

The Commission submits that by modifying the award criteria during the award procedure the contracting authority, which was under the obligation to respect the fundamental rules and principles of the EC Treaty, infringed the principles of equal treatment and transparency as interpreted by the European Court of Justice.

(<sup>1</sup>) Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts  
OJ L 134, p. 114

**Reference for a preliminary ruling from the Bundespatentgericht (Germany), lodged on 24 June 2009 — Rechtsanwaltssozietät Lovells v Bayer CropScience AG**

(Case C-229/09)

(2009/C 220/34)

*Language of the case: German*

**Referring court**

Bundespatentgericht

**Parties to the main proceedings**

*Claimant:* Rechtsanwaltssozietät Lovells

*Defendant:* Bayer CropScience AG

**Question referred**

For the purpose of the application of Article 3(1)(b) of Regulation (EC) No 1610/96 of the European Parliament and of the Council of 23 July 1996 concerning the creation of a supplementary protection certificate for plant protection products, (<sup>1</sup>) must account be taken exclusively of a marketing authorisation under Article 4 of Directive 91/414/EEC, (<sup>2</sup>) or can a certificate also be issued pursuant to a marketing authorisation which has been granted on the basis of Article 8(1) of Directive 91/414/EEC?

(<sup>1</sup>) OJ 1996 L 198, p. 30.

(<sup>2</sup>) OJ 1991 L 230, p. 1.

**Reference for a preliminary ruling from the Bundesfinanzhof (Germany), lodged on 25 June 2009 — Hauptzollamt Koblenz v Kurt Etling und Thomas Etling, a civil law partnership; intervener: Bundesministerium der Finanzen**

(Case C-230/09)

(2009/C 220/35)

*Language of the case: German*

**Referring court**

Bundesfinanzhof

**Parties to the main proceedings**

*Appellant:* Hauptzollamt Koblenz

*Respondents:* Kurt Etling und Thomas Etling, a civil law partnership

*Intervener:* Bundesministerium der Finanzen

**Question referred**

Must Community law, in particular Article 5(k) of Council Regulation (EC) No 1788/2003 of 29 September 2003 establishing a levy in the milk and milk products sector, (<sup>1</sup>) be interpreted to mean that the reference quantity of a producer, in the twelve-month period in which a reference quantity was transferred to that producer from another producer, does not include the quantity in respect of which, during the twelve-month period in question, milk was already delivered by that other producer?

(<sup>1</sup>) OJ 2003 L 270, p. 123.

**Reference for a preliminary ruling from the Bundesfinanzhof (Germany), lodged on 25 June 2009 — Hauptzollamt Oldenburg v 1. Theodor Aissen, 2. Hermann Rohaan; intervener: Bundesministerium der Finanzen**

(Case C-231/09)

(2009/C 220/36)

*Language of the case: German*

**Referring court**

Bundesfinanzhof

**Parties to the main proceedings**

*Appellant:* Hauptzollamt Oldenburg

*Respondents:* 1. Theodor Aissen, 2. Hermann Rohaan

*Intervener:* Bundesministerium der Finanzen

**Questions referred**

1. Must Community law, in particular Article 5(k) of Council Regulation (EC) No 1788/2003 of 29 September 2003 establishing a levy in the milk and milk products sector, (<sup>1</sup>) be interpreted to mean that the reference quantity of a producer who, in the course of an ongoing twelve-month period, took over an agricultural holding from