

**Parties to the main proceedings**

*Appellants:* Ronny Verest and Gaby Gerards

*Respondent:* Belgische Staat

**Operative part of the judgment**

Article 63 TFEU must be interpreted as precluding legislation of a Member State, such as that at issue in the main proceedings, in so far as it is liable to lead, when a progressivity clause contained in a convention for the prevention of double taxation is applied, to a higher rate of tax on income merely because the method for determining income from immovable property results in income deriving from immovable property that is not rented out situated in another Member State being assessed at a higher amount than income from such property situated in the first Member State. It is for the referring court to ascertain whether that is in fact the effect of the legislation at issue in the dispute in the main proceedings.

---

<sup>(1)</sup> OJ C 352, 30.11.2013.

---

**Judgment of the Court (Third Chamber) of 10 September 2014 (request for a preliminary ruling from the Verwaltungsgericht Berlin (Germany)) — Mohamed Ali Ben Alaya v Bundesrepublik Deutschland**

(Case C-491/13) <sup>(1)</sup>

**(Reference for a preliminary ruling — Area of freedom, security and justice — Directive 2004/114/EC — Articles 6, 7 and 12 — Conditions of admission of third-country nationals for the purposes of studies — Refusal to admit a person who meets the conditions laid down in Directive 2004/114 — Discretion enjoyed by the competent authorities)**

(2014/C 409/25)

Language of the case: German

**Referring court**

Verwaltungsgericht Berlin

**Parties to the main proceedings**

*Applicant:* Mohamed Ali Ben Alaya

*Defendant:* Bundesrepublik Deutschland

**Operative part of the judgment**

Article 12 of Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service must be interpreted as meaning that the Member State concerned is obliged to admit to its territory a third-country national who wishes to stay for more than three months in that territory for study purposes, where that national meets the conditions for admission exhaustively listed in Articles 6 and 7 of that directive and provided that that Member State does not invoke against that person one of the grounds expressly listed by the directive as justification for refusing a residence permit.

---

<sup>(1)</sup> OJ C 344, 23.11.2013.