Secretariat of the Aarhus Convention

Supplementary information

Analysis of the Supreme Court's judgement in case no. B 3626-24 (climate blockade)

The Swedish Institute for Human Rights hereby submits supplementary information following the Special Rapporteur's visit to Sweden, as well as the report and materials subsequently provided. The purpose of the supplementary information is to present an updated overview of legal developments in Sweden concerning climate defenders.

Background to the information

In recent years, climate defenders have been prosecuted and, in some cases, convicted of sabotage in connection with various demonstrations.[1] For the first time, the Supreme Court is considering whether climate demonstrations that obstruct traffic may constitute sabotage.[2] This memorandum analyses the Supreme Court's ruling and its implications.

The circumstances of the case

To draw attention to the ongoing climate crisis, a group of individuals staged a demonstration in August 2022 by entering the E4 motorway during rush hour and sitting down on the carriageway with the message "Restore the wetlands." The action caused significant traffic congestion, resulting in kilometre-long queues in the southbound direction and a so-called "rubbernecking queue" in the northbound lanes.

[1] See, for example, the Svea Court of Appeal's judgment of 2023-10-26 in case B 13688-23 and the Svea Court of Appeal's judgment of 2024-03-19 in case 7580-23.

[2] Supreme Court, 2025-07-09, case no B 3626-24.

Due to the roadblock, an ambulance responding to an emergency was delayed by ten minutes. The incident was initially classified as case of the highest priority, although it was later established that there had been no danger to life. The protesters had also prepared to allow ambulances and other emergency vehicles to pass if necessary.

The demonstrators were charged with sabotage and disobedience to law and order. The charge of sabotage was based on the allegation that, acting jointly and in concert, they had seriously disrupted and obstructed public transport by blocking the passage of vehicles. The District Court convicted twelve of the demonstrators of sabotage and disobeying police order.[3]

The Court of Appeal acquitted the defendants of sabotage but upheld the convictions for disobedience to public order

The Court of Appeal upheld the District Court's judgment in respect of the offence of disobeying police order but acquitted the defendants of sabotage. At the outset, the Court observed that the constitutionally protected freedom of demonstration does not confer a right to engage in conduct that constitutes an offence under the criminal provisions on sabotage disobeying police order.[4]

However, the Court found that, although the demonstration had caused significant inconvenience to the public, the disruption was not of such seriousness as to satisfy the statutory requirement for sabotage. All defendants were therefore acquitted of that charge. However, the Court held that the defendants were guilty of disobeying police order and further found that no emergency situation existed within the meaning of criminal law.

As regards the international law arguments advanced, including reliance on the Aarhus Convention, the Court noted that it had been contended, by reference to the Convention, that the defendants could not be held criminally liable, as their conduct should be viewed as an exercise of rights protected thereunder. Without undertaking a detailed analysis, the Court held that the Convention was not applicable to the circumstances of the case and accordingly dismissed the

[3] Solna District Court, 2022-10-24, case B 7513-22

[4] Svea Court of Appeal, 2024-04-12, case B 13007-22

objection. The Court further held that references made to various United Nations documents had no bearing on its determination.[5]

The Director of Public Prosecutions appealed the judgment, submitting that the issue of interest from the standpoint of precedent was whether the defendants' conduct - namely, blocking a public thoroughfare and thereby obstructing traffic - constituted an act of such a nature as to seriously disrupt or obstruct public transport within the meaning of the offence of sabotage under Chapter 13, Section 4 of the Criminal Code. The Director of Public Prosecutions further submitted that a question of precedent also arose as to whether sabotage, on the facts alleged, should be regarded as an offence of such a nature that there is a presumption of imprisonment (In Swedish: *artbrott*).[6] It should be noted that the offence of sabotage carries a maximum penalty of four years' imprisonment.

Supreme Court upholds Court of Appeal judgement

The Supreme Court granted partial leave to appeal, limited to the issue of sabotage and based on the facts and intent as established by the Court of Appeal.[7]

The Supreme Court upheld the judgment of the Court of Appeal, thereby acquitting the defendants of the charge of sabotage. The Court's judgment did not address international law or the Aarhus Convention, with the result that the Court of Appeal's interpretation in this regard remains in force.

Analysis – the application of international law

Given that the Supreme Court did not comment on or analyse international law, including the Aarhus Convention, in its judgment, the Svea Court of Appeal's assessment of international law remains authoritative in this and comparable situations. This approach has been reflected, for example, in the judgment of the

[5] Svea Court of Appeal, 2024-04-12 case B 13007-22, p. 22.

[6] Supreme Court, R 14, received 2024-05-13, case no. B 3626-24, file attachment 1. The appeal is dated 2024-05-10.

[7] The Supreme Court's minutes of the licence review, case no. B 3626-24 Stockholm, 2024-11-20, file attachment 22.

Borås District Court[8] concerning seventeen individuals charged with various offences following a demonstration against peat extraction at Grimsås bog.[9] The purpose of the demonstration was to prevent peat extraction at the site and to raise public awareness of the ongoing climate crisis. All defendants took part in the protest.

In that case, the prosecution alleged, inter alia, liability for aggravated trespass and, in the alternative, unauthorised action. The District Court held that the defendants should not be exempt from criminal liability on the grounds that their actions constituted the exercise of rights under the Aarhus Convention. Referring, inter alia, to the Svea Court of Appeal's judgment, the District Court concluded that the defendants' conduct did not fall within the scope of the Convention's provisions and accordingly dismissed the objection.

It may be noted that the courts in these cases did not conduct any detailed analysis of the Aarhus Convention or other relevant international obligations. Instead, the Convention was briefly addressed and dismissed as inapplicable to the circumstances. The interpretation adopted by the Svea Court of Appeal now appears to be followed by the lower courts, with the result that the influence of the Aarhus Convention in Swedish case law risks becoming limited.

[8] Borås District Court, 2025-07-23, case no. B 2934-24.

[9] The background was that a company had been granted a 25-year licence (processing concession) to mine peat on Grimsås bog.