmental protection interests. Further, the right of appeal is subject to the requirement that the association has operated in Sweden for at least three years and has not less than 2,000 members (Chapter 16, Section 13 of the Swedish Environmental Code). Very few NGO's in Sweden fulfil these requirements. It has been argued that Swedish law concerning NGO's right to appeal – and specifically the requirement that an NGO must have at least 2,000 members – conflicts with the IPPC- and EIA-directives. Hopefully, this matter will be resolved by the ECJ in the case C-24/09, where the Swedish Supreme Court has sought a preliminary ruling.

There are no costs involved in appealing against a permit decision. There are no administrative charges and the appellant does not have to pay the applicant's court costs if the appeal is rejected.

6. On what basis is decided what is considered to be the best available technique (BAT) in a certain case? What is the role of the BREF documents?

The Environmental Code prescribes that the best possible technology shall be used in order to prevent, hinder or combat damage or detriment to human health or the environment (Chapter 2, Section 3). This rule shall apply to the extent that compliance cannot be deemed unreasonable. Particular importance shall be attached to the benefits of protective measures and other precautions in relation to their costs (Chapter 2, Section 7). In short, this means that the best technology shall be used, where this is not unreasonable from a cost-benefit perspective. It is the operator that must show that a certain precautionary measure is unreasonable. The cost-benefit balancing is not based upon the economy of the applicant but on the economy of the line of business as a whole.

The BREF documents are one important factor in deciding emission limit values and other precautionary measures. But depending on the circumstances in each individual case, the permit authority may deviate from the BREF documents. The licensing authority has both legal and technical expertise and may ask other authorities for their opinion where this is necessary to establish BAT.

7. Is there a time limit for the IPPC-permit, or is the permit valid for ever? Is the permit holder obliged to apply for a new permit after a certain time period? Can a supervisory authority issue injunctions which go further than the conditions of the permit as regards environmental matters? Under what circumstances can a supervisory authority request a review of the permit and its conditions?

Normally, there is no time limit for an IPPC-permit (or similar environmental permits) and the permit is valid for ever. The permit holder is not obliged to apply for a new permit after a certain time. It is possible for the permit authority to set a time limit, but this option is seldom used.

Normally a supervisory authority cannot issue injunctions which go further than the conditions of the permit. A permit is valid against all other parties. However, a permit does not prevent a supervisory authority from issuing injunctions where this is necessary in order to avoid health effects or serious damage to the environment (Chapter 26, Section 9 of the Swedish Environmental Code).

A permit can only be withdrawn under certain conditions, such as non compliance with the permit or in other situations where environmental interests are particularly strong. The conditions of the permit can always be altered after ten years and, in some situations, even earlier. But the new conditions must not be so intrusive that the activity can no longer be pursued or is significantly hampered

A permit can be withdrawn:

i) where the applicant has misled the permit authority;
ii) where the permit is not complied with;
iii) where the activity causes significant adverse effects which were not anticipated when the permit was granted;
iv) where the activity is liable to lead to a significant deterioration in the living conditions of a large number of people or substantial detriment to the environment;
v) where the activity is discontinued;
vi) where a new permit replaces a previous permit;
vii) where it is necessary to fulfil Sweden's obligations as an EU Member State;
viii) where the maintenance of a water structure is seriously neglected; or
ix) where a permit to alter water conditions has not been used for a long time and it is not likely that it will be used again.

(Chapter 24, Section 3 of the Environmental Code)

In practice, the option to withdraw permits is used very seldom (hardly ever).

The most important situations where permit conditions may be altered and rules concerning the scope of the activity may be changed are:

i) when ten years have elapsed since permit was granted, or after a shorter time prescribed as a consequence of Sweden's obligations as an EU Member State;
ii) where the activity to a significant extent contributes to the infringement of an environmental quality standard;
iii) if the applicant has misled the permit authority;
iv) if the permit is not complied with;
v) if the activity causes adverse effects which were not anticipated when the permit was granted;
vi) if the conditions in the surrounding area have changed significantly;
vii) if a significant improvement in terms of human health or the environment can be achieved by the use of a new process or treatment technology;
viii) if the use of a new technology for measuring pollution levels or environmental impacts would significantly improve the possibilities of controlling the activity;
ix) if the activity takes place to a significant extent in an area subject to certain prohibition on the discharge of wastewater and certain other substances;
x) in order to improve the safety of a structure; or
xi) if certain conditions in order to protect fishing are not appropriate.

However, new rules and conditions must not be so intrusive that the activity can no longer be pursued or is significantly hampered.
(Chapter 24, Section 4 of the Environmental Code)

8. Is the choice of the localisation of an IPPC-plant considered in the same process as the IPPC-permit and the conditions for the permit? Or is the localisation decided in a separate process according to another legislation? In that case; which comes first, the decision on the localisation or the IPPC-permit?

The localisation of the plant is an important part of the permit process in Sweden. The applicant must show that he has chosen a site for the plant that is suitable with regards to certain provisions that aims to promote sustainable development. He must also show that the site is chosen in such a way as to make it possible to achieve the purpose of the plant with a minimum of damage or detriment to human health and the environment. A permit must not conflict with development plans adopted pursuant to the Swedish Planning and Building Act. But the fact that the localisation is permissible under the Planning and Building act does not necessarily mean that it is permissible under the Environmental Code. In most cases, the applicant must obtain both an environmental permit and a building permit.

9. Are the EIA-directive (Council Directive of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment, 85/337/EEC) and the IPPC-directive implemented in the same legislation in your country, so that you in one single process get a permit that fulfils the demands of both directives? If not so; how is the EIA-directive implemented? For example in a special legislation, in planning and building legislation or otherwise?

Yes, the EIA-directive and the IPPC-directive are implemented in the same legislation, i.e. the Environmental Code. Only one process is required to fulfil the demands of both directives.

An EIS is a mandatory part of the permit application (Chapter 6, Section 1 of the Environmental Code). The applicant must consult the county administrative board regarding the EIS prior to the permit application. If the activity is likely to have a significant environmental impact, the EIA procedure is based on the principles of the EIA-directive. For activities that are not likely to have a significant environmental impact, the EIA-procedure is less comprehensive (and does not always meet the requirements of the EIA-directive).

10. Suppose an existing IPPC-plant wants to double its production and that this will be done by duplicating most of the process equipment. The plant will thus consist of an old and a new line of production, but some equipment that is necessary for environment protection will be parted so that it is used by both lines. The application concerns only the increase of production (the new line) and not the whole production (both old and new line). How does the permit authority handle this situation? Does it issue a permit concerning only the increased production (the new line)? Or does it demand a new application concerning the whole production (old and new line)? Or what? (See article 12.2.) This question can be considered in light of the EIA-directive, which demands the assessment of a project as a whole (and no cutting of the salami!).

In Sweden, a change in the operation of an installation will often require a new permit. Swedish law is stricter than the IPPC-directive (articles 12.2) and requires a permit for all changes, unless the change is minor and could not have any significant negative effects on human health or the environment. (Section 5 of Government Ordinance 1998:899)

A permit resulting from a change in the operation of an installation can concern either only the change (the new line) or the whole installation (the old and new line) (Chapter 16, Section 2 of the Swedish Environmental Code).

Even if the permit application concerns only the change (the new line), the conditions in the old permit (for the old line) may be altered if there is a connection between the change and the old conditions (Chapter 24, Section 5 of the Swedish Environmental Code).

Prior to the permit application, the applicant must consult the county administrative board. If the county administrative board finds that the change in operation is likely to have significant effects on the environment, an EIS must be part of the permit application (Chapter 6, Sections 1 and 7 of the Environmental Code and Section 3 of the Ordinance 1998:905 on Environmental Impact Statements).

It is the permit authority that finally decides whether a permit can be issued only for the new line or whether the whole installation must be included in the permit. The permit authority will also decide whether the EIS is sufficient. If the permit authority finds that the EIS or the permit application is too narrow, the applicant may be required to supplement the application. The permit authority may also dismiss the application.

11. Can the permit authority decide on conditions based on BAT, even if the application only describes environment protection measures that are less strict? How does the authority handle applications that are not based on BAT?

Yes, the permit authority can decide on conditions based on BAT, even if the application only describes environment protection measures that are less strict. As mentioned above, the permit authority must not show that a certain measure is reasonable. It is the applicant that must show that a certain measure is unreasonable. If necessary, the permit authority can order the applicant to supplement the application. In situations where the applicant cannot be expected to comply with protective measures based on BAT, the permit application may be rejected.

12. If there are national general rules on emission standards that do not match BAT, how are they applied by the permit authority?

There are not many national general rules on emission standards in Sweden. The ones that do exist are based on EC-directives (i.e. concerning waste incineration or large combustion plants). The national rules normally only set minimum requirements and do not prevent the permit authority from prescribing stricter measures based on BAT.

Should there be national rules that are not only minimum requirements, it will be up to the permitting authority to decide whether these rules can be applied or not. A legal rule may be set aside by a court or authority if it conflicts with a superior legal rule. So the permit authority would have to decide whether the national general rules conflict with superior EU or national law.

13. How does existing industries meet the demands of the IPPC-directive in your country? Who has the responsibility to make sure that the requirements are met? Is it the supervisory authority, the operator of the plant or someone else? What are the consequences if an existing industry does not meet the requirements? Can it be closed? Or is a certain time period accepted before measures? How long? (See article 5.)

In theory, all IPPC-plants should meet the demands of the IPPC-directive by now. It is the supervisory authority that must ensure that existing installations meet the demands of the

directive. The operator has an obligation to provide the information that the supervisory authority needs for this purpose.

The legal rules on this matter are found in Ordinance (2004:989) concerning the review of some environmentally hazardous activities. Under Section 3 of the Ordinance, the operator in the environmental report submitted in 2005 must specify how, by 30 October 2007, the requirements of the Environmental Code will be met. The report must also show the extent to which current permits or other decisions or orders which are binding on the activity contain conditions on restrictions, precautionary measures etc. needed to meet the requirements.

Under Section 4 of the Ordinance, the supervisory authority must check the report to ensure that the necessary restrictions, precautionary measures etcetera are included in the permit conditions for that activity or in other decisions or orders which are binding on the activity, or that they are expressly laid down in an act, ordinance or rules applicable to the activity. The supervisory authority must also, where necessary, order the operator to observe the restrictions and take the precautionary measures and other measures needed to meet the requirements. If necessary the supervisory authority must call for the conditions to be reviewed.

Under Chapter 24, Section 3 of the Environmental Code, a permit may be revoked where this is necessary to fulfil Sweden's obligations as an EU Member State. But it is unlikely that permits will be revoked for existing installations that do not comply with the directive. The supervisory authority will first use the other measures mentioned above in order to ensure compliance.

14. Which authority is supervising IPPC-plants? How often do inspections take place? What enforcement policy do they have (warnings, injunctions, sanctions an so on)? Which type of sanctions can be applied in case of violations?

Sweden's 21 state regional authorities, the county administrative boards, are primarily responsible for supervising IPPC-plants (and other activities that require a permit, so called A and B activities). The municipalities are responsible for the supervision of other environmentally hazardous activities. Upon application a municipality may take over, entirely or in part, the county administrative board's responsibility for supervising an activity. Many municipalities have exercised this option, which means that a number of activities covered by the directive are operated under municipal supervision.

The authorities carry out supervision to ensure the operator complies with legislation and conditions in the permits that have been granted. In Sweden, supervision by the authorities is complemented by a system of compulsory self-inspection carried out by the operator. This self-inspection means essentially that the operator is responsible for monitoring his activity and ensuring that it meets the requirements that are stated in environmental legislation, permits and decisions. The extent of the self-inspection is set in a special document, a monitoring program, which states for instance which parameters that are to be monitored, by which method, how often, where in the system and so on. The monitoring program is to be accepted by the supervisory authority.

There are no legal rules that prescribe regular on-site inspection. The interval between such inspections depends on the estimated need for supervision of the activity. The authorities' supervision includes not only on-site inspections but examination of the documents provided to the authority. These can be the statutory annual environmental report and reports of

periodic emission measurements and other investigations that the operator has carried out as part of his self-inspection.

The most important enforcement tools are injunctions and prohibitions. A supervisory authority may issue any injunctions and prohibitions that are necessary in individual cases to ensure compliance with legal rules, permits and decisions. Injunctions and prohibitions may be made subject to the penalty of a fine which is set in advance to ensure that a measure is taken. The supervisory authority may also decide that corrective measures should be taken at the offender's expense. In more serious cases, the supervisory authority may ask the responsible authority (e.g. the environmental court) to revoke the permit. In cases where the supervisory authority suspects a criminal offence, it will notify the prosecutor. There is also a system of environmental sanction charges that the supervisory authority imposes on an operator responsible for certain infringements of environmental law.

2. An example

A new tannery is going to be built in your country. The tannery will have a production that exceeds 12 tonnes per day and is thus an IPPC-plant.

1. What kind of authority or authorities (local, regional, central) will handle (examine, review) the application and issue the permit?

The application will be tried by a county administrative board (Division 1, paragraph 18.10 of the appendix to the Ordinance 1998:899 on Environmentally Hazardous Activities and Health Protection). The county administrative board is a regional authority under the national Government. The county administrative boards all have a specific department that tries applications for environmental permits.

2. Will the application include an EIS according to the EIA-directive?

Yes, the application will include an EIS according to the EIA-directive. (Chapter 6, Section 7 of the Environmental Code and Section 3 of the Ordinance 1998:905 on Environmental Impact Statements.)

3. Will the permit authority/authorities try the localisation of the plant in the same process as the IPPC-questions?

Yes, the localisation will be tried in the permit. (Chapter 2, Sections 1 and 6 of the Environmental Code.)

4. Are there any procedural costs for the tannery operator?

There is no specific charge for the permit procedure. But starting the year after the permit is issued, the operator must pay an annual charge for review and supervision. The charge for a tannery of this size will normally be 74,000 SEK (approximately 7,000 Euro) per year (Chapter 27, Section 1 of the Environmental Code and Ordinance 1998:940 on charges for review and supervision under the Environmental Code).

If an application is tried by the environmental court, the applicant must also pay the court's costs for notices, keepers of files, experts summoned by the court and premises where meetings are held (Chapter 25, Section 8 of the Environmental Code).

The operator must, of course, pay the costs for its legal and technical advisors. These costs can be considerable for a complicated permit process.

5. Does the permit authority normally ask other authorities on different administrative levels in the permit process for their opinion on the application?

Yes, the permit authority normally asks other authorities for their opinion on the application. In this case, the county administrative board has a legal obligation to consult government and municipal authorities which have a substantial interest in the matter (Chapter 19, Section 4 of the Environmental Code). Among those authorities that are often consulted are the relevant supervisory authority, the Swedish Environmental Protection Agency and the municipalities concerned.

For an activity such as this one, where an EIA procedure is required, the authorities concerned will also have been consulted by the applicant prior to the application and the EIS.

6. How does the permit autorithy ensure public participation? Can for example people state their view in writing, by e-mail, in a public hearing or otherwise?

As mentioned before, the applicant will consult with the authorities concerned and private individuals that are likely to be affected before the EIS is prepared and the permit application is made.

Once the application is made, the county administrative board shall publish notices in local newspapers or use other suitable means in order to give persons affected by the activity the opportunity to comment (Chapter 19, Section 4 of the Environmental Code). People can state their view in writing or by e-mail. The county administrative board shall also hold a public hearing with the applicant, authorities and persons affected by the matter and arrange an on-site inspection, if this is necessary for the purposes of the investigation (Chapter 19, Section 4 of the Environmental Code).

7. The permitting authority will issue the permit on certain conditions. Mark with an X the in the table what kind of conditions that might be laid down. And please make good use of the "remark"-column, with for instance examples of conditions!

It should be noted, by way of introduction, that it is standard Swedish practice in permit matters for a decision to normally be introduced by so-called "general conditions" with the following or similar wording: "Unless otherwise stated in this judgment/this decision the activity shall be principally operated in accordance with what the company has undertaken or stated in the case/matter". A clause like this has the purpose of ensuring that the operator adheres to the framework for the activity that was a condition for the examination and granting of the permit.

Kind of condition	**Yes**	**No**	**Remark**
conditions concerning the tanning technology itself (clean production)	X		The "general condition" as described above will, to some extent, prevent the operator from using other technology than that described in the application. Specific conditions might regulate, for example, the use of certain chemicals.
conditions concerning the cleaning technology (end of pipe solutions)	X		Example from a tannery permit: The pumping station at the sewage treatment works shall be connected to the existing bio filter or to another

			filter with equivalent cleaning effect.
limit values for water pollutants	X		Actual example of provisional conditions (establishment of final conditions is postponed, awaiting further investigations) for an IPPC (or near IPPC, the parties disagree on this) tannery: Target values for discharge of waste water after cleaning in local sewage treatment works: Flow: 1,750 m3 per day Nitrogen: 150 kg per day COD: 500 kg per day BOD: 25 kg per day Chromium: 0.2 kg per day or 0.075 kg per ton chromium tanned skins (salted weight) [… all values not included here]
limit values for air pollutants	X		An example from the same permit as above: Emission of VOC to air shall, as a target value, not exceed 24 tons per year.
conditions concerning solid wastes	X		
limit values for noise	X		An example from the same permit as above: Outdoors at dwelling-houses, noise from the installation shall, as a target value, not exceed the equivalent levels: 50 dB(A) weekdays daytime (7 am to 6 pm) 40 dB(A) night (10 pm to 7 am) 45 dB(A) other times Momentary noise at night may not exceed 55 dB(A).
limit values for energy consumption	X		Limit values for energy consumption are rare, but legally possible. It is more common to prescribe less specific terms concerning efficient use of energy.
conditions concerning transports to and from the plant	X		Transports may only be regulated in the permit as regards transports in the immediate surroundings of the installation. If an environmental quality standard is not complied with, conditions on transports are stricter and more common
conditions about what chemicals that are not to be used in the production	X		
conditions concerning the control of discharges	X		This is often left to the supervisory authority to deal with. There are also some general statutory rules on measurement and control and certain rules based on EC-directives.

Other questions	**Yes**	**No**	**Remark**
can the setting of conditions be postponed in the permit?	X		Where the effects of the activity cannot be predicted with sufficient certainty, the question of conditions may be postponed until information is available. Where necessary, provisional directions concerning protective measures or other precautions may be issued. (Chapter 22, Section 27 of the Environmental Code). The operator is normally ordered to provide the required information at a certain date, after which the final conditions are set.
can stricter conditions than what is stated in the BREF-document be set?	X		

8. If the permit authority wants to prescribe a condition on the maximum discharge of chromium to water from the tannery, on what basis is the level of the discharge decided?

There are no general rules in Sweden on discharge of Chromium to water from tanneries. The condition would be set after a cost-benefit balancing as described under question 6 in the previous section. To summarize, the best technology from an environmental protection perspective shall be used, where this is not unreasonable from a cost-benefit perspective. The burden is on the applicant to show that a certain precautionary measure is unreasonable.

In this case, the permit authority would start by looking at what kind of technology could be used to reduce discharge of chromium (clean production as well as end of pipe solutions) and assess the costs for the use of this technology. It would also consider to what extent a reduction of the chromium emissions is relevant for environmental protection reasons. After that, the permit authority would balance the costs of protective measures against the benefits in order to establish what protective measures are reasonable. The cost-benefit balancing is not based upon the economy of the applicant but on the economy of the line of business as a whole.

In some cases, reasonable measures are not sufficient. It is specifically stated in the Environmental Code that the cost-benefit balancing must not lead to infringement of an environmental quality standard. And if an activity is likely to cause significant damage or detriment to human health or the environment, the activity may only be permitted under special circumstances.

9. Who can appeal the permit and to whom?

An appeal will be tried by the regional environmental court (there are five such courts). Its decision in turn can be appealed to the Environmental Court of Appeal.

The permit can be appealed by:

- Anyone concerned by the permit decision (for example, the operator, neighbours that might be negatively affected by the permitted activities and authorities with the task of protecting environmental interests that are affected by the decision);
- Local employees' associations that organize workers in the tannery;
- The following authorities: the Swedish Environmental Protection Agency, the Legal, Financial and Administrative Services Agency, the Swedish Rescue Services Agency and the county administrative board; and
- Non-profit associations whose purpose according to their statutes is to promote nature conservation or environmental protection interests, provided that the association has operated in Sweden for at least three years and has not less than 2,000 members.

(Chapter 16, Sections 12 and 13 of the Environmental Code).