

Order of the Court (Sixth Chamber) of 19 September 2012 (request for a preliminary ruling from the Tribunal de première instance de Bruxelles - Belgium) - Daniel Levy, Carine Sebbag v Belgian State

(Case C-540/11) 2

(Free movement of capital - Direct taxation - Taxation of dividends - Bilateral convention which precludes double taxation - Subsequent amendment, by one of the two States party to the convention, of its national legislation, having the effect of reintroducing double taxation - Obligations of the Member States under Articles 10 EC and 293 EC)

Language of the case: French

Referring court

Tribunal de première instance de Bruxelles

Parties to the main proceedings

Applicants: Daniel Levy, Carine Sebbag

Defendant: Belgian State

Re:

Request for a preliminary ruling - Tribunal de première instance de Bruxelles - Interpretation of Articles 10 EC, 57(2) EC and 293 EC - Permissibility of rules of national law which allow double taxation notwithstanding the existence of a bilateral convention which precludes double taxation - Amendment of national law after the convention had been concluded - Bringing into question of an acquired right - Obstacle to the free movement of capital

Operative part of the order

Insofar as Community law, as applicable at the time of the facts in the main proceedings, does not lay down any general criteria for the attribution of areas of competence between the Member States in relation to the elimination of double taxation within the European Community, Article 56 EC, read in conjunction with Articles 10 EC and 293 EC, is to be interpreted as meaning that it does not preclude a situation in which the Member State, which has undertaken, in a bilateral double taxation convention, to establish a mechanism to eliminate such double taxation of dividends, then abolishes that mechanism by way of a legislative amendment that has the effect of reintroducing a double taxation.

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2 - OJ C 25, 28.1.2012.