JUDGMENT OF THE COURT (First Chamber)
18 June 1991 *

In Case C-295/89,

REFERENCE to the Court under Article 177 of the EEC Treaty by the Tribunale Amministrativo Regionale (Regional Administrative Court), Friuli-Venezia Giulia, Italy, for a preliminary ruling in the proceedings pending before that Court between

Impresa Donà Alfonso di Donà Alfonso & Figli

and

Consorzio per lo sviluppo industriale del comune di Monfalcone,

Regione Friuli-Venezia Giulia,

Impresa Luigi Tacchino SpA,

Impresa Carlutti Costruttori Srl,

on the interpretation of Article 29(5) of Council Directive 71/305/EEC of 26 July 1971 concerning the coordination of procedures for the award of public works contracts (Official Journal, English Special Edition 1971 (II), p. 682),

THE COURT (First Chamber),

composed of: G. C. Rodríguez Iglesias, President of the Chamber, Sir Gordon Slynn and R. Joliet, Judges,

* Language of the case: Italian

(The grounds of the judgment are not reproduced.)

in reply to the questions referred to it by order of the Tribunale Amministrativo Regionale, Friuli-Venezia Giulia, of 7 April 1989, hereby rules:

(1) **Article 29(5) of Council Directive 71/305 of 26 July 1971 concerning the coordination of procedures for the award of public works contracts prohibits Member States from introducing provisions which require the automatic disqualification from the award of public works contracts of certain tenders determined according to a mathematical criterion, instead of obliging the awarding authority to apply the examination procedure laid down in the directive, giving the tenderer an opportunity to furnish explanations;**

(2) **When implementing Council Directive 71/305, Member States may not depart, to any material extent, from the provisions of Article 29(5) thereof;**

(3) **Article 29(5) of Council Directive 71/305 allows Member States to require that tenders be examined when those tenders appear to be abnormally low, and not only when they are obviously abnormally low.**