

European Commission formally requests the Netherlands to amend three domestic provisions related to cross-border pension taxation

The European Commission has sent The Netherlands a reasoned opinion (second stage of an infringement procedure within the meaning of article 258 of the TFEU), thereby formally requesting The Netherlands to amend three domestic provisions related to cross-border pension taxation.

First, foreign pension service providers are currently required to provide guarantees to the Dutch authorities if they transfer pensions abroad or if they want to carry out their business in The Netherlands.

Second, employees are required to provide guarantees if their pensions are transferred abroad or if they wish to obtain pension services abroad.

And third, transfers of pensions to foreign pension service providers by workers employed outside The Netherlands are only exempt from tax if the taxpayer provides a guarantee or if foreign pension service providers assume the responsibility for any tax claims.

Dutch pension service providers are not required to meet any of these conditions in The Netherlands. The Commission believes that these rules therefore constitute restrictions to the free movement of citizens and workers, to the freedom of establishment, the freedom to provide services and the free movement of capital (Articles 21, 45, 49, 56 and 63 TFEU). If there is no satisfactory reaction to the reasoned opinion within two months, the Commission may decide to refer the matter to the Court of Justice of the European Union.