

Case C-275/09

Brussels Hoofdstedelijk Gewest and Others

v

Vlaams Gewest

(Reference for a preliminary
ruling from the Raad van State (Belgium))

(Directive 85/337/EEC — Assessment of the effects of certain public and private projects on the environment — Airports with a runway length of 2 100 metres or more — Concept of ‘construction’ — Renewal of operating consent)

Opinion of Advocate General Mengozzi delivered on 17 November 2010 . . . I - 1755

Judgment of the Court (First Chamber), 17 March 2011 I - 1768

Summary of the Judgment

*Environment — Assessment of the effects of certain projects on the environment — Directive 85/337 — Member States under an obligation to require assessment of projects likely to have a significant effect on the environment — Concept of ‘project’ or ‘construction’
(Council Directive 85/337, as amended by Directive 97/11, Art. 1(2), first indent, and Annexes I, point 7, and II, point 13, first indent)*

The second indent of Article 1(2) of and point 7 of Annex I to Directive 85/337 on the assessment of the effects of certain public and private projects on the environment, as amended by Directive 97/11, must be interpreted as meaning that the renewal of an existing permit to operate an airport cannot, if there are no works or interventions involving alterations to the physical aspect of the site, be classified as a 'project' or 'construction,' respectively, within the meaning of those provisions.

entry into force of Directive 85/337, whether that permit forms part of a consent procedure carried out in several stages, the ultimate purpose of which is to enable activities which constitute a project within the meaning of the first indent of point 13 of Annex II, read in conjunction with point 7 of Annex I, to the directive to be carried out. If no assessment of the environmental effects of such works or interventions was carried out at the earlier stage of the consent procedure, it would be for the national court to ensure that the directive was effective by satisfying itself that such an assessment was carried out at the very least at the stage at which the operating permit was to be granted.

However, it is for the national court to determine, on the basis of the national legislation applicable and taking account, where appropriate, of the cumulative effect of a number of works or interventions carried out since the

(see paras 24, 30, 32, 34, 36, 38,
operative part)