

- b) does 'selection or arrangement' include adding important significance to a pre-existing item of data (as in fixing the date of a football match);
- c) does 'author's own intellectual creation' require more than significant labour and skill from the author, if so what?
2. Does the Directive preclude national rights in the nature of copyright in databases other than those provided for by the Directive?

(¹) Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases
OJ L 77, p. 20

Action brought on 22 December 2010 — European Commission v Kingdom of Sweden

(Case C-607/10)

(2011/C 89/15)

Language of the case: Swedish

Parties

Applicant: European Commission (represented by: A. Alcover San Pedro and K. Simonsson, acting as Agents)

Defendant: Kingdom of Sweden

Form of order sought

— Declare that, by failing to adopt the measures necessary to ensure that the competent authorities see to it, by means of permits in accordance with Articles 6 and 8 of Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control (¹) or, as appropriate, by reconsidering and, where necessary, by updating the conditions, that existing installations operate in accordance with the requirements of Articles 3, 7, 9, 10 and 13, Article 14(a) and (b) and Article 15(2) not later than 30 October 2007, the Kingdom of Sweden has failed to fulfil its obligations under that directive;

— order the Kingdom of Sweden to pay the costs.

Pleas in law and main arguments

It follows from Article 5(1) of the IPPC Directive that Member States are to adopt the measures necessary to ensure that the competent authorities see to it, by means of permits in accordance with Articles 6 and 8 of Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control or, as appropriate, by reconsidering and, where necessary, by updating the conditions, that existing installations operate in accordance with the requirements of Articles 3, 7, 9, 10 and 13, Article 14(a) and (b) and Article 15(2) not later than 30 October 2007. In the view of the Commission, that obligation is to be understood as covering all existing installations in the Member State in question.

In accordance with established case-law, a question whether there is a breach of the Treaties is to be assessed against the background of the situation prevailing in the Member State concerned at the time of expiry of the period laid down in the reasoned opinion. It follows from Sweden's reply to the reasoned opinion that 33 existing installations did not meet the requirements in the IPPC Directive at the time of the reply.

Furthermore, it is apparent from the attachment to Sweden's supplementary reply to the reasoned opinion that in October 2010, nearly three years after expiry of the period in the IPPC Directive, there remained 23 existing installations which did not meet the requirements under the directive.

(¹) OJ L 24, 29.1.2008, p. 8.

Appeal brought on 23 December 2010 by Dieter C. Umbach against the judgment of the Court (Seventh Chamber) delivered on 21 October 2010 in Case T-474/08 Dieter C. Umbach v European Commission

(Case C-609/10 P)

(2011/C 89/16)

Language of the case: German

Parties

Appellant: Dieter C. Umbach (represented by: M. Stephani, lawyer)

Other party to the proceedings: European Commission

Form of order sought

— Annulment of point 1 of the operative part of the judgment of the Court of 21 October 2010 in Case T-474/08 *Umbach v European Commission*.

— Annulment of the European Commission's decision of 2 September 2008, reference: SG.E.3/MV/psi D(2008) 6991.

— Order that the European Commission pay the costs of the case at first instance and on appeal.

Pleas in law and main arguments

By his appeal, Mr Umbach appeals the decision of the Court (Seventh Chamber) of 21 October 2010 in Case T-474/08 and seeks the setting aside of that judgment, by which he was refused full access to documents connected with a TACIS contract which concern him.

The appellant is of the opinion that on the basis of obligations under primary law, in particular Article 41(2)(b) of the Charter of Fundamental Rights, direct access to documents which affect him must be permitted, in particular where a claim for payment is brought against him by the European Commission before a Member State court and he requires access to documents of the European Commission for the purposes of defending those proceedings.