

EN
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Answer given by Mr Hoekstra
on behalf of the European Commission
(9.9.2025)

The Commission is aware of the matter raised by the Honourable Members and notes that it pertains to an issue of national competence to be addressed by national authorities and courts.

Direct taxation falls essentially within the competence of Member States. As confirmed by the Court of Justice of the European Union (hereinafter, 'the Court'), in the absence of any harmonisation at EU level, Member States have retained the power to define, even unilaterally, the criteria for allocating their powers of taxation¹.

The Court has also held that the criterion of nationality for the purpose of allocating fiscal jurisdiction between states which conclude bilateral tax treaties cannot be regarded as constituting any discrimination prohibited under the EU Treaties². Hence, Article 1(2) of the Convention between Italy and Bulgaria does not appear to contravene EU law.

Since the application by Italy of the Convention concerned is not governed by EU law, the Commission is not competent to assess its compatibility with general principles of law such as legal certainty and legitimate expectations³.

Whether the changed interpretation or application of the 1988 Convention between Italy and Bulgaria would pose a legal problem is for the Member States concerned and their national courts to address.

¹ *van Hilten* (C-513/03), paragraph 47.

² *Gilly* (C-336/96), paragraph 30.

³ See, in particular, *Society for the Protection of Unborn Children Ireland* (C-159/90), paragraph 31; *Friedrich Kremzow* (C-299/95), paragraph 15; *Kühn* (C-177/90), paragraph 14; *Duff and Others* (C-63/93), paragraph 20; *Rombi and Arkopharma* (C-107/97), paragraph 67; *Weidacher* (C-179/00), paragraph 31; *Willy Gerekens and Association agricole pour la promotion de la commercialisation laitière Procola* (C-459/02), paragraph 29.