

absence of such an obligation of prior notification, the failure to inform the Commission of a non-significant amendment to a technical regulation, prior to its adoption, does not affect the applicability of that regulation.

(¹) OJ C 36, 11.2.2006.

Judgment of the Court (Grand Chamber) of 13 April 2010 (reference for a preliminary ruling from the Cour constitutionnelle — Belgium) — Nicolas Bressol, Anthony Wolf, Cédric Helie, Valérie Jabot, Claude Keusterickx, Denis Wilmet, Charlène Meurou, David Bacquart, Ayhar Gabriel Arslan, Yves Busegnies, Serge Clement, Sabine Gelaes, Etienne Dubuisson, Caroline Kinet, Dominique Peeters, Robert Lontie, Yannick Homerin, Isabelle Pochet, Walid Salem, Karin Van Loon, Olivier Leduc, Annick Van Wallendael, Dorothée Van Eecke, Olivier Ducruet, Céline Hinck, Nicole Arpigny, Eric De Gunsch, Thibaut De Mesmaeker, Mikel Ezquer, Constantino Balestra, Philippe Delince, Madeleine Merche, Jean-Pierre Saliez, Véronique de Mahieu, Muriel Alard, Danielle Collard, Pierre Castelein, Dominique De Crits, André Antoine, Christine Antierens, Brigitte Debert, Véronique Leloux, Patrick Parmentier, M. Simon, Céline Chaverot, Marine Guiet, Floriane Poirson, Laura Soumagne, Elodie Hamon, Benjamin Lombardet, Julie Mingant, Anne Simon, Anaïs Serrate, Sandrine Jadaud, Patricia Barbier, Laurence Coulon, Renée Hollestelle, Jacqueline Ghion, Pascale Schmitz, Sophie Thirion, Céline Vandeuren, Isabelle Compagnion v Gouvernement de la Communauté française

(Case C-73/08) (¹)

(Citizenship of the Union — Articles 18 and 21 TFEU — Directive 2004/38/EC — Article 24(1) — Freedom to reside — Principle of non-discrimination — Access to higher education — Nationals of a Member State moving to another Member State in order to pursue studies there — Restriction on enrolment by non-resident students for university courses in the public health field — Justification — Proportionality — Risk to the quality of education in medical and paramedical matters — Risk of shortage of graduates in the public health sectors)

(2010/C 148/04)

Language of the case: French

Referring court

Cour constitutionnelle

Parties to the main proceedings

Applicants: Nicolas Bressol, Anthony Wolf, Cédric Helie, Valérie Jabot, Claude Keusterickx, Denis Wilmet, Charlène Meurou,

David Bacquart, Ayhar Gabriel Arslan, Yves Busegnies, Serge Clement, Sabine Gelaes, Etienne Dubuisson, Caroline Kinet, Dominique Peeters, Robert Lontie, Yannick Homerin, Isabelle Pochet, Walid Salem, Karin Van Loon, Olivier Leduc, Annick Van Wallendael, Dorothée Van Eecke, Olivier Ducruet, Céline Hinck, Nicole Arpigny, Eric De Gunsch, Thibaut De Mesmaeker, Mikel Ezquer, Constantino Balestra, Philippe Delince, Madeleine Merche, Jean-Pierre Saliez, Véronique de Mahieu, Muriel Alard, Danielle Collard, Pierre Castelein, Dominique De Crits, André Antoine, Christine Antierens, Brigitte Debert, Véronique Leloux, Patrick Parmentier, M. Simon, Céline Chaverot, Marine Guiet, Floriane Poirson, Laura Soumagne, Elodie Hamon, Benjamin Lombardet, Julie Mingant, Anne Simon, Anaïs Serrate, Sandrine Jadaud, Patricia Barbier, Laurence Coulon, Renée Hollestelle, Jacqueline Ghion, Pascale Schmitz, Sophie Thirion, Céline Vandeuren, Isabelle Compagnion

Defendant: Gouvernement de la Communauté française

Re:

Reference for a preliminary ruling — Cour constitutionnelle (formerly Cour d'arbitrage), Belgium — Interpretation of the first paragraph of Article 12 and Article 18(1) EC, in conjunction with Articles 149 EC and 150 EC — *Numerus clausus* for enrolment by non-resident students in programmes of study in the area of public health offered by the universities and schools of higher education — Principle of non-discrimination — Justification and proportionality of restrictive measures — Maintenance of wide and democratic access to quality higher education for the population of the Member State concerned — Danger of a shortage of graduates in the occupational sectors concerned, constituting a danger to public health

Operative part of the judgment

- Articles 18 and 21 TFEU preclude national legislation, such as that at issue in the main proceedings, which limits the number of students not regarded as resident in Belgium who may enrol for the first time in medical and paramedical courses at higher education establishments, unless the referring court, having assessed all the relevant evidence submitted by the competent authorities, finds that that legislation is justified in the light of the objective of protection of public health.
- The competent authorities may not rely on Article 13(2)(c) of the International Covenant on Economic, Social and Cultural Rights, adopted by the United Nations General Assembly on 16 December 1966, if the referring court holds that the decree of the French Community of 16 June 2006 which regulates the number of students in certain programmes in the first two years of undergraduate studies in higher education is not compatible with Articles 18 and 21 TFEU.

(¹) OJ C 116, 09.05.2008.