# OPINION OF MR ADVOCATE GENERAL

Mr Advocate General Carl Otto Lenz delivered his Opinion on 30 April 1991 *. He proposed that the Court rule as follows:

'(1) Article 29(5) of Council Directive 71/305/EEC 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.'

* Original language: German.