

## Case C-303/04

**Lidl Italia Srl**

**v**

**Comune di Stradella**

(Reference for a preliminary ruling from the Tribunale di Voghera)

(Technical standards and regulations — Directive 98/34/EC — Concept of ‘technical regulation’ — Non-biodegradable cotton buds)

Judgment of the Court (Fifth Chamber), 8 September 2005 . . . . . I - 7867

### Summary of the Judgment

- 1. Approximation of laws — Procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services — Directive 98/34 — Technical regulation — Concept — National provision prohibiting the marketing of cotton buds which are not manufactured from biodegradable materials — Whether included*

*(European Parliament and Council Directive 98/34, as amended by Directive 98/48, Art. 1 (11))*

2. *Approximation of laws — Procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services — Directive 98/34 — Duty of Member States to notify the Commission of any draft technical regulation — Scope — Breach of duty — Obligation on a national court to leave unapplied the provision in question*

*(European Parliament and Council Directive 98/34, as amended by Directive 98/48, Art. 8 (1))*

1. Article 1(11) of Directive 98/34 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services, as amended by Directive 98/48, must be interpreted as meaning that a national legislative provision including a prohibition on the marketing of cotton buds which are not manufactured from biodegradable materials in accordance with a national standard constitutes a technical regulation within the meaning of that Community provision.

(see para. 14, operative part 1)

2. The first subparagraph of Article 8(1) of Directive 98/34 laying down a procedure for the provision of information in the field of technical standards and regula-

tions and of rules on Information Society services, as amended by Directive 98/48, must be interpreted as meaning that a national provision which constitutes a technical regulation within the meaning of Article 1(11) of the directive, such as a prohibition on the marketing of cotton buds which are not manufactured from biodegradable materials in accordance with a national standard, must be notified to the Commission prior to its adoption.

If such a notification has not taken place, the national courts may refuse to apply the national legal provision concerned.

(see paras 19, 24, operative part 2-3)