



## Commission refers Belgium to Court because of its tax treatment of Belgian taxpayers investing in property abroad

Brussels, 18 June 2015

The European Commission is referring Belgium to the Court of Justice of the European Union because of its tax legislation which provides for different methods of assessing income from property. As a result of this, the income which a Belgian resident earns from property located abroad is assessed at a higher value than that from comparable property in Belgium.

Belgian law thus favours investments in certain properties located in Belgium and penalises taxpayers who choose to invest in similar property in other Member States of the EU or the European Economic Area (EEA).

Such a difference in tax treatment constitutes an infringement of the free movement of capital guaranteed by Article 63 TFEU and Article 40 of the EEA Agreement.

The Commission sent a request to Belgium on 22 March 2012 in the form of a reasoned opinion ([IP/12/282](#)), asking it to amend its legislation. Since Belgium has not done so, the Commission has decided to refer the matter to the Court of Justice of the European Union.

### Background

The Commission is not criticising Belgian tax policy on the assessment and taxation of the income of Belgian residents deriving from property located in Belgium. What is contrary to EU law, however, is the use of a different method of assessment which results in a higher value being attributed to income earned from property located abroad.

The Court recently issued a ruling (*in Case [C-489/13 Verest and Gerards](#), 11.09.2014*) on property that is not rented out, finding that the freedom of movement of capital precludes the Belgian legislation - the same legislation which the Commission is challenging in this case - when it is liable to lead to higher taxation simply because the method for determining income from property results in the income from property in another Member State being assessed at a higher amount than income from similar property located in Belgium.

### Useful links

More information on the case is available at:

[http://europa.eu/rapid/press-release\\_MEMO-13-1005\\_en.htm](http://europa.eu/rapid/press-release_MEMO-13-1005_en.htm)

For press releases on infringement proceedings in the areas of taxation and customs, see:

[http://ec.europa.eu/taxation\\_customs/common/infringements/infringement\\_cases/index\\_en.htm](http://ec.europa.eu/taxation_customs/common/infringements/infringement_cases/index_en.htm)

For the most up-to-date general information on infringement proceedings initiated against Member States, see:

[http://ec.europa.eu/eu\\_law/infringements/infringements\\_en.htm](http://ec.europa.eu/eu_law/infringements/infringements_en.htm)

On the March infringement package decisions, see [MEMO/15/5162](#).

For more information on EU infringement procedures, see [MEMO/12/12](#)

IP/15/5201

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