

DIRECTIVE 98/34 – A GUIDE

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1 Introduction

Where a government department or other authority is introducing rules or guidance which regulate products (including agricultural and fish products) or services provided over the internet or by other electronic means, consideration needs to be given as to whether these need to be notified in draft to the Commission under the provisions of Directive 98/34 ('the Technical Standards Directive'). Failure to comply with the notification requirements of the Directive will lead to rules being unenforceable. The notification requirements of the directive cover a wide range of rules including those in legislation, de facto rules (i.e. any 'rules' which although not strictly legally binding are in practice followed), rules which are imposed by virtue of agreements to which a public authority is a party (other than a public procurement agreement) and fiscal and financial rules which are designed to affect consumption of products. To be caught by the Directive, the rules must apply to the whole of a Member State or a substantial part of it.

2 Executive summary

The key points to note in relation to the notification requirements of Directive 98/34 are as follows:

- The notification provisions of the Directive (See Article 8) apply to draft rules and guidance (which it is intended users should in practice follow) (referred to in the directive as 'technical regulations') which apply in a Member State or a major part of it and regulate industrially manufactured or agricultural products (including bans on products, rules about their composition, packaging); or
- services provided on a commercial basis over the internet or through any similar medium (these are referred to as 'information society services').
- A measure is a 'draft' if the text is at a stage of preparation at which substantial amendments can be made (Article 1(12)) (Thus it is too late to make a notification in relation to an SI if the Minister has already signed it.)
- Subject to limited exceptions, after notification to the Commission, a standstill period of a minimum of 3 months (which can be extended in the event of objections from the Commission or another Member State where these are issued as a 'detailed opinion') applies during which the draft measures may not be adopted (See Article 9 of the Directive) . (NB Any amendments of substance made to the draft after notification will require a further notification – See in particular Case C-433/05 Sandstrom.)

- Adoption of a measure regulating goods or electronic services without following the procedure in the Directive renders the measure unenforceable. For this reason, if in doubt, it is safer to notify a measure in draft. (Adoption of a notifiable technical regulation without notifying it to the Commission also exposes the UK to the risk of infraction proceedings.)
- The directive applies not only to Bills and Statutory instruments but also to soft law such as guidance (An example of this would be the guidance produced in relation to the Building Regulations) The test is whether the rule is in practice followed whether or not there is a strict legal requirement to do so (Fiscal rules that mean that it is advantageous to manufacture products in a particular way would for example be caught).
- Notification under 98/34 may be necessary even where the rules implement a Directive.

3 The subject areas covered by the notification requirements

3.1 Products

The term 'product' is defined as comprising industrially manufactured products and agricultural products including fish products. The Commission take the view that rules applying to products not in common use or with a negligible economic impact must be notified in draft. The Commission view (Commission Working Paper para. 2.1.1) is:

“The Directive draws no distinction on the basis of the value of the products, size of market, etc. and contains no de minimis rule. Consequently, rules applying to products not in common use or with a negligible economic impact must be notified.”

In **Case C-226/97 Lemmens** the court confirmed that nothing was to be excluded from the definition of 'product'. In that case Member States had sought to argue that products connected with the criminal law (in that case a breathalyser) were excluded from the scope of the notification requirements and that the directive only applied to 'everyday products'. The court rejected this argument (paras. 23-24). The Court referred to **Case C-13/96 Bic Benelux** where the ECJ ruled that the grounds on which a technical regulation was adopted was irrelevant to the issue of whether there was a requirement to notify them in draft.

3.2 Information Society Services (Electronic Services provided over the internet etc)

From 5th August 1999 Directive 98/34 covered rules in relation to information society services. A service is an information society service if it satisfies the following requirements. It must be:

- normally provided for remuneration;
- provided by electronic means;
- provided at a distance without the parties being present; and
- provided through the transmission of data at the request of a person.

3.3 Information Society Services - 'normally provided for remuneration'

A service may be provided for remuneration even where the recipient of the service does not pay for it. This is the case in relation to an internet service where income is derived from advertisers who advertise on web pages which provide a service to internet users for example the provision of information on a particular subject.

3.4 Information Society Services - 'provided by electronic means'

Whilst the term 'provided by electronic means' is relatively self explanatory, Annex V of the Directive provides some examples of services that are not provided 'by electronic means'. These include:

- services which have a 'material content' even though provided by electronic devices including: automatic cash or ticket dispensing machines (banknotes, rail tickets etc.), access to roads/car parks where electronic devices at entrance/exit control access and/or ensure correct payment;
- Offline services: distribution of CD roms or software on diskettes;
- Services which are not provided via electronic processing/inventory systems;
- voice telephony services;
- telefax/telex services;
- services provided via voice telephony or fax;
- telephone/telefax consultations with doctors/lawyers;

- telephone/telefax direct marketing.

3.5 Information Society Services - ‘provided at a distance without the parties being present’

Again Annex V provides examples of services that are not to be considered as being provided ‘at a distance’. This in particular covers services where the provider and recipient are both physically present even where electronic devices are used such as:

- medical examinations using electronic equipment;
- consultation of an electronic catalogue by a customer in a shop;
- plane ticket reservations at a travel agency in the physical presence of the customer;
- electronic games in an arcade where the customer is physically present.

3.6 Information Society services - ‘provided through the transmission of data at the request of a person’

Annex V provides that the following services are not to be regarded as services supplied at the individual request of a recipient of services if they are services provided by transmitting data without individual demand and the data is for simultaneous reception by an unlimited number of individual receivers (point to multipoint transmission). Such services include;

- television broadcasting services (including near-video on-demand services), covered by point (a) of Article 1 of Directive 89/552/EEC;
- radio broadcasting services;
- (televised) teletext.

3.7 Examples of services regarded by Member States as information society services

The following are some examples of rules that have been notified by Member States (with reference on the Commission’s TRIS website:

- Online copyright infringement (UK 2011/418, Italy 2011/403I)
- Online betting/gaming (Spain 2011/374E, Denmark 2011/312/DK)
- E-signatures (Germany 2010/517D)
- E-invoices (Netherlands 2010/497/NL)

3.8 The concept of the technical regulation

At the heart of the notification requirements of the directive is the concept of the 'technical regulation'. This is the expression that is used in the directive to describe the types of rules that are covered by the notification and standstill requirements of the Directive.

3.9 Rules relating to products that require notification

A number of types of rules relating to products require notification. These are:

- Prohibitions;
- technical specifications;
- 'other requirements'.

3.10 The kinds of rules that are covered – de facto and de jure

The Directive lists a number of types of rules which if they contain technical regulations must be notified. In particular it is important to note that the Directive covers both de facto and de jure rules. The directive uses the term 'technical regulation' to refer to all those types of rules that must be notified in draft.

3.11 Rules about products

3.11.1 Prohibitions

The definition of 'technical regulation' in Article 1(11) includes provisions which prohibit the manufacture, importation, marketing or use of a product. A rule is to be regarded as a prohibition if it leaves no room for any use which can reasonably be expected of the product concerned other than a purely marginal one (Case C-267/03 Lindberg).

3.11.2 Technical specifications

The definition of 'technical regulation' also covers 'technical specifications'. A 'technical specification' includes a document which specifies the characteristics required of a product (See Article 1(3)). For example in the Lidl Italia case, a requirement for cotton buds to be biodegradable was a technical specification. In C-289/94 Commission v Italy (Molluscs), a requirement as to water quality could be a technical specification in relation to molluscs if in practice only molluscs raised in water meeting those standards could be sold.

A rule that does not affect the characteristics of a product is not a technical specification. A requirement to immunise pigs was not a technical specification as it did not prevent pork from pigs that had not been immunised from being sold. (See Case C-37/99 Donkersteeg ECR 2000 p I-10223). Rules as to the levels of asbestos fibres in the work place do not

amount to a technical regulation as they do not define the characteristics of a product. C-279/94 Commission v Italy (Asbestos) [1997] ECR I-4743. A requirement for labelling to be in a particular language is not a technical regulation. (See Case C-33/97 Colim). Recently the ECJ has ruled in Case C-361/10 Intercommunale Intermosane, SCRL, Federation de l'industrie et du gaz v Belgian State that general rules relating to the safety of electrical installations were not technical regulations since they did not introduce any specific requirements relating to the manufacture of any particular type of product.

3.11.3 Other requirements

The definition of 'technical regulation' has been extended to cover what are described as 'other requirements' (See Article 1(4)). These are requirements which affect the life cycle of the product after it has been placed on the market including for example:

- conditions of use
- recycling
- reuse
- disposal

The Directive states that this in particular includes rules to protect consumers and the environment.

3.11.4 Rules Relating to Services

Notifiable rules that relate to electronic services broadly fall into two categories namely:

- prohibitions
- 'rules on services'

The concept of a 'prohibition' is self explanatory and would cover any rules that ban a particular service. The expression 'rules on services' is expressed by the directive as covering requirements of a general nature relating to the take up and pursuit of electronic service activities. This in particular includes provisions concerning the service provider, the services and the recipient of the services. Rules which impact on electronic services are not caught if they are not specifically aimed at electronic services (e.g. general rules about contracts which catch all types of contract not just those relating to electronic services).

4 Exceptions from the requirements to notify

There are a number of exceptions from the requirements to notify a technical regulation which arise from the case law and express provisions contained within Directive 98/34. It is

important to note that as a general rule the reasons for the adoption by a member state of a technical regulation cannot be prayed in aid to excuse non notification except where the non-notification can be justified by reference to an exception in the Directive or a decision of the Court of Justice. Exceptions can broadly be divided into general exceptions and activity or sector specific exceptions.

5 General exceptions

5.1 Repeals of technical regulations

A complete repeal of a measure does not require notification (Commission Working Paper para. 2.1.10). The Commission however points out that a distinction needs to be drawn between what can be described as a pure and simple repeal in other words a repeal that does not create any new obligation e.g. the repeal of a requirement to manufacture something in a particular way leaving manufacturers complete freedom of choice as to methods of manufacture. A contrast has to be drawn between a pure and simple repeal and a measure that liberalises or provides derogations from technical regulations. The latter will almost certainly give rise to a notifiable technical regulation. Thus in the *Margarine case (Commission v Netherlands Case 273/94, ECR 1996 p. I-31)* the Dutch created an exception to their rules relating to the marketing of margarine provided that strict criteria were met. The ECJ ruled that the measure creating the new exception was a technical regulation and was required to be notified.

6 Re-enactments of technical regulations

In **Case C-33/97 Colim NV v Bigg's Continent Noord NV** the court noted that national measures which reproduce or replace – without adding new or additional specifications – existing technical regulations which were originally duly notified under 98/34 cannot be technical regulations. In paragraph 23 of the judgment the ECJ stated:

“A national measure which reproduces or replaces, without adding new or additional specifications, existing technical regulations which, if adopted after the entry into force of Directive 83/189, have been duly notified to the Commission, cannot be regarded as a ‘draft’ technical regulation within the meaning of Article 1(6) of Directive 83/189 or, consequently, as subject to the obligation to notify.”

6.1 Powers to make rules and similar provisions

A pure power to make rules is not of itself notifiable in draft. Rather it is the regulations to be made under the power that are notifiable in draft. (See Commission Working Paper, para. 1.1.3). In the case *C-194/94 CIA Security International SA v Signalson* [1996] ECR I-2210 the ECJ stated at para 29:

“A rule is classified as a technical regulation for the purposes of Directive 83/189 if it has legal effects of its own. If, under domestic law, the rule merely serves as a basis for enabling administrative regulations containing rules binding on interested parties to be adopted, so that by itself it has no legal effect for individuals, the rule does not constitute a technical regulation within the meaning of the directive (see the judgment in Case C-317/92 Commission v Germany [1994] ECR I-2039, paragraph 26).”

Some caution needs to be exercised in relying on this exception. In the CIA case the rule was held to be notifiable even though some further administrative rules were required because the rule itself required security systems to have prior approval.

7 Implementation of EU law

Article 10(1) of the Directive provides that the notification and standstill requirements in Articles 8 and 9 of the Directive do not apply to laws, regulations and administrative provisions of the Member State or voluntary agreements by means of which Member States:

“comply with binding Community acts which result in the adoption of technical specifications or rules on services.”

It is interesting to note that the exception is limited on its face to technical specifications and rules on services and does not apparently cover ‘other requirements’ or ‘prohibitions’. There must therefore be some doubt as to whether the exception can be relied upon in these areas. The ECJ has ruled in a number of cases. In case **C-159/00 Sapod Audic v Eco Emballages** an attempt to rely on Article 10 in relation to laws implementing a directive failed because “.....that directive establishes only a general framework’ leaving Member States a significant degree of freedom. In case **C-425/97 Albers** the exception was successfully invoked in relation to a prohibition on the administration of clenbuterol to cattle (See para 1.1.7 of the Commission Working Paper)

7.1 Implementation of international agreements

Article 10(1) of the Directive provides that the notification and standstill requirements in Articles 8 and 9 of the Directive do not apply to laws, regulations and administrative provisions of the Member State or voluntary agreements by means of which Member States:

“fulfil the obligations arising out of international agreements which result in the adoption of common technical specifications or rules on services in the Community.”

According to the Commission, this exception cannot be invoked unless all the Member States are party to the international agreement. Additionally the provisions of the international agreement must be measures leaving Member States no margin for manoeuvre in implementation however narrow. (See para 2.2.3 of the Commission Working Paper.)

7.2 Safeguard clauses in Community Acts

Article 10(1) of the Directive provides that the notification and standstill requirements in Articles 8 and 9 of the Directive do not apply to laws, regulations and administrative provisions of the Member State or voluntary agreements by means of which Member States:

“make use of safeguard clauses provided for in binding Community Acts.”

7.3 What is a ‘safeguard clause’?

A safeguard clause will usually be indicated in the Article heading. An example is to be found in Article 3 of Directive 2001/18/EC of the European Parliament and of the Council of 12th March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EC. This Article is headed “Safeguard Clause” and it permits the banning of GMOs where new evidence appears which demonstrates a risk to human health or the environment notwithstanding that the procedures in that Directive have been followed.

7.4 General product safety - application of Article 8(1) of Directive 92/59/EEC

Article 10(1) of the Directive provides that the notification and standstill requirements in Articles 8 and 9 of the Directive do not apply to laws, regulations and administrative provisions of the Member State or voluntary agreements by means of which Member States:

‘apply Article 8(1) of Directive 92/59/EEC.’

This exception refers to any situation where Member states apply Article 8(1) of Directive 92/59 on general product safety. This has been replaced by Article 12(1) of Directive 2001/95/EC. This lays down a Community rapid information system (RAPEX) in the event of a serious risk to the health and safety of consumers. The Directive provides a procedure for taking measures to deal with health and safety issues relating to specific products.

7.5 Implementation of ECJ judgments

Article 10(1) of the Directive provides that the notification and standstill requirements in Articles 8 and 9 of the Directive do not apply to laws, regulations and administrative provisions of the Member State or voluntary agreements by means of which Member States:

“restrict themselves to implementing a judgment of the Court of Justice of the European Communities.”

7.6 Amendment of technical regulation at request of Commission

Article 10(1) of the Directive provides that the notification and standstill requirements in Articles 8 and 9 of the Directive do not apply to laws, regulations and administrative provisions of the Member State or voluntary agreements by means of which Member States:

“restrict themselves to amending a technical regulation within the meaning of point 11 of Article 1, in accordance with a Commission request, with a view to removing an obstacle to trade or, in the case of a rule on services, to the free movement of services or the freedom of establishment of service operators.

8 Specific exceptions

8.1 Rules on worker protection

This exemption is contained in Article 1(12) final paragraph. Thus a rule reserving use of certain dangerous equipment for specified skilled workers does not need to be notified. The exception means that a measure requiring compulsory use of protection equipment for certain activities does not require notification provided the measures do not specify the characteristics of the protection equipment that must be used.

8.2 Radio broadcasting services

This exception is to be found in Article 1(2).

8.3 Television broadcasting services

This exception is to be found in Article 1(2). A service comes within the concept of ‘television broadcasting’ referred to in Article 1(a) of Directive 89/552, as amended by Directive 97/36, if it consists of the initial transmission of television programmes intended

for reception by the public, that is, an indeterminate number of potential television viewers, to whom the same images are transmitted simultaneously. The manner in which the images are transmitted is not a determining element in that assessment. (See **Case C-89/04 Mediakabel**).

8.4 Telecommunications

Commission guidance indicates that this exception only covers matters that are actually harmonised by Community law. There was some debate as to whether internet service providers fall within the scope of this exception. However there are no harmonised rules on these. The Commission give as an example of a law that requires notification as a law on the liability of internet access suppliers. Article 1(4) defines telecommunications services means services whose provision consists wholly or partly in the transmission and routing of signals on a telecommunications network by means of telecommunications processes, with the exception of radio broadcasting and television. The Commission guidance states :

“future national drafts relating to telecommunications matters already harmonised at Community level - i.e. including national measures other than those covered by the general exemption in Article 10 – will not fall within the scope of the Directive and will not therefore be subject to the obligation to notify.....As a result of this specific exemption, not only the measures referred to in Article 10 of Directive 98/34/EC but also all other national regulations relating to questions governed by the Telecommunications Services Directives (e.g. laws amending, clarifying, or repealing the scope of a law transposing a Directive) are not subject to the obligation of prior notification in Directive 98/34/EC (given that, for the most part, they will have to be notified under these Directives.....Similarly, a future national law, subsequent to the law which transposed Directive 97/13/EC and laying down specific conditions for granting licences to supply electronic mail telecommunications services, will not, as a result of this exemption, be subject to the obligation of prior notification.”

(See generally the Commission’s Vade Mecum to Directive 98/48/EC – Doc. S-42/98-EN (def.))

8.5 Financial services

Annex VI of the Directive sets out a non-exhaustive list of matters covered by Community legislation in the field of financial services. These are

- investment services;
- insurance and reinsurance operations;
- banking services;

- operations relating to pension funds;
- services related to dealing in futures and options.

In particular this exception includes:

- investment services referred to in the Annex to Directive 93/22/EEC; services of Collective investment undertakings;
- services cover by the activities subject to mutual recognition referred to in the Annex to Directive 89/646/EEC;
- operations covered by the insurance and reinsurance activities referred to in:
 - Article 1 of Directive 73/239/EEC;
 - the Annex to Directive 79/267/EEC;
 - Directive 64/225/EEC;
 - Directives 92/49/EEC and 92/96/EEC.

The exception for financial services is to be found in the third sub-paragraph of point 5 of Article 1. The Commission's Vade Mecum to Directive 98/48 EC states (page 26) that this exception covers not only anything falling within the Article 10 general exception relating to the implementation of Community law but also all measures supplementing or subsequent to the implementing instrument.

8.6 Regulated markets

Article 1(5) contains this exemption.

The Commission's Vade Mecum to Directive 98/48 (page 27) gives the following examples of things that are not notifiable:

- A draft regulation on computerised stock exchange dealing and settlement;
- A draft decree concerning the clearing system for electronic trades made on the stock exchange;
- A draft regulation relating to the procedures for the supply and conclusion of electronic transactions concerning securities traded on financial markets other than stock exchanges

8.7 Geographical indications

Regulation 2081/92/EEC expressly disappplies the Directive in relation to rules relating to geographical indications and designations of origin for agricultural products and foodstuffs.

8.8 Social security systems

Article 1(11) contains this exemption

9 Notification in draft and standstill periods

9.1 What is a draft?

A draft is defined by the Directive as being a technical regulation which is at a stage of preparation at which substantial amendments can be made.

9.2 What are the requirements for notification

Notification must be to the Commission. The following points should be noted:

- Notifications for the United Kingdom are done through the relevant unit in BIS;
- A statement of the grounds on which it is necessary to enact the technical regulation must be provided;
- The Member State making the notification must send the text of the legislative texts necessary to understand the technical regulation (this includes any enactments amended);
- Significant amendments to a draft that has been notified will mean that it must be notified again;
- There are special requirements as to information to be provided where a Member State is banning a product on health, consumer protection or environmental grounds.

9.3 When should notification occur?

No notification is required for measures which predate the Directive (Colim case Snellers para 33). Measures must be notified in 'draft'. For statutory instruments, this means that the a statutory instrument must not have been signed by the Minister before it has been notified.

9.4 Initial standstill period

Article 9 provides that, subject to exceptions based on urgency (see below), where Member States have notified a draft technical regulation to the Commission, the Member State may not adopt the technical regulation for a period of three months. Thus for example in relation to a statutory instrument, the relevant Minister should not sign the instrument before expiry of the standstill period (or indeed any extension of that period.)

9.5 Extension of standstill period - objections on internal market grounds

The standstill period is extended if within the initial period of 3 months:

in the case of rules about goods, the Commission or another Member State delivers a 'detailed opinion' to the effect that the measure envisaged may create obstacles to the free movement of goods within the internal market; or

in the case of rules about services, the Commission or another Member State delivers a detailed opinion to the effect that the measure envisaged may create obstacles to the free movement of services or the establishment of service operators within the internal market. (A detailed opinion may not affect any cultural policy measures, in particular in the audiovisual sphere which Member States can adopt in accordance with Community law, taking account of their linguistic diversity, their special national and regional characteristics and their cultural heritage.)

Extension of standstill period-obligations of Member States in relation to detailed opinions

Where a detailed opinion is issued, the Member State is required to report to the Commission on the action that it proposes to take. The Commission is required to comment on this. As regards rules relating to electronic services, where the Member State concerned is not proposing to change the draft technical regulation in the light of the detailed opinion, it is required to say why the detailed opinion cannot be taken into account

10 Changes to draft technical regulations after notification

Article 8(1) of the Directive provides that Member States have to renotify a draft if they make changes to the draft "that have the effect of significantly altering its scope, shortening the timetable originally envisaged for implementation, adding specifications or requirements, or making the latter more restrictive. This provision was considered in Case C-433/05 **Sandstrom**. In that case the ECJ held that amendments made to relax

conditions relating to the use of a product and consequently reduces the possible impacts on trade, did not require further notification.

10.1 Consequences of failure to comply with the requirements to notify/observe the standstill

10.1.1 General principle of unenforceability

In **Case C-194/94 CIA Security International ECR** 1996 ECR, p I-2201, the European Court of Justice ruled that a failure to comply with the notification requirements renders the technical regulation which was not notified inapplicable and unenforceable against individuals. In **Case C-226/97 Unilever Italia** the court confirmed that a failure to observe the standstill period also renders the technical regulation concerned unenforceable. In that case the Italian government notified the law in question. The Commission gave notice to the Italian Government of its intention to legislate in the area. This had the effect of extending the standstill period to 12 months. The Italian government nevertheless proceeded to adopt the law in question. The ECJ confirmed that a failure to observe a standstill period renders the law in question inapplicable.

11 Criminal proceedings

It is quite clear from ECJ case law that non-notification of a technical regulation will be a good defence to a criminal charge arising out of a failure to comply with the technical regulation that has not been notified.

11.1 Civil proceedings

In the Unilever Italia case the ECJ held that in cases involving private parties a national court should refuse to apply a technical regulation that had been adopted without complying with the notification requirements of the Directive.

11.2 The limits of unenforceability

In **Case C-226/97 Lemmens**, Dutch law laid down certain requirements in relation to breathalyser equipment in relation to testing. The rules relating to breathalyser equipment were not communicated to the Commission in accordance with the provisions of the Technical Standards Directive. Lemmens who was charged under drink drive laws sought to argue that as the rules relating to breathalysers had not been notified in accordance with the provisions of the Directive this rendered evidence obtained from the breathalyser inadmissible. The ECJ rejected this argument. The court ruled that failure to notify a technical regulation relating to a product did not render unlawful the use of that product manufactured in conformity with the non-notified regulation.

11.3 Technical Standards and limitation periods and time limits

An interesting question arose out of the discovery that there had been a failure to notify the provisions of the Video Recordings Act 1984. In **R v Budimir and Rainbird and Interfact Ltd v Liverpool City Council** persons convicted of offences under that Act sought to appeal out of time in order to raise the defence of non-notification under the Technical . The defendants argued that the principle of effectiveness required the Court to allow an appeal out of time. The court rejected the application on EU law grounds on the basis that the Court of Justice had upheld time limits and limitation periods on the grounds of legal certainty and the need to ensure finality in decision making even though the effect had been to preclude the enforcement of an EU law right.

11.4 Infraction proceedings

Failure to notify a measure in draft as required by the Directive exposes a Member State to infraction proceedings brought by the Commission.

12. References

Commission Working Paper The 98/34 Notification Procedure Working Paper: Court of Justice Judgments and Commission Practice

Some recent cases on the notification requirements of Directive 98/34

- Case C-361/10 Intercommunale Interomosane, SCRL, Federation de l'industrie et du gaz v Belgian State (electrical safety requirements)
- C-433/05 Sandström (amendments to draft as notified)
- C-45/10 Vlaamse Dierenartsenvereniging and Janssens (reference on pet passports)
- C-510/09 Commission v France (ministerial decree at issue concerning the use of unprepared blends of phytopharmaceutical products with an agricultural value) notification of action
- C- 190/09 Commission v Cyprus (Prohibition on the distribution and sale of biofuels produced from genetically modified plants) notice of Commission infraction proceedings)
- C-42/07 Liga Portuguesa de Futebol Profissional and Baw International (AGO only)
- C-20/05 Schwibbert
- C-65/05 Commission v Greece (prohibition on installation and operation of all electrical, electromechanical and electronic games, including all computer games, on all public or private premises apart from casinos)
- C-303/04 Lidl Italia (biodegradable cotton buds)
- C-500/03 Commission v Portugal (national rules applicable to recreational craft)
- C-89/04 Mediakabel (definition of television broadcasting services)
- C-267/03 Lindberg (use of gaming machines)

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