

Order of the Court (Seventh Chamber) of 21 May 2008 – Mihal v Daňový úrad Košice V

(Case C-456/07)

Article 104(3), first subparagraph, of the Rules of Procedure – Sixth VAT Directive – Taxable persons – Article 4(5), first subparagraph – Bodies governed by public law – Bailiffs – Natural and legal persons

Tax provisions – Harmonisation of laws – Turnover taxes – Common system of value added tax – Taxable persons (Council Directive 77/388, Art. 4(5), first para.) (see para. 23)

Re:

Reference for a preliminary ruling – Najvyšší súd Slovenskej republiky – Interpretation of the first subparagraph of Article 4(5) of Directive 77/388/EEC: Sixth Council Directive of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes – Common system of value added tax: uniform basis of assessment (OJ 1977 L 145, p. 1) – Treatment of a body governed by public law as a non-taxable person in respect of activities or operations engaged in as a public authority – Inclusion of bailiffs in the exercise of their public duties – Direct effect.

Operative part

An activity exercised by a private individual, such as that of a bailiff, is not exempted from value added tax merely because it consists in engaging in acts falling within the rights and powers of a public authority. Even on the assumption that, in the exercise of his duties, a bailiff does carry out such acts, he does not, under legislation such as that at issue in the main proceedings, exercise his activity in the form of a body governed by public law, not being integrated into the organisation of the public administration, but in the form of an independent economic activity carried out in a self-employed capacity, and, consequently, he is not covered by the exemption provided for in the first subparagraph of Article 4(5) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes – Common system of value added tax: uniform basis of assessment.