

Case C-166/05

Heger Rudi GmbH

v

Finanzamt Graz-Stadt

(Reference for a preliminary ruling from the
Verwaltungsgerichtshof (Austria))

(Sixth VAT Directive — Place of supply for tax purposes — Article 9 — Supply of services connected with immovable property — Transmission of the fishing rights over a particular part of a stretch of water)

Opinion of Advocate General Sharpston delivered on 7 March 2006 I - 7751

Judgment of the Court (Third Chamber), 7 September 2006 I - 7765

Summary of the Judgment

Tax provisions — Harmonisation of laws — Turnover taxes — Common system of value added tax — Supply of services

(Council Directive 77/388, Art. 9(2)(a))

The transmission of the right to fish by means of a transfer of fishing permits for valuable consideration constitutes a supply of services connected with immovable property within the meaning of Article 9(2)(a) of Sixth Directive 77/388 on the harmonisation of the laws of the Member States relating to turnover taxes.

As the fishing rights can be exercised only in relation to the river in question and on the stretches of that river mentioned in the permits, the stretch of water itself makes up a constituent element of the fishing permits and, accordingly, of the transmission of the

fishing rights. Since a supply of services consists in the transmission of an actual right of use of the property, in this case the river, that immovable property constitutes a central and essential element of that supply. Furthermore, the place where the immovable property is situated is the place of final consumption of the service. It follows from all those factors that there exists a sufficiently direct connection between the transmission of fishing permits and the stretches of water to which they relate.

(see paras 25-27, operative part)