



## EUROPEAN COMMISSION - PRESS RELEASE

### **Pensions: Commission requests The Netherlands to end discrimination against pensioners living abroad**

**Brussels, 31 May 2012** – The European Commission has requested The Netherlands to stop discriminating against pensioners who live abroad when paying out an allowance for elderly taxpayers. This results from a discriminatory condition under Dutch law for entitlement to the *koopkrachttegemoetkoming oudere belastingplichtigen* (purchasing power allowance for elderly taxpayers).

New national legislation which entered into force on 1 June 2011 provides that the allowance is paid to persons aged 65 years and above who can show that at least 90% of their world income is taxable in The Netherlands. This condition means that the allowance is not granted to people living outside The Netherlands. The Commission has received a large number of complaints from citizens.

Under EU law, entitlement to an old age benefit cannot be conditional on the pensioner living in the Member State where he or she claims the benefit. This rule enables pensioners to move to another Member State when they retire whilst retaining their pension.

As the purchasing power allowance is available for people 65 years or above, which coincides with the retirement age in The Netherlands, the allowance is classed as an old age benefit under EU social security coordination rules. Even if national law does not class it as such, it is an old age benefit according to the case law of the EU's Court of Justice. Therefore under EU law, The Netherlands are required to pay the allowance of €33.65 per month to recipients of a pension who live in another EU Member State, Liechtenstein, Norway, Iceland or Switzerland.

The Commission's request takes the form of a 'reasoned opinion' under EU infringement procedures. The Netherlands now has two months to inform the Commission of measures taken to bring its legislation into line with EU law. Otherwise the Commission may decide to refer The Netherlands to the Court of Justice of the EU.

## **Background**

The national law in question was adopted against advice to the contrary from the Dutch Council of State which cautioned that the approach chosen by The Netherlands was not in line with Dutch obligations under EU law. The Commission services also advised the Dutch Government early in the legislative process that the proposed national law would be incompatible with EU law.

## **Further information**

EU social security coordination:

<http://ec.europa.eu/social-security-coordination>

For more information on infringement procedures:

[http://ec.europa.eu/eu\\_law/infringements/infringements\\_en.htm](http://ec.europa.eu/eu_law/infringements/infringements_en.htm) + [MEMO/12/200](#)

Homepage of László Andor, EU Commissioner for Employment, Social Affairs and Inclusion: [http://ec.europa.eu/commission\\_2010-2014/andor/index\\_en.htm](http://ec.europa.eu/commission_2010-2014/andor/index_en.htm)

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