

***The Swedish Environmental Code and Environmental
Courts*** 瑞典环境准则和环境法院

Gabriel Michanek

加布里埃·

Professor of Environmental Law

Faculty of Law

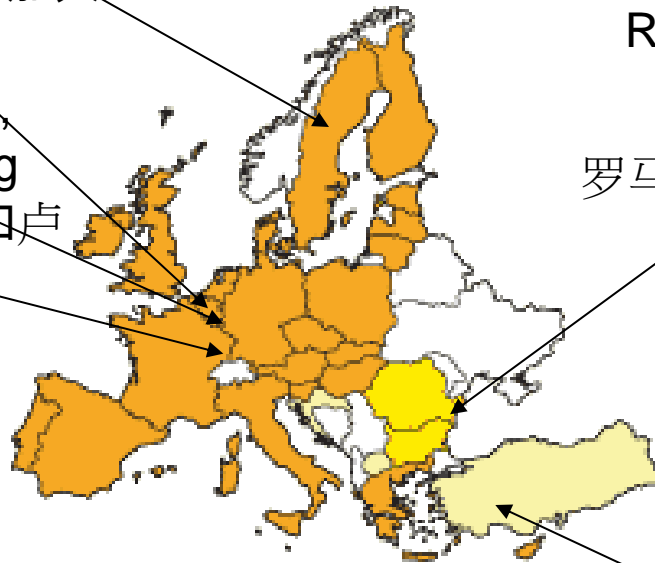
Uppsala University

乌普萨拉大学法学院环境法教授

European Union (EU) 欧盟

Sweden, member 1995
瑞典1995年加入

EU institutions in Brussels,
Strasbourg and Luxembourg
欧盟在布鲁塞尔斯特拉斯堡和卢
森堡设有办事处



Romania and Bulgaria, last
members, 2007

罗马尼亚和保加利亚, 2007年最
后加入的两个国家

Turkey, next member? 下一个
成员国, 土耳其?

EU and the member states (e.g. Sweden)

欧盟和成员国（如瑞典）

- Each member state issues and applies national environmental legislation, but is to a great extent dependant on decisions by EU.

每个成员国的问题以及适用于本国的环境法规很大程度上依赖于欧盟决议。

- *EU Council and Parliament* – adopts EU legislation superior to member state law. Member state is obliged to implement EU law.

欧盟理事会和议会，相较于本国法律而言，更多的采用欧盟法律。成员国有义务执行欧盟的法律。

– *Regulations* apply directly in member state 条例直接适用于成员国

– *Directives* need to be transposed into member state legislation 指令需要转移到成员国的立法中

- *EU Commission* – supervises member state compliance with EU law. Can bring a non compliance case to EU Court.

欧盟委员会-监督成员国遵守欧盟法律，可以对欧盟法院提起异议

- *EU Court* verdicts are binding to member states. EU court can issue heavy fines on member state. 20 million cny + 200–450 thousand cny per day of non compliance.

欧盟法庭的裁决对成员国都具有约束力，可以对成员国进行2000万人民币加上每天20-45万人民币的罚款。

Swedish Environmental Code Historical background

瑞典环境准则历史背景

- Many new environmental statutes since 1960's, based mainly upon administrative law

自20世纪六十年代以来，许多新的环境法规主要依据行政法

- New legal environmental instruments introduced (EIA etc)

新的合法的环境对策被引进，如环境影响评价

- Complex system of overlapping and inconsistent statutes

重复的复杂系统和不一致的法例

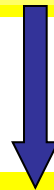
- Environmental Code 1999 (coordination of 16 statutes)

1999年出台环境准则（16个法规的综合）

Swedish Environmental Code 瑞典环境准则

General provisions 总则

Sustainable development and specific sub-objectives
Environmental Standards, Ambient Quality Standards, EIA
可持续发展和具体的子目标，环境标准、环境质量标准和环境影响评价



Additional requirements for specific sectors (licensing, standards etc.), e.g. :
Polluting activities, Water operations, Chemicals, GMO, Waste, Nature conservation
具体部分的附加要求（许可、标准等），如污染行为、水上作业、化学、转基因、废物、自然保护



Civil litigation
民事诉讼



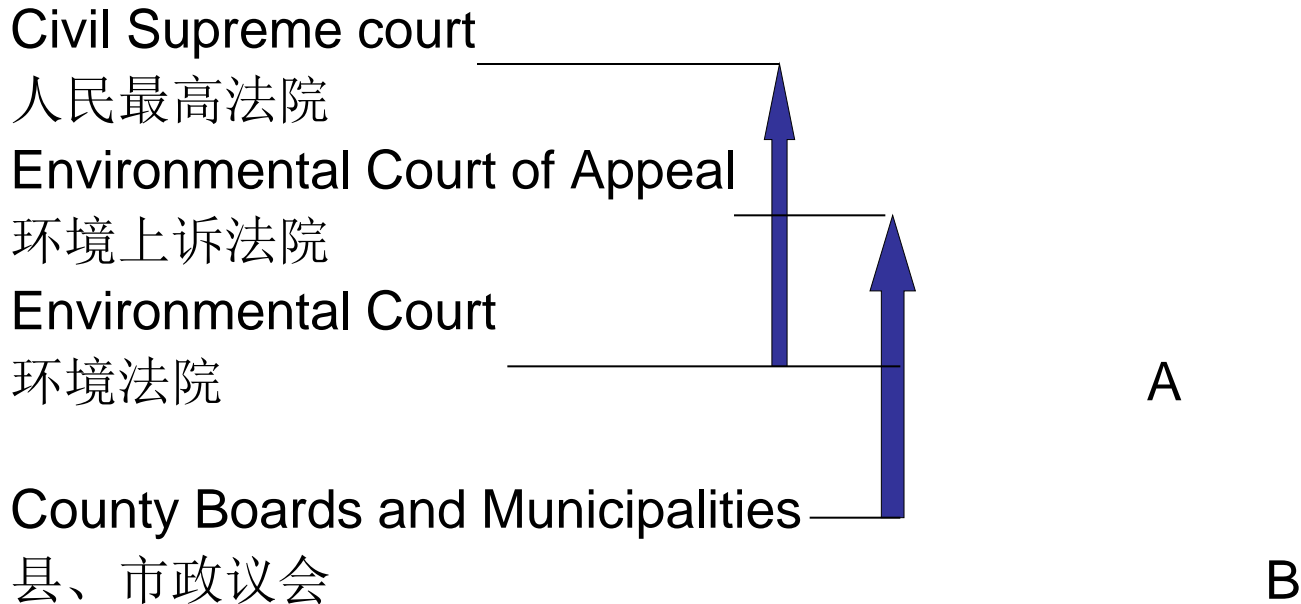
Supplementary implementation provisions 补充实施规定

Role of environmental courts and enforcement bodies, Licensing procedures,
Enforcement instruments, Sanctions etc.

环保法庭和执法机构的作用，许可证审批，执法文书，制裁处罚等

Swedish System of Environmental Courts

瑞典环保法庭系统



A = Licensing of big polluting activities and of most water operations
批准污染大和水上作业多的活动和操作

B = Other licensing, enforcement, certain physical planning
其他许可、执法，某些实际规划

Access to Justice 实现司法

- Participation – Consultation procedure (EIA), licensing procedure
参与-咨询程序（环境影响评价），许可证审批程序
- Right to appeal for individuals, key question: are you “concerned”?

Examples:

- 个人提起上诉，关键问题：你是否真正的在关注？例如

License to polluting activity: a *risk* for being affected is sufficient
排污执照：很有可能存在受污染的风险

License to water operations (dam constructions etc.): owners of land likely to be affected, persons with fishing rights etc)

水作业许可（如大坝建设）：土地所有者很可能受到影响，附近渔民的捕鱼权等

Permit to construct a house on a popular beach: close neighbor

在一个热闹的海滩上建造房屋：近邻

Detail plan: “concerned” + opposed during the planning process

详细计划：关注+在计划的阶段提出异议

***Environmental organisations*环境组织**

***Environmental Code*环境准则**

- organisation or other legal person, which 组织和其他法人
 - as a main purpose looks after nature conservation and environmental protection interests,以关注自然和环境保护为主要目的
 - is non-profit,非营利性的
 - has been operating in Sweden during at least three years, and 在瑞典从事自然与环保活动至少三年以上
 - has at least 100 members or can show that it in other respects has public support
 - 拥有100名以上成员或者在其他方面有公众的支持