



C/2023/1108

4.12.2023

Judgment of the Court (Fifth Chamber) of 26 October 2023 (Request for a preliminary ruling from the Verwaltungsgerichtshof — Austria) — BM v Gebühren Info Service GmbH (GIS)

(Case C-249/22, ⁽¹⁾ GIS)

(Reference for a preliminary ruling — Common system of value added tax (VAT) — Directive 2006/112/EC — Article 2(1)(c) — Supply of services for consideration — Concept — Activities of a public radio and television body financed by a compulsory fee paid by persons in possession of a radio and television receiver in the terrestrial broadcasting area — Article 378(1) and point 2 of Part A of Annex X — Act of accession of the Republic of Austria — Derogation — Scope)

(C/2023/1108)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Applicant: BM

Defendant: Gebühren Info Service GmbH (GIS)

in the presence of: Bundesministerium für Finanzen, Österreichischer Rundfunk

Operative part of the judgment

Article 2(1)(c) and Article 378(1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, read in conjunction with Article 151(1) and the second indent of the first subparagraph of point 2(h) of Part IX of Annex XV to the Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden and the adjustments to the Treaties on which the European Union is founded

must be interpreted as not precluding the Republic of Austria from imposing value added tax on a public broadcasting activity, financed by a compulsory statutory fee and paid by any person operating a broadcast receiver in a building within the terrestrial broadcasting area of the public broadcasting body concerned, irrespective of whether the public broadcasting activity concerned is covered by the concept of a 'supply of services for consideration' within the meaning of Article 2(1)(c) of Directive 2006/112.

⁽¹⁾ OJ C 237, 20.6.2022.