



EUROPEAN COMMISSION

PRESS RELEASE

Brussels, 21 February 2013

Pensions: Commission refers The Netherlands to Court for discriminating against pensioners abroad

The European Commission has referred The Netherlands to the EU's Court of Justice for failing to notify measures 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).

Dutch 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 in practice 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 on social security coordination, 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 paid to people 65 years of age and above, which coincides with retirement age in The Netherlands, the allowance is classed as an old-age benefit under EU social security coordination rules as interpreted by the EU's Court of Justice. So, even if national law does not class it as such, it is an old age benefit according to EU law and The Netherlands is required to pay the allowance to recipients of a Dutch statutory old-age pension who live in another EU Member State, Iceland, Liechtenstein, Norway or Switzerland.

Background

The national law in question was adopted against advice to the contrary from the Dutch Council of State (*Raad van State*) which cautioned that the approach chosen by The Netherlands was not in line with its obligations under EU law. The Commission also advised the Dutch Government early on in the legislative process that the proposed national law would be incompatible with EU law. In the meantime, national courts have also considered the discriminatory conditions for entitlement to the allowance as contrary to EU law.

The Commission requested The Netherlands to end discriminating against pensioners living abroad in May 2012 (see [IP/12/526](#)) but no measures to end the discrimination have been notified to the Commission.

Further information

EU Social Security Coordination:

<http://ec.europa.eu/social/main.jsp?langId=en&catId=849>

For more information on infringement procedures:

http://ec.europa.eu/eu_law/infringements/infringements_en.htm

On the February infringement package decisions: [MEMO/13/122](#)

On the general infringement procedure: [MEMO/12/12](#)

Homepage of László Andor, EU Commissioner for Employment, Social Affairs and Inclusion:

http://ec.europa.eu/commission_2010-2014/andor/index_en.htm

Follow László Andor on Twitter: <http://twitter.com/LaszloAndorEU>

Subscribe to the European Commission's free e-mail newsletter on employment, social affairs and inclusion: <http://ec.europa.eu/social/e-newsletter>

Contacts :

[Jonathan Todd](#) (+32 2 299 41 07)

[Cécile Dubois](#) (+32 2 295 18 83)