



29.06.2018

## NOTICE TO MEMBERS

**Subject: Petition No 1737/2013 by Johanna MacRae (Maltese) on discrimination due to the two-level pricing system for electricity and water**

### 1. Summary of petition

The petitioner explains that a pricing system involving two different price levels for electricity and water is in use on Malta. One is for persons principally resident on Malta and the other for those having their secondary residence there. The electricity price for secondary residents is 35% higher than that for principal residents, and the water price is 60% higher. According to the petitioner, landlords do not notify the authorities about their tenants and their secondary residences in order to avoid tax. The root of the problem is that the landlord or the energy company does not provide information about the two pricing systems, or the owner of the property refuses to state that the tenant is registered as living in the property so that he does not have to be taxed on it.

### 2. Admissibility

Declared admissible on 23 June 2014. Information requested from Commission under Rule 216(6).

### 3. Commission reply, received on 30 January 2015

#### The Commission's observations

The Commission is aware of the allegedly discriminatory tariffs applied to EU citizens residing in Malta and of the problems encountered by non-Maltese EU citizens when trying to obtain the eco-reductions and energy allowances.

The Commission initiated an infringement procedure against Malta and issued a letter of formal notice on 12 October 2012.

In January 2014 the Maltese authorities informed the Commission about the steps taken to solve the problem. EU citizens may as of December 2013 submit the "Change in number of persons declaration" together with a form of identification which includes national identity cards and national passports, and are thus able to benefit from reduced electricity and water tariffs and access eco-reductions and one-off energy allowances.

Concerning the difficulties encountered by EU citizens, who rent a property in Malta, to benefit from the reduced utility tariffs, the Commission contacted the Maltese authorities on 18 November 2014 and is currently awaiting their reply.

#### **4. Commission reply (REV), received on 30 October 2015**

The Commission contacted the Maltese authorities on 18 November 2014 concerning the difficulties encountered by EU citizens, who rent a property in Malta, to benefit from reduced utility tariffs. In their reply of 13 January 2015, the Maltese authorities argue that the Maltese rules comply with EU law.

This issue was further raised in the framework of contacts between the Commission and the Permanent Representative of Malta to the European Union concerning the infringement procedure about the discriminatory application of water and energy tariffs in January and May 2015.

A technical meeting was held on 9 June 2015 to discuss the difficulties encountered by EU citizens who rent a property in Malta to benefit from the reduced utility tariffs.

Following further contacts on 24 June and 1 July 2015, the Maltese authorities were invited to submit additional information in relation to the issues discussed during the technical meeting.

#### Conclusion

The Commission will decide on the next steps based on the response of the Maltese authorities.

#### **5. Commission reply (REV II), received on 28 February 2017**

The European Commission is looking into whether the rules in force in Malta are contrary to Article 21 of the Treaty on the Functioning of the European Union (TFUE).

Additional contacts between the Commission and the Maltese authorities took place in 2015 and 2016.

On 17 May 2016, the Maltese authorities informed the Commission that they would introduce changes in the application process. According to the information received from the Maltese authorities, the new process will no longer require the endorsement of the application form by the landlord.

The Maltese authorities explained that the tenant will only be required to submit a copy of the rental agreement.

On 14 July 2016, the Commission sent a letter to the Maltese authorities indicating that the Commission is, in general terms, satisfied with these changes as this should allow tenants to benefit from reduced tariffs without further delay. However, in its letter, the Commission asked the Maltese authorities to provide further information on certain issues. On 10 October 2016, the Maltese authorities sent a reply to the Commission's letter and provided further information about the planned changes to the application process. The Republic of Malta also informed the Commission that the changes will not be made effective before January 2017.

The Commission will monitor the compatibility with EU law of certain changes outlined in the reply of the Maltese authorities. The Commission provided the Republic of Malta with its views on 9 January 2017.

### Conclusion

The Commission is, in general terms, satisfied with the changes planned by the Maltese authorities. Further contacts are needed in order to ascertain that, once implemented, all the details of the mentioned modifications will be compatible with EU law.

### **6. Commission reply (REV III), received on 29 June 2018**

The Maltese authorities had informed the Commission that the new process will no longer require the endorsement of the application form by the landlord.

Additional contacts between the Commission and the Maltese authorities took place in January and February 2017. On 22 February 2017, the Maltese authorities informed the Commission that application for reduced tariffs would be open to tenants who are renting property for a period of at least three months. Furthermore, the Maltese authorities underlined that the internal preparations for the change in the administrative procedure have been finalised, thus making the new application process effective as from February 2017.

Tenants are now able to submit an application through Form F2 "Temporary recognition of tenant in rented premises".

### Conclusion

The Commission is satisfied with the changes implemented by the Maltese authorities.

The additional documents sent by the petitioner in March and November 2017 do not include information which could induce the Commission to change its assessment.