

Swedish Environmental High Court Judgment:

Mobile Masts and Aerials for 3G Constitute an Environmental Dangerous Activity

Through the Environmental Court of Appeal (2005-10-12 case no: M 7485-04) it has now been determined that mobile masts and aerials for 3G constitute an environmentally dangerous activity according to the Environment chapter. Such activity will therefore have to happen in accordance with the chapter's paragraphs and general consideration rules.

Background:

The question became topical in connection with the company Swedish UMTS-NET. Ltd appeal against an order from Miljonamnden in Landskrona about submitting information about the precise location of masts and aerials for 3G-mobiltelecommunication. According to the council's view, aerials and masts for mobile telecommunication are covered by the environment chapter's definition on environmentally dangerous activity. The council is the monitoring authority and can to prescribe an activity practitioner to submit all the information and documents that are needed for the monitoring.

The company appealed against the council's decisions to the County council for Skane counties. The county council considered that aerials and masts for mobile telecommunication are an environmentally dangerous activity in the Environment chapter's sense since it can not be said for certain that the electromagnetic radiation from the frequencies in question is harmless for people's health.

The company appealed against the County council's decisions to The Environmental Court in Vaxjo district. The court considered, unlike the County council there was not a question of environmentally dangerous activity in the Environment chapter sense, since the radiation from base stations for mobile telecommunication is too weak, and according to current scientific findings, cannot harm the environment. That meant that aerials and masts for mobile telecommunication were not covered by the Environment chapter and that Miljonamnden in Landskrona did not have a right to conduct monitoring on the masts with the support of the Environment chapter.

The environment board in Landskrona appealed against Miljodomstolens decisions to Environmental Court of Appeal at Svea court of appeal. Environmental Court of Appeal established that an activity can be environmentally dangerous even if it is not dangerous for the environment. It is sufficient that the activity can mean a risk for harm to the environment, in order to be considered a environmentally dangerous activity in the Environment chapter's sense. No actual effect needs to occur. It is enough if there is a risk for effect. Although the risk for harmful health effects caused by the radiation from mobile masts is small, it must be considered to constitute a risk for impact on the environment, the court stated. The court referred to experimental surveys of experiments

on animal that, show that radio frequencies or non-ionizing radiation can cause behavior changes and disturbances in body functions. Here, it is unclear which research the court had in mind. The court referred further to a statement by Swedish Radiation Protection Authority in the script "Radiation from base stations for mobile telecommunication" (2001 : 3), that accepted that threshold values are exceeded at a few meter's distance straight in front of the aerial's beams. Environmental Court of Appeal considered further that there exists risk because mobile masts can give course to psychic dread at nearby residential homes. Causing dread as a result of an activity is a form of lawlessness (Illegality) that is covered by the environment chapter's definition of environmentally dangerous activity.

Conclusion:

The Environmental Court of Appeal has thus laid down the law, that mobile masts and aerials for 3G are an environmentally dangerous activity according to the Environment chapter. It should be pointed out that the installation and use of mobile masts and aerials are not a condition duty activity, according to the chapter.

For such activities a planning permission is required, according to the planning law.

According to the current Environment chapter each town or rural area council has the responsibility for monitoring of non-condition duty peak activity. The council has a right to request the information needed in order to conduct the monitoring. It is also important to remark that the decision does not give any lead as to which protection measures etc. will be required for masts and aerials or if any such are required.

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Radiation from mobile + telecommunications masts:

A base station for mobile telecommunication can concurrently work at several different frequency channels within its respective frequency band. For GSM-telecommunication the number of channels varies, normally between one and six, depending on how many members the station will serve. The "send-effect" is usually of the magnitude of 10 W/channel. One telephone call uses such a frequency channel less than 1/8 of the time. Such a base station sends thus with the biggest "send-effect" when it concurrently serves eight telephone calls on each of its frequency channels. The total "send-effect" amounts to a maximumity of approximately 100 W.

Smaller base stations indoors, in sport halls, galleries and tunnels have in general low "send-effect and is not discussed more here.

UMTS will use two types of base stations, one with send-effect of 20W/channel, mostly in urban areas, and 20W/channel in rural areas.