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P-003990/2026

Answer given by Executive Vice-President Mînzatu
on behalf of the European Commission
(30.10.2026)

The Commission is aware of Decree-Law No 170/2026 adopted by the Italian Government, which entered into force on 1 October 2026. The Commission is carefully following the matter, paying particular attention to the provisions referred to by the Honourable Members. The Commission understands that the Decree-Law will now need to be converted into law by the Parliament, and the Commission will closely follow the relevant developments.

The Court of Justice of the European Union has consistently held that every EU citizen may rely on the prohibition of discrimination on grounds of nationality laid down in Article 18 of the Treaty on the Functioning of the European Union in all situations falling within the material scope of EU law¹. This covers both direct discrimination (where a rule expressly differentiates by nationality) and indirect discrimination (where other differentiating criteria lead in fact to the same result)². Direct discrimination on grounds of nationality may be compatible with EU law where it rests on an express Treaty derogation (e.g. public policy, public security or public health)³ or a specific provision of secondary law⁴. Such derogations must be interpreted narrowly⁵.

¹ Judgment of 4 October 2012, *Commission v Austria*, Case C-75/11, EU:C:2012:605, paragraph 39.

² Judgment of 13 April 2010, *Bressol and Others*, Case C-73/08, EU:C:2010:181, paragraph 40.

³ Judgment of 16 January 2003, *Commission v Italy*, Case C-388/01, EU:C:2003:30, paragraph 19.

⁴ Judgment of 4 October 2012, *Commission v Austria*, Case C-75/11, EU:C:2012:605, paragraph 53.

⁵ See: judgment of 18 July 2007, *Commission v Germany*, Case C-490/04, EU:C:2007:430, paragraph 86 and judgment of 4 October 2012, *Commission v Austria*, Case C-75/11, EU:C:2012:605, paragraphs 54 – 56.