



Reports of Cases

JUDGMENT OF THE COURT (Seventh Chamber)

10 July 2014*

(Reference for a preliminary ruling — Internal market — Directive 98/34/EC — Third subparagraph of Article 8(1) — Information procedure in the field of technical rules and regulations — Notion of ‘technical regulation’ — Hens for egg production — Shortening of a timetable for implementation originally envisaged for the entry into force of the technical rule — Obligation to notify — Conditions — Discrepancies between language versions)

In Case C-307/13,

REQUEST for a preliminary ruling under Article 267 TFEU from the Helsingborgs tingsrätt (Sweden), made by decision of 30 May 2013, received at the Court on 5 June 2013, in the criminal proceedings against

Lars Ivansson,

Carl-Rudolf Palmgren,

Kjell Otto Pehrsson,

Håkan Rosengren,

THE COURT (Seventh Chamber),

composed of J.L. da Cruz Vilaça, President of the Chamber, J.-C. Bonichot and A. Arabadjiev (Rapporteur), Judges,

Advocate General: Y. Bot,

Registrar: I. Illéssy, Administrator,

having regard to the written procedure and further to the hearing on 3 April 2014,

after considering the observations submitted on behalf of:

- Messrs Ivansson, Palmgren, Pehrsson and Rosengren, by M. Erling and E. Erling, advokater,
- the Swedish Government, by A. Falk and L. Swedenborg, acting as Agents,
- the Polish Government, by B. Majczyna, acting as Agent,
- the European Commission, by J. Enegren, D. Kukovec and A. Tokár, acting as Agents,

* Language of the case: Swedish.

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,
gives the following

Judgment

- 1 This request for a preliminary ruling concerns the interpretation of the third subparagraph of Article 8(1) of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services (OJ 1998 L 204, p. 37), as amended by Directive 98/48/EC of the European Parliament and of the Council of 20 July 1998 (OJ 1998 L 217, p. 18; ‘Directive 98/34’).
- 2 The request has been made in criminal proceedings brought by the Åklagarkammaren i Helsingborg (Public Prosecution Office for Helsingborg; ‘the prosecution’) against four egg producers, Messrs Ivansson, Palmgren, Pehrsson and Rosengren (‘the defendants to the main proceedings’), seeking their criminal conviction for having, deliberately or through negligence, kept hens for egg production in housing systems that did not satisfy the hens’ need for nests, perches and sand-baths.

Legal context

Directive 98/34

- 3 Article 1(3), (4) and (11) of Directive 98/34 sets out the following definitions:

‘...

- (3) “technical specification”: a specification contained in a document which lays down the characteristics required of a product such as levels of quality, performance, safety or dimensions, including the requirements applicable to the product as regards the name under which the product is sold, terminology, symbols, testing and test methods, packaging, marking or labelling and conformity assessment procedures;

The term “technical specification” also covers production methods and processes used in respect of agricultural products as referred to Article 38(1) of the Treaty, products intended for human and animal consumption, and medicinal products as defined in Article 1 of [Council Directive 65/65/EEC of 26 January 1965 on the approximation of provisions laid down by law, regulation or administrative action relating to proprietary medicinal products (OJ, English Special Edition 1965-1966, p. 20), as amended by Council Directive 93/39/EEC of 14 June 1993 (OJ 1993 L 214, p. 22)], as well as production methods and processes relating to other products, where these have an effect on their characteristics;

- (4) “other requirement”: a requirement, other than a technical specification, imposed on a product for the purpose of protecting, in particular, consumers or the environment, and which affects its life cycle after it has been placed on the market, such as conditions of use, recycling, reuse or disposal, where such conditions can significantly influence the composition or nature of the product or its marketing;

...

(11) “Technical regulation”: technical specifications and other requirements or rules on services, including the relevant administrative provisions, the observance of which is compulsory, de jure or de facto, in the case of marketing, provision of a service, establishment of a service operator or use in a Member State or a major part thereof, as well as laws, regulations or administrative provisions of Member States, except those provided for in Article 10, prohibiting the manufacture, importation, marketing or use of a product or prohibiting the provision or use of a service, or establishment as a service provider.

De facto technical regulations include:

- laws, regulations or administrative provisions of a Member State which refer either to technical specifications or to other requirements or to rules on services, or to professional codes or codes of practice which in turn refer to technical specifications or to other requirements or to rules on services, compliance with which confers a presumption of conformity with the obligations imposed by the aforementioned laws, regulations or administrative provisions,
- voluntary agreements to which a public authority is a contracting party and which provide, in the general interest, for compliance with technical specifications or other requirements or rules on services, excluding public procurement tender specifications,
- technical specifications or other requirements or rules on services which are linked to fiscal or financial measures affecting the consumption of products or services by encouraging compliance with such technical specifications or other requirements or rules on services; technical specifications or other requirements or rules on services linked to national social security systems are not included.

This comprises technical regulations imposed by the authorities designated by the Member States and appearing on a list to be drawn up by the [European] Commission before 5 August 1999, in the framework of the Committee referred to in Article 5.

The same procedure shall be used for amending this list.’

4 The first to third subparagraphs of Article 8(1) of Directive 98/34 read as follows:

‘Subject to Article 10, Member States shall immediately communicate to the Commission any draft technical regulation, except where it merely transposes the full text of an international or European standard, in which case information regarding the relevant standard shall suffice; they shall also let the Commission have a statement of the grounds which make the enactment of such a technical regulation necessary, where these have not already been made clear in the draft.

Where appropriate, and unless it has already been sent with a prior communication, Member States shall simultaneously communicate the text of the basic legislative or regulatory provisions principally and directly concerned, should knowledge of such text be necessary to assess the implications of the draft technical regulation.

Member States shall communicate the draft again under the above conditions 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.’

Swedish law

- 5 Paragraph 36(1), point 2, of the Law (1988:534) on the protection of animals (Djurskyddslagen (1988:534)) of 2 June 1988 (SFS 1988, No 534; ‘the DSL’) provides:

‘The penalty for offences committed deliberately or through negligence in the following cases shall be a fine or imprisonment for not more than two years:

...

2. failure to comply with a rule issued pursuant to this Act ...’

- 6 The Animal Welfare Regulation (1988:539) (Djurskyddsförordning (1988:539)) of 2 June 1988 (SFS 2003:105), as amended by the regulation of 20 March 2003 (SFS 2003, No 105; ‘the DSF’) was adopted on the basis of the DSL. Paragraph 9 of that regulation provides:

‘Hens for egg production may not be kept in housing systems other than those which meet the hens’ need for nests, perches and sand-baths. The housing system shall be such that the mortality rate and behaviour disorders in the hens are kept to a low level.

The Board of Agriculture may lay down additional provisions concerning the rearing of hens.’

The dispute in the main proceedings and the questions referred for a preliminary ruling

- 7 The defendants to the main proceedings are egg producers who have been prosecuted before the referring court for failing to comply with the provisions of Paragraph 36 of the DSL and Paragraph 9 of the DSF by for having, deliberately or through negligence, kept hens for egg production in housing systems that did not satisfy the hens’ need for nests, perches and sand-baths.
- 8 Although the defendants to the main proceedings have accepted the facts of the matter alleged against them, they have, however, disputed that the charges brought by the prosecution mean that they are criminally liable. In that regard, they point out that the bringing forward of the entry into force of Paragraph 9 of the DSF, from 1 May 2003, as originally intended, to 15 April 2003, had not been communicated again to the Commission pursuant to the third subparagraph of Article 8(1) of Directive 98/34. The defendants to the main proceedings have claimed that, in consequence of this, the provisions of Paragraph 9 of the DSF are not applicable to them.
- 9 The prosecution has, for its part, accepted that Paragraph 9 of the DSF constituted a technical regulation and was therefore covered by Directive 98/34. It also accepts that it was not communicated to the Commission again. However, the prosecution disputes that the fact that the date of entry into force of that provision was brought forward represents a significant change within the meaning of the third subparagraph of Article 8(1) of Directive 98/34 and accordingly took the view that the Swedish Government was not under any obligation to make a new communication to the Commission.
- 10 By judgment of 2 October 2009, the referring court upheld the arguments of the defendants to the main proceedings and dismissed the prosecution.
- 11 Following the order delivered by the Högsta domstolen (Supreme Court) on 21 December 2010, which concluded that there was no need to request a preliminary ruling from the Court of Justice, the Hovrätten över Skåne och Blekinge (Court of Appeal for Skåne and Blekinge) set aside the judgment delivered on 2 October 2009 by the referring court and referred the matter back to that court for a new judgment on the merits.

- 12 In those circumstances, the Helsingborgs tingsrätten (Helsingborg District Court) decided to stay the proceedings and to refer the following questions to the Court for a preliminary ruling:
1. Does the shortening of a timetable for implementation from 1 May 2003 to 15 April 2003, as occurred on the introduction of Paragraph 9 of the [DSF], give rise to an obligation on the Kingdom of Sweden, as a Member State, to communicate the draft regulation again in accordance with the third subparagraph of Article 8(1) of Directive 98/34 ...?
 2. If the answer to question 1 is that it should have been communicated again, what are the effects in law of the fact that that was not done?

Consideration of the questions referred

The first question

- 13 By its first question, the referring court asks, in essence, whether the date finally chosen by the national authorities for the entry into force of a national measure, such as that at issue in the main proceedings, laying down the requirement that hens for egg production are not to be kept in housing systems other than those which meet the hens' need for nests, perches and sand-baths and that the housing system is to be such that the mortality rate and behaviour disorders in the hens are kept to a low level, is subject to the obligation to notify the Commission, as laid down in the third subparagraph of Article 8(1) of Directive 98/34.
- 14 In that regard, it must be noted that, under the first subparagraph of Article 8(1) of Directive 98/34 the Member States are to communicate a draft technical regulation to the Commission again 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.
- 15 Since the Polish Government has disputed, in its observations, the fact that Paragraph 9 of the DSF may be classified as a 'technical regulation' within the meaning of Article 1(11) of Directive 98/34 and in order to give the referring court a useful answer, it is appropriate first to ascertain whether that national measure is actually capable of being so classified.
- 16 According to the Court's settled case-law, it follows from Article 1(11) of Directive 98/34 that the concept of 'technical regulation' covers three categories, namely, first, the 'technical specification' within the meaning of Article 1(3) of the directive, second, 'other requirements', as defined in Article 1(4) of the directive, and third, that set out in Article 1(11) of that directive, which concerns the laws, regulations or administrative provisions prohibiting the manufacture, importation, marketing or use of a product or prohibiting the provision or use of a service, or establishment as a service provider (see, to that effect, judgment in *Fortuna and Others*, C-213/11, C-214/11 and C-217/11, EU:C:2012:495, paragraph 27 and the case-law cited).
- 17 In that regard, firstly, it must be noted from the outset that Paragraph 9 of the DSF does not fall within the third category of the technical regulations referred to in Article 1(11) of Directive 98/34, since Paragraph 9 of the DSF does not contain any prohibition, within the meaning of that directive, of the manufacture, importation, marketing or use of a product, the provision or use of a service, or establishment as a service provider.
- 18 Secondly, it must be determined whether the national measure at issue in the main proceedings falls within the first category of technical regulations provided for in Article 1(11) of Directive 98/34, that is to say the concept of 'technical specification'.

- 19 It is necessary to state that, in accordance with the case-law, that notion presupposes that the national measure must necessarily refer to the product or its packaging as such and thus lay down one of the characteristics required of a product (see, to that effect, judgment in *Fortuna and Others*, EU:C:2012:495, paragraph 28).
- 20 In addition, with regard to agricultural products, the Court has stated that a technical specification is one contained in a document which lays down the characteristics required of a product or its production methods and procedures (see, to that effect, judgment in *Donkersteeg*, C-37/99, EU:C:2000:636, paragraph 30).
- 21 It must be noted, firstly, that although Paragraph 9 of the DSF concerns the comfort and quality of the installations where hens for egg production are kept, namely enriched cages, that provision does not, however, as the Polish Government has pointed out, define the characteristics which the items at issue in the main proceedings must have.
- 22 Secondly, even if the view could be taken that that provision relates to a production method in that it refers, as stated in the preceding paragraph, to the keeping of hens for egg production in enriched cages, it must none the less be pointed out that that provision merely makes a general mention of the existence of nests, perches and sand-baths within those installations without, however, specifying the various aspects of that housing system. Paragraph 9 of the DSF does not contain any indication concerning, for example, the dimension, number, temperature, upkeep or functioning of those installations as regards the exposure of the hens for egg production to light or even concerning feeding and watering. In the absence of any specification in Paragraph 9 of the DSF, it cannot be regarded as laying down the production methods and procedures.
- 23 Furthermore, it must be noted that, by stating that ‘the housing system shall be such that the mortality rate and behaviour disorders in the hens are kept to a low level’ without any other indication, the first subparagraph of Paragraph 9 of the DSF merely states general objectives in relation to the well-being of hens for egg production, without necessarily referring to the product concerned and thus without laying down the characteristics of that product (see, by analogy, judgment in *Intercommunale Interrosane and Fédération de l’Industrie et du gaz*, C-361/10, EU:C:2011:382, paragraph 17).
- 24 It follows from the foregoing that Paragraph 9 of the DSF does not contain ‘technical specifications’ within the meaning of Article 1(11) of Directive 98/34.
- 25 Thirdly, it is appropriate to determine whether Paragraph 9 of the DSF falls within the second category of technical regulations provided for in Article 1(11) of Directive 98/34, that is the concept of ‘other requirements’.
- 26 In that regard, the Court has already held that, in order to be classified as ‘other requirements’ within the meaning of Article 1(4) of Directive 98/34, the national measures at issue must constitute ‘conditions’ which can significantly influence the composition or nature of the product concerned or its marketing (see judgment in *Fortuna and Others*, EU:C:2012:495, paragraph 35 and the case-law cited).
- 27 The Court has also held that, where the provisions of a national measure are general in nature, they cannot amount to such conditions or, consequently, be classified as ‘other requirements’, within the meaning of Article 1(4) of the directive (see, to that effect, judgment in *Intercommunale Interrosane and Fédération de l’Industrie et du gaz*, EU:C:2011:382, paragraph 21).
- 28 The very general formulation of Paragraph 9 of the DSF, as stated in paragraphs 22 and 23 of the present judgment, thus precludes that provision from being regarded as placing conditions on the composition or nature of the products concerned or their marketing.

- 29 Consequently, Paragraph 9 of the DSF cannot be classified as an ‘other requirement’ within the meaning of Article 1(4) of Directive 98/34.
- 30 Finally, it must be held that although that paragraph does not itself constitute a technical regulation, in its second subparagraph it refers to additional provisions concerning the rearing of hens which would be communicated at a later date by the Board of Agriculture.
- 31 Such a reference to more detailed administrative rules is likely, provided that those rules can be regarded as themselves constituting ‘technical specifications’ or ‘other requirements’, to confer the status of ‘*de facto* technical regulation’ on Paragraph 9 of the DSF in accordance with the first indent of Article 1(11) of Directive 98/34.
- 32 However, it must be pointed out that the Swedish Government stated at the hearing that those rules were included in the rules of the State Board of Agriculture (Statens jordbruksverks föreskrifter (SJVFS 2010:15)), which were adopted on 6 May 2001, adding that such rules already existed in 2003.
- 33 Accordingly, it is for the referring court to ascertain, first of all, whether those more detailed rules referred to in Paragraph 9 of the DSF had actually been adopted at the time material to the main proceedings. If those rules are applicable *rationae temporis* to the dispute in the main proceedings, the referring court must, next, ensure that they can be classified as ‘technical specifications’ or ‘other requirements’ in accordance with the first indent of Article 1(11) of Directive 98/34. Finally, that court must ascertain whether those rules were also affected by the bringing forward of the date of the entry into force of Paragraph 9 of the DSF.
- 34 Thus, assuming that the referring court reaches the conclusion that those more detailed rules do constitute ‘technical specifications’ or ‘other requirements’, and provided that the shortening of the timetable was also applicable to them, it is appropriate to ascertain whether the bringing forward of the date of entry into force of Paragraph 9 of the DSF from 1 May 2003 to 15 April 2003 was subject to the obligation of making a new communication to the Commission as laid down in the third subparagraph of Article 8(1) of Directive 98/34.
- 35 In that regard, it is necessary to point out that, at the hearing, the Swedish Government and the Commission submitted that the communication of the initial draft of Paragraph 9 of the DSF to that institution did not state that that provision would be applied with effect from 1 May 2003, but only that it would enter into force during 2003, which it is for the referring court to check.
- 36 Accordingly, even if the communication of the initial draft of Paragraph 9 of the DSF sent to the Commission did actually state that it would enter into force during 2003, it must be noted that the date of 15 April 2003, finally chosen by the national authorities as the date of the entry into force of that provision, does not constitute an amendment of an exact date — which is, moreover, not required by Directive 98/34 — which was initially communicated to the Commission and, therefore, did not constitute a change to the timetable within the meaning of the third subparagraph of Article 8(1) of that directive.
- 37 It follows that the national authorities were not required, in those circumstances, to make a new communication thereof as provided for in that provision of Directive 98/34.
- 38 However, if the initial communication of Paragraph 9 of the DSF to the Commission contained the exact date of 1 May 2003 for its entry into force, the choice made by the Swedish authorities finally to apply the date of 15 April 2003 does constitute a change to the timetable, thus raising the question whether the bringing forward of the date of application of that national measure was subject to the obligation to make a new communication to the Commission as provided for in the third subparagraph of Article 8(1) of Directive 98/34.

- 39 In that regard, it must be noted that all the parties have referred to the existence of discrepancies between the language versions of the third subparagraph of Article 8(1) of Directive 98/34. It is not clearly apparent from all the language versions that the requirement that changes be significant applies not only to the first situation referred to in that article, namely that of altering the scope of the technical regulation, but also to the other two situations referred to therein, namely that of shortening the timetable envisaged for implementation of the technical regulation and that of adding specifications or requirements or making them more restrictive. Only certain language versions state clearly that the requirement that changes be significant applies to the three types of change envisaged. As an indication, the French language version states that ‘[l]es États membres procèdent à une nouvelle communication ... s’ils apportent au projet de règle technique, d’une manière significative, des changements qui auront pour effet de modifier le champ d’application, d’en raccourcir le calendrier d’application initialement prévu, d’ajouter des spécifications ou des exigences ou de rendre celles-ci plus strictes’; the Italian language version states that ‘Gli Stati membri procedono ad una nuova comunicazione ... qualora essi apportino al progetto di regola tecnica modifiche importanti che ne alterino il campo di applicazione, ne abbrevino il calendario di applicazione inizialmente previsto, aggiungano o rendano più rigorosi le specificazioni o i requisiti’ and the Portuguese language version reads as follows: ‘Os Estados-membros farão uma nova comunicação ..., caso introduzam alterações significativas no projecto de regra técnica que tenham por efeito modificar o âmbito de aplicação, reduzir o calendário de aplicação inicialmente previsto, aditar especificações ou exigências ou torná-las mais rigorosas’.
- 40 It is therefore appropriate to recall that, in accordance with settled case-law, the wording used in one language version of a provision of EU law cannot serve as the sole basis for the interpretation of that provision, or be made to override the other language versions in that regard. Provisions of EU law must be interpreted and applied uniformly in the light of the versions existing in all EU languages. Where there is divergence between the various language versions of an EU legislative text, the provision in question must be interpreted by reference to the purpose and general scheme of the rules of which it forms part (see, to that effect, judgment in *Kurcum Metal*, C-558/11, EU:C:2012:721, paragraph 48 and the case-law cited).
- 41 It is clear that Directive 98/34 is designed to protect, by means of preventive monitoring, the free movement of goods, which is one of the foundations of the European Union, and that this control serves a useful purpose in that technical regulations falling within the scope of that directive may constitute obstacles to trade in goods between Member States, such obstacles being permissible only if they are necessary to satisfy compelling requirements relating to the public interest (see judgment in *Fortuna and Others*, EU:C:2012:495, paragraph 26 and the case-law cited).
- 42 In addition, it is necessary to point out that recital 13 in the preamble to Directive 98/34 states that ‘the Commission and the Member States must also be allowed sufficient time in which to propose amendments to a contemplated measure’ and recital 16 in the preamble thereto states that ‘the Member State ... must ... defer implementation of the contemplated measure for a period sufficient to allow either a joint examination of the proposed amendments or the preparation of a proposal for a binding act of the Council or the adoption of a binding act of the Commission’.
- 43 It therefore follows from the general scheme and purpose of Directive 98/34, firstly, that the shortening of the timetable for implementation of the technical regulation cannot be subject to a stricter requirement — in that any bringing forward of the date of entry into force of that regulation must be communicated to the Commission — than that imposed in connection with a change to the scope of the technical regulation, all changes made to a draft technical regulation such as those set out in the third subparagraph of Article 8(1) of the directive having to be assessed, in the same way, in the light of the objective of the free movement of goods. Secondly, it is necessary that the effectiveness of the procedure for the examination of a draft technical regulation by the Commission and the Member States and that of the national legislative process be maintained.

- 44 It follows from the foregoing that the requirement that changes be significant applies to all of the situations referred to in the third subparagraph of Article 8(1) of Directive 98/34, including the shortening of the timetable for implementation of the technical regulation.
- 45 Accordingly, whether the bringing forward of the date of entry into force of Paragraph 9 of the DSF to 15 April 2003 is significant must be assessed by the referring court, on the basis of all the elements put before it, in the light both of the objective duration of the shortening of the timetable for implementation of the technical regulation and of the specific features of the field of activity at issue, and particularly the different stages and constraints involved in the production and marketing of the products concerned.
- 46 Having regard to the foregoing, the answer to the first question is that the date finally chosen by the national authorities for the entry into force of a national measure, such as that at issue in the main proceedings, laying down the requirement that hens for egg production are to be kept in housing systems which meet the hens' need for nests, perches and sand-baths and that the housing system is to be such that the mortality rate and behaviour disorders in the hens are kept to a low level, is subject to the obligation of communication to the Commission, as laid down in the third subparagraph of Article 8(1) of Directive 98/34, where a change to the timetable for the implementation of that national measure was, in effect, made, and was significant in nature, which it is for the national court to ascertain.

The second question

- 47 By its second question, the referring court asks what the legal effects of a failure to make such a communication would be, if the shortening of the timetable for the entry into force of Paragraph 9 of the DSF were to be subject to the obligation of communication to the Commission, as laid down in the third subparagraph of Article 8(1) of Directive 98/34.
- 48 In that regard, it must be borne in mind that the Court has held that a failure to observe the obligation to notify the Commission constitutes a procedural defect in the adoption of the technical regulations concerned, and renders those technical regulations inapplicable and therefore unenforceable against individuals (see, in particular, judgment in *CIA Security International*, C-194/94, EU:C:1996:172, paragraph 54, and judgment in *Schwibbert*, C-20/05, EU:C:2007:652, paragraph 44). Individuals may rely on that inapplicability before the national court which must decline to apply a national technical regulation which has not been notified in accordance with Directive 98/34 (see, in particular, judgment in *Schwibbert*, EU:C:2007:652, paragraph 44 and the case-law cited).
- 49 It follows therefrom that, if the communication to the Commission of Paragraph 9 of the DSF actually contained the date of 1 May 2003 as the date of the entry into force and the shortening of its timetable for implementation to 15 April 2003 was significant in nature, the failure to make a new communication of that national provision to the Commission would render it unenforceable against the defendants in the main proceedings.
- 50 The answer to the second question is, consequently, that, if the shortening of the timetable for the entry into force of a technical regulation is subject to the obligation of communication to the Commission, as laid down in the third subparagraph of Article 8(1) of Directive 98/34, the failure to make such a communication would render that national measure inapplicable, such that it could not be enforced against individuals.

Costs

- 51 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Seventh Chamber) hereby rules:

1. **The date finally chosen by the national authorities for the entry into force of a national measure, such as that at issue in the main proceedings, laying down the requirement that hens for egg production are to be kept in housing systems which meet the hens' need for nests, perches and sand-baths and that the housing system is to be such that the mortality rate and behaviour disorders in the hens are kept to a low level, is subject to the obligation of communication to the European Commission, as laid down in the third subparagraph of Article 8(1) of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 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/EC of the European Parliament and of the Council of 20 July 1998, where a change to the timetable for the implementation of that national measure was, in effect, made, and was significant in nature, which it is for the national court to ascertain.**
2. **If the shortening of the timetable for the entry into force of a technical regulation is subject to the obligation of communication to the European Commission, as laid down in the third subparagraph of Article 8(1) of Directive 98/34, as amended by Directive 98/48, the failure to make such a communication would render that national measure inapplicable, such that it could not be enforced against individuals.**

[Signatures]