

Joined Cases C-181/04 to C-183/04

Elmeka NE

v

Ipourgos Ikonomikon

(Reference for a preliminary ruling from the Simvoulitis Epikratias)

(Sixth VAT Directive — Exemptions — Article 15(4)(a), (5) and (8) —
Exemption for the chartering of seagoing vessels — Scope)

Opinion of Advocate General Stix-Hackl delivered on 1 December 2005 . . . 1 - 8170
Judgment of the Court (Second Chamber), 14 September 2006 1 - 8186

Summary of the Judgment

- 1. Tax provisions — Harmonisation of laws — Turnover taxes — Common system of value added tax — Exemptions provided for in the Sixth Directive
(Council Directive 77/388, Art. 15(4)(a) and(5))*

2. *Tax provisions — Harmonisation of laws — Turnover taxes — Common system of value added tax — Exemptions provided for in the Sixth Directive*
(Council Directive 77/388, Art. 15(8))
3. *Community law — Principles — Protection of legitimate expectations*

1. Article 15(4)(a) of Sixth Directive 77/388 on the harmonisation of the laws of the Member States relating to turnover taxes, to which Article 15(5) of that directive refers, as amended by Council Directive 92/111, applies not only to vessels used on the high seas for the carriage of passengers for reward, but also to vessels used on the high seas for the purpose of commercial, industrial or fishing activity.

used for inshore fishing, would be superfluous.

(see paras 14, 16, operative part 1)

Even if certain language versions of Article 15(4)(a) of the Sixth Directive lend themselves to different interpretations, the scheme and purpose of the article suggest that the criterion of ‘use on the high seas’ applies to all the vessels mentioned in the said provision. If this provision were not to be understood as referring only to vessels used on the high seas, then Article 15(4)(b), which provides for such an exemption for vessels

2. Article 15(8) of Sixth Directive 77/388 on the harmonisation of the laws of the Member States relating to turnover taxes is to be interpreted as meaning that the exemption provided for therein applies to the supply of services directly to the shipowner for the direct needs of sea-going vessels.

In order to guarantee a coherent application of the Sixth Directive as a whole, the exemption provided for in Article 15

(8) thereof cannot be extended to services supplied at an earlier stage in the commercial chain.

(see paras 24-25, operative part 2)

It falls to the national court to decide whether, where a decision by the national tax authority of a Member State authorised a taxable person not to pass on the value added tax to the other party to a contract, the taxable person could reasonably have believed that the decision in question had been taken by a competent authority.

3. In the framework of the common system of value added tax, national tax authorities are obliged to respect the principle of protection of legitimate expectations.

(see paras 26, 36, operative part 3)