JUDGMENT OF THE COURT
30 April 1996 *

In Case C-194/94,

REFERENCE to the Court under Article 177 of the EC Treaty by the Tribunal de Commerce de Liège (Belgium) for a preliminary ruling in the proceedings pending before that court between

CIA Security International SA

and

Signalson SA,

Securitel SPRL,

on the interpretation of Article 30 of the EC Treaty and of Council Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations (OJ 1983 L 109, p. 8), as amended by Council Directive 88/182/EEC of 22 March 1988 (OJ 1988 L 81, p. 75),

* Language of the case: French.

THE COURT,

composed of: G. C. Rodríguez Iglesias, President, C. N. Kakouris, D. A. O. Edward and J.-P. Puissochet (Presidents of Chambers), G. F. Mancini, J. C. Moitinho de Almeida, P. J. G. Kapteyn, C. Gulmann (Rapporteur), J. L. Murray, H. Ragnemalm and L. Sevón, Judges,

Advocate General: M. B. Elmer,
Registrar: D. Louterman-Hubeau, Principal Administrator,

after considering the written observations submitted on behalf of:

— CIA Security International SA, by C. van Rutten, of the Liège Bar,

— Signalson SA, by V.-V. Dehin, of the Liège Bar,

— Securitel SPRL, by J.-L. Brandenberg, of the Liège Bar,

— the Belgian Government, by J. Devadder, Director of Administration in the Ministry of Foreign Affairs, acting as Agent,

— the German Government, by E. Röder, Ministerialrat in the Federal Ministry of Economic Affairs, acting as Agent,

— the Netherlands Government, by A. Bos, Legal Adviser, acting as Agent,

— the United Kingdom, by S. Braviner, of the Treasury Solicitor's Department, and E. Sharpston, Barrister, acting as Agents,

— the Commission of the European Communities, by R. Wainwright, Principal Legal Adviser, and J.-F. Pasquier, national official seconded to the Legal Service, acting as Agents,

having regard to the Report for the Hearing,

after hearing the oral observations of CIA Security International SA, represented by C. van Rutten; of Signalson SA, represented by V.-V. Dehin; of the Belgian Government, represented by D. Jacob, Deputy Adviser in the Ministry of Home Affairs, acting as Agent; of the Netherlands Government, represented by J. S. van Oosterkamp, Deputy Legal Adviser; of the United Kingdom, represented by S. Braviner and E. Sharpston; and of the Commission of the European Communities, represented by R. Wainwright and J.-F. Pasquier at the hearing on 5 July 1995,

after hearing the Opinion of the Advocate General at the sitting on 24 October 1995,

gives the following

Judgment

1 By judgment of 20 June 1994, received at the Court on 4 July 1994, the Tribunal de Commerce (Commercial Court), Liège, referred to the Court for a preliminary ruling under Article 177 of the EC Treaty six questions on the interpretation of Article 30 of that Treaty and of Council Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations (OJ 1983 L 109, p. 8, hereinafter 'Directive 83/189'), as amended by Council Directive 88/182/EEC of 22 March 1988 (OJ 1988 L 81, p. 75).

2 Those questions have been raised in two sets of proceedings between (i) CIA Security International SA (hereinafter 'CIA Security') and Signalson SA (hereinafter 'Signalson') and (ii) CIA Security and Securitel SPRL (hereinafter 'Securitel'), those three companies being security firms within the meaning of the Belgian Law of 10 April 1990 on caretaking firms, security firms and internal caretaking services (hereinafter 'the 1990 Law').

3 Article 1(3) of the 1990 Law provides: 'Any legal or natural person pursuing an activity consisting in supplying to third parties, on a permanent or occasional basis, design, installation and maintenance services for alarm systems and networks shall be considered to be a security firm for the purposes of this Law.'

4 Article 1(4) of the 1990 Law provides: 'The alarm systems and networks referred to in this article are those intended to prevent or record crimes against persons or property'.

5 Article 4 of the 1990 Law provides: 'Only persons with prior authorization from the Home Affairs Ministry may operate a security firm. Authorization shall be granted only if the firm meets the requirements laid down in this Law and the conditions concerning financial means and technical equipment prescribed by royal decree ...'.

6 Article 12 of the 1990 Law provides: 'The alarm systems and networks referred to in Article 1(4) and their components may be marketed or otherwise made available to users only after prior approval has been granted under a procedure to be laid down by royal decree ...'.

7 That procedure was laid down by Royal Decree of 14 May 1991 laying down the procedure for approval of the alarm systems and networks referred to in the 1990 Law (hereinafter 'the 1991 Decree').

8 Article 2(1) of the 1991 Decree provides: 'No manufacturer, importer, wholesaler or any other natural or legal person may market new equipment or otherwise make it available to users in Belgium if it has not been previously approved by a committee established for that purpose (the "equipment committee").'

9 Articles 4 to 7 of the 1991 Decree provide for equipment to be examined and tested before it can be approved.

10 According to Article 5, that examination is to consist of identifying the equipment, checking electrical circuits against the documents submitted by the manufacturer and checking the minimum required functions. The tests carried out on the equipment, provided for by Article 6 of the 1991 Decree, concern functional adequacy, mechanical aspects, mechanical and/or electronic reliability, sensitivity to false alarms, and protection against fraud or attempts to neutralize the equipment. For that purpose, equipment is subjected to the tests prescribed in Annexes 3 and 4 to the 1991 Decree.

11 Article 8 of the 1991 Decree provides that: 'If the applicant establishes by means of the necessary documents that his equipment has already undergone tests which are at least equivalent to those described in Article 7 in an authorized laboratory in another Member State of the EEC according to EEC rules and that it has been

approved at most three years before the date of the current application, a body referred to in Article 4(1) shall carry out on the equipment only such tests as have not yet been carried out in the other Member State of the EEC.'

12 The case-file also shows that the 1991 Decree was not notified to the Commission in accordance with the procedure for the provision of information on technical regulations laid down in Directive 83/189 and that, in February 1993, following delivery of a reasoned opinion by the Commission pursuant to Article 169 of the EEC Treaty, the Belgian Government notified a new draft royal decree laying down the procedure for approval of alarm systems and networks. That draft, adopted on 31 March 1994, is substantially identical to the 1991 Decree which it repealed, Article 8 of the 1991 Decree having, however, been amended in accordance with suggestions made by the Commission.

13 The three companies involved in the main proceedings are competitors whose business is, in particular, the manufacture and sale of alarm systems and networks.

14 On 21 January 1994 CIA Security applied to the Liège Commercial Court for orders requiring Signalson and Securitel to cease alleged unfair trading practices pursued in January 1994. It based its claims on Articles 93 and 95 of the Belgian Law of 14 July 1991 on Commercial Practices which prohibits unfair trading practices. CIA Security claims that Signalson and Securitel have libelled it by claiming in particular that the *Andromède* alarm system which it markets did not fulfil the requirements laid down by Belgian legislation on security systems.

15 Signalson and Securitel have lodged counterclaims, the main one being for an order restraining CIA Security from continuing to carry on business on the ground that it is not authorized as a security firm and that it is marketing an alarm system which has not been approved.

16 In an interim judgment the Liège Commercial Court held that, although the main claims and counterclaims seek orders restraining unfair practices prohibited by the Law on Commercial Practices, those practices must still be assessed by reference to the provisions of the 1990 Law and the 1991 Decree.

17 It then found that if CIA Security has infringed the 1990 Law and the 1991 Decree, the actions which it has brought could be declared inadmissible for lack of *locus standi* or sufficient legal interest in bringing proceedings whilst if the 1990 Law and the 1991 Decree are incompatible with Community law, Signalson and Securitel will not be able to base their counterclaims for restraining orders on breach of those legal provisions.

18 Unsure whether the Belgian provisions in question are compatible with Article 30 of the Treaty and having found that those provisions had not been previously notified to the Commission in accordance with Directive 83/189, the Liège Commercial Court decided to stay proceedings and to refer the following questions to the Court for a preliminary ruling:

'1. Does the Law of 10 April 1990 on caretaking firms, security firms and internal caretaking services and, more particularly, Articles 4 and 12 thereof, create quantitative restrictions on imports or does it contain measures having an effect equivalent to a quantitative restriction prohibited by Article 30 of the EEC Treaty?

2. Is the Royal Decree of 14 May 1991 laying down the procedure for approving alarm systems and networks, which is referred to in the Law of 10 April 1990,

and in particular Articles 2 and 8 thereof, compatible with Article 30 of the Treaty which prohibits quantitative restrictions on imports and all measures having an effect equivalent to a quantitative restriction?

3. Does the abovementioned Law of 10 April 1990, in particular Articles 4 and 12 therefore, contain technical regulations which should have been communicated to the Commission beforehand in accordance with Article 8 of Directive 83/189/EEC?

4. Does the Royal Decree of 14 May 1991, in particular Articles 2 and 8 thereof, contain technical regulations which should have been communicated to the Commission beforehand in accordance with Article 8 of Directive 83/189/EEC?

5. Are the provisions of Council Directive 83/189/EEC laying down a procedure for the provision of information in the field of technical standards and regulations, in particular Articles 8 and 9 thereof, unconditional and sufficiently precise to be relied upon by individuals in proceedings before national courts?

6. Do Community law and the protection which it affords to individuals require a national court to refuse to apply a national technical regulation which has not been communicated to the Commission by the Member State which adopted it, in accordance with the obligation laid down in Article 8 of Council Directive 83/189/EEC?'

Preliminary observations

19 According to the Belgian Government, Signalson and Securitel, any question as to the compatibility of the 1991 Decree with Community law is now redundant since in the type of case before it the national court must apply the law in force at the

time when it gives its ruling and that, since the time when proceedings were commenced, the 1991 Decree has been replaced by the Royal Decree of 31 March 1994, which, according to the Commission, is in accordance with Community law.

20 That argument cannot be accepted. According to the case-law of the Court, it is for the national court to assess the scope of the national provisions and the manner in which they must be applied (see, in particular, the judgment in Case C-45/94 *Ayuntamiento de Ceuta* [1995] ECR I-4385, paragraph 26). Since the national court is best placed to assess, in view of the particularities of the case, the need for a preliminary ruling in order to give its judgment, the preliminary questions cannot be regarded as having become redundant as a result of the Decree of 14 May 1991 being replaced by the Royal Decree of 31 March 1994.

21 That being so, the third, fourth, fifth and sixth questions should be answered first.

The third and fourth questions

22 By its third and fourth questions the national court asks in substance whether provisions such as Articles 4 and 12 of the 1990 Law and the 1991 Decree constitute technical regulations which should have been notified to the Commission prior to their adoption, in accordance with Article 8 of Directive 83/189.

23 'Technical regulation' is defined in point (5) of Article 1 of Directive 83/189 as 'technical specifications, including the relevant administrative provisions, the

observance of which is compulsory, *de jure* or *de facto*, in the case of marketing or use in a Member State or a major part thereof, except those laid down by local authorities'. 'Technical specification' is defined in point (1) of that article as '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 terminology, symbols, testing and test methods, packaging, marking or labelling ...'.

24 The first point which must be examined is whether a provision such as Article 4 of the 1990 Law constitutes a technical regulation within the meaning of Directive 83/189.

25 The answer to that question must be negative since according to Directive 83/189 technical regulations are specifications defining the characteristics of products and Article 4 is confined to laying down conditions governing the establishment of security firms.

26 As regards the 1991 Decree, it contains detailed rules defining, in particular, the conditions concerning the quality tests and function tests which must be fulfilled in order for an alarm system or network to be approved and marketed in Belgium. Those rules therefore constitute technical regulations within the meaning of Directive 83/189.

27 As regards Article 12 of the 1990 Law, it is to be recalled that it provides that the products in question may be marketed only after having been previously approved according to a procedure to be laid down by royal decree, which was laid down by the 1991 Decree.

28 According to the Commission and CIA Security, Article 12 of the 1990 Law constitutes a technical regulation within the meaning of Directive 83/189 whilst Signalson, the United Kingdom and the Belgian Government, in their written observations, submit that this article is merely a framework law not comprising any technical regulation within the meaning of Directive 83/189.

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). It should be recalled here that, according to the first subparagraph of Article 8(1) of Directive 83/189, the Member States must communicate, at the same time as the draft technical regulation, the enabling instrument on the basis of which it was adopted, should knowledge of such text be necessary to assess the implications of the draft technical regulation.

30 However, a rule must be classified as a technical regulation within the meaning of Directive 83/189 if, as the Belgian Government submitted at the hearing, it requires the undertakings concerned to apply for prior approval of their equipment, even if the administrative rules envisaged have not been adopted.

31 The reply to be given to the third and fourth questions must therefore be that a rule such as Article 4 of the 1990 Law does not constitute a technical regulation within the meaning of Directive 83/189 whereas provisions such as those contained in the 1991 Decree do constitute technical regulations and that classification of a rule such as Article 12 of the 1990 Law depends on the legal effects which it has under domestic law.

The fifth and sixth questions

32 By its fifth and sixth questions the national court asks in substance whether the provisions of Directive 83/189, and particularly Articles 8 and 9 thereof, are unconditional and sufficiently precise for individuals to be able to rely on them before a national court which must decline to apply a national technical regulation which has not been notified in accordance with the directive.

33 Article 8(1) and (2) of Directive 83/189 provides:

'1. Member States shall immediately communicate to the Commission any draft technical regulation, except where such technical regulation 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 brief statement of the grounds which make the enactment of such a technical regulation necessary, where these are not already made clear in the draft. Where appropriate, 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.

The Commission shall immediately notify the other Member States of any draft it has received; it may also refer this draft to the Committee referred to in Article 5 and, if appropriate, to the Committee responsible for the field in question for its opinion.

2. The Commission and the Member States may make comments to the Member State which has forwarded a draft technical regulation; that Member State shall take such comments into account as far as possible in the subsequent preparation of the technical regulation.'

34 Article 9 of Directive 83/189 provides:

'1. Without prejudice to paragraphs 2 and 2a, Member States shall postpone the adoption of a draft technical regulation for six months from the date of notification referred to in Article 8(1) if the Commission or another Member State delivers a detailed opinion, within three months of that date, to the effect that the measure envisaged must be amended in order to eliminate or reduce any barriers which it might create to the free movement of goods. The Member State concerned shall report to the Commission on the action it proposes to take on such detailed opinions. The Commission shall comment on this reaction.

2. The period in paragraph 1 shall be 12 months if, within three months following the notification referred to in Article 8(1), the Commission gives notice of its intention of proposing or adopting a Directive on the subject.

2 a. If the Commission ascertains that a communication pursuant to Article 8(1) relates to a subject covered by a proposal for a directive or regulation submitted to the Council, it shall inform the Member State concerned of this fact within three months of receiving the communication.

Member States shall refrain from adopting technical regulations on a subject covered by a proposal for a directive or regulation submitted by the Commission to the Council before the communication provided for in Article 8(1) for a period of 12 months from the date of its submission.

Recourse to paragraphs 1, 2 and 2a of this Article cannot be accumulative.

3. Paragraphs 1, 2 and 2a shall not apply in those cases where, for urgent reasons relating to the protection of public health or safety, the protection of health and life of animals or plants, a Member State is obliged to prepare technical regulations in a very short space of time in order to enact and introduce them immediately without any consultations being possible. The Member State shall give, in the communication referred to in Article 8, the reasons which warrant the urgency of the measures taken. The Commission shall take appropriate action in cases where improper use is made of this procedure.'

35 Article 10 of Directive 83/189 provides that: 'Articles 8 and 9 shall not apply where the Member States fulfil their obligations as arising out of Community directives and regulations; the same shall apply in the case of obligations arising out of international agreements which result in the adoption of uniform technical specifications in the Community.'

36 In 1986, in Communication 86/C 245/05 (OJ 1986 C 245, p. 4) the Commission defined its position on the point raised by the Liège Commercial Court in its last two questions. In that communication the Commission stated that Directive 83/189 enabled it, as well as the Member States, to play an important role in preventing the creation of new technical barriers to trade and that the obligations of the Member States created by the directive are clear and unequivocal in that:

— the Member States must notify all draft technical regulations falling under the Directive;

— they must suspend the adoption of the draft technical regulations automatically for three months, other than in the special cases covered by Article 9(3) of the Directive;

— they must suspend the adoption of the draft technical regulation for a further period of three or nine months depending on whether objections have been raised or whether Community legislation is envisaged.

Finally, the Commission stated that failure by Member States to respect the obligations arising under the directive would lead to the creation of serious loopholes in the internal market, with potentially damaging trade effects.

37 In the communication the Commission deduces from the points made therein that 'when a Member State enacts a technical regulation falling within the scope of Directive 83/189/EEC without notifying the draft to the Commission and respecting the standstill obligation, the regulation thus adopted is unenforceable against third parties in the legal system of the Member State in question. The Commission therefore considers that litigants have a right to expect national courts to refuse to enforce national technical regulations which have not been notified as required by Community law'.

38 In the present case the Commission has maintained that interpretation of Directive 83/189, which CIA Security has endorsed.

39 The German and Netherlands Governments and the United Kingdom do not agree with that interpretation. They consider that technical regulations within the meaning of Directive 83/189 may be enforced against individuals even if they were adopted in breach of the obligations which the directive entails. The arguments on which that interpretation is based are examined below.

40 The first point which must be made is that Directive 83/189 is designed to protect, by means of preventive control, freedom of movement for goods, which is one of the foundations of the Community. This control serves a useful purpose in that technical regulations covered by the directive may constitute obstacles to trade in goods between Member States, such obstacles being permissible only if they are necessary to satisfy compelling public interest requirements. The control is also effective in that all draft technical regulations covered by the directive must be notified and, except in the case of those regulations whose urgency justifies an exception, their adoption or entry into force must be suspended during the periods laid down by Article 9.

41 The notification and the period of suspension therefore afford the Commission and the other Member States an opportunity to examine whether the draft regulations in question create obstacles to trade contrary to the EC Treaty or obstacles which are to be avoided through the adoption of common or harmonized measures and also to propose amendments to the national measures envisaged. This procedure also enables the Commission to propose or adopt Community rules regulating the matter dealt with by the envisaged measure.

42 It is settled law that, wherever provisions of a directive appear to be, from the point of view of their content, unconditional and sufficiently precise, they may be relied on against any national provision which is not in accordance with the directive (see the judgment in Case 8/81 *Becker* [1982] ECR 53 and the judgment in Joined Cases C-6/90 and C-9/90 *Francovich and Others* [1991] ECR I-5357.

43 The United Kingdom considers that the provisions of Directive 83/189 do not satisfy those criteria on the ground, in particular, that the notification procedure contains a number of elements that are imprecise.

44 That view cannot be adopted. Articles 8 and 9 of Directive 83/189 lay down a precise obligation on Member States to notify draft technical regulations to the Commission before they are adopted. Being, accordingly, unconditional and sufficiently precise in terms of their content, those articles may be relied on by individuals before national courts.

45 It remains to examine the legal consequences to be drawn from a breach by Member States of their obligation to notify and, more precisely, whether Directive 83/189 is to be interpreted as meaning that a breach of the obligation to notify, constituting a procedural defect in the adoption of the technical regulations concerned, renders such technical regulations inapplicable so that they may not be enforced against individuals.

46 The German and Netherlands Governments and the United Kingdom consider that Directive 83/189 is solely concerned with relations between the Member States and the Commission, that it merely creates procedural obligations which the Member States must observe when adopting technical regulations, their competence to adopt the regulations in question after expiry of the suspension period being, however, unaffected, and, finally, that it contains no express provision relating to any effects attaching to non-compliance with those procedural obligations.

47 The Court observes first of all in this context that none of those factors prevents non-compliance with Directive 83/189 from rendering the technical regulations in question inapplicable.

48 For such a consequence to arise from a breach of the obligations laid down by Directive 83/189, an express provision to this effect is not required. As pointed out

above, it is undisputed that the aim of the directive is to protect freedom of movement for goods by means of preventive control and that the obligation to notify is essential for achieving such Community control. The effectiveness of Community control will be that much greater if the directive is interpreted as meaning that breach of the obligation to notify constitutes a substantial procedural defect such as to render the technical regulations in question inapplicable to individuals.

49 That interpretation of the directive is in accordance with the judgment given in Case 380/87 *Enichem Base and Others* v *Comune di Cinisello Balsamo* [1989] ECR 2491, paragraphs 19 to 24. In that judgment, in which the Court ruled on the obligation for Member States to communicate to the Commission national draft rules falling within the scope of an article of Council Directive 75/442/EEC of 15 July 1975 on waste (OJ 1975 L 194, p. 39), the Court held that neither the wording nor the purpose of the provision in question provided any support for the view that failure by the Member States to observe their obligation to give notice in itself rendered unlawful the rules thus adopted. In this regard, the Court expressly considered that the provision in question was confined to imposing an obligation to give prior notice which did not make entry into force of the envisaged rules subject to the Commission's agreement or lack of opposition and which did not lay down the procedure for Community control of the drafts in question. The Court therefore concluded that the provision under examination concerned relations between the Member States and the Commission but that it did not afford individuals any right capable of being infringed in the event of breach by a Member State of its obligation to give prior notice of its draft regulations to the Commission.

50 In the present case, however, the aim of the directive is not simply to inform the Commission. As already found in paragraph 41 of this judgment, the directive has, precisely, a more general aim of eliminating or restricting obstacles to trade, to inform other States of technical regulations envisaged by a State, to give the Commission and the other Member States time to react and to propose amendments for lessening restrictions to the free movement of goods arising from the envisaged measure and to afford the Commission time to propose a harmonizing directive. Moreover, the wording of Articles 8 and 9 of Directive 83/189 is clear in that those

articles provide for a procedure for Community control of draft national regulations and the date of their entry into force is made subject to the Commission's agreement or lack of opposition.

51 Finally, it must be examined whether, as the United Kingdom in particular observes, there are reasons specific to Directive 83/189 which preclude it from being interpreted as rendering technical regulations adopted in breach of the directive inapplicable to third parties.

52 In this regard, it has already been observed that if such regulations were not enforceable against third parties, this would create a legislative vacuum in the national legal system in question and could therefore entail serious drawbacks, particularly where safety regulations were concerned.

53 This argument cannot be accepted. A Member State may use the urgent-case procedure provided for in Article 9(3) of Directive 83/189 where, for reasons defined by that provision, it considers it necessary to prepare technical regulations in a very short space of time which must be enacted and brought into force immediately without any consultations being possible.

54 In view of the foregoing considerations, it must be concluded that Directive 83/189 is to be interpreted as meaning that breach of the obligation to notify renders the technical regulations concerned inapplicable, so that they are unenforceable against individuals.

55 The answer to the fifth and sixth questions must therefore be that Articles 8 and 9 of Directive 83/189 are to be interpreted as meaning that individuals may rely on

them before the national court which must decline to apply a national technical regulation which has not been notified in accordance with the directive.

The first two questions

56 By its first and second questions the national court asks in substance whether Article 30 of the Treaty precludes national provisions such as Articles 4 and 12 of the 1990 Law and the 1991 Decree.

57 In view of the answers given to the third, fourth, fifth and sixth questions, it is not necessary to reply to the first two questions in so far as they relate to Article 12 of the 1990 Law and the 1991 Decree since those provisions are not enforceable against individuals. Therefore, only the part of the first question that inquires whether a provision such as Article 4 of the 1990 Law, which provides that no one may run a security firm without approval from the Home Affairs Ministry, is compatible with Article 30 of the Treaty need be answered.

58 Since such a provision imposes a condition for the establishment and carrying on of business as a security firm, it does not fall directly within the scope of Article 30 of the Treaty which concerns the free movement of goods between Member States. Furthermore, the case-file does not contain the slightest indication that such a provision has restrictive effects on the free movement of goods or is otherwise contrary to Community law.

59 The answer to the first preliminary question must therefore be that Article 30 of the Treaty does not preclude a national provision such as Article 4 of the 1990 Law.

Costs

60 The costs incurred by the Belgian, German and Netherlands Governments, the United Kingdom and the Commission of the European Communities, which have submitted observations to the Court, are not recoverable. Since these proceedings are, in so far as the parties to the main proceedings are concerned, a step in the action pending before the national court, the decision on costs is a matter for that court.

On those grounds,

THE COURT

in answer to the questions referred to it by the Tribunal de Commerce, Liège, by judgment of 20 June 1994, hereby rules:

1. **A rule such as Article 4 of the Belgian Law of 10 April 1990 on caretaking firms, security firms and internal caretaking services does not constitute a technical regulation within the meaning of Council Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations, as amended by Council Directive 88/182/EEC of 22 March 1988, whereas provisions such as those contained in the Belgian Royal Decree of 14 May 1991 laying down the procedure for approval of the alarm systems and networks referred to in the**

Law of 10 April 1990 do constitute technical regulations and classification of a rule such as Article 12 of the Law of 10 April 1990 depends on the legal effects which it has under domestic law.

2. **Articles 8 and 9 of Directive 83/189, as amended by Directive 88/182, are to be interpreted as meaning that individuals may rely on them before the national court which must decline to apply a national technical regulation which has not been notified in accordance with the directive.**

3. **Article 30 of the EC Treaty does not preclude a national provision such a Article 4 of the Law of 10 April 1990.**

Rodríguez Iglesias Kakouris Edward

Puissochet Mancini Moitinho de Almeida

Kapteyn Gulmann Murray

Ragnemalm Sevón

Delivered in open court in Luxembourg on 30 April 1996.

R. Grass G. C. Rodríguez Iglesias

Registrar President