

## **Energy: Commission asks Portugal to change its end-user price regulation scheme to ensure freedom of choice and protection for consumers**

*The European Commission today formally requested Portugal to bring its national legislation on regulated end-user gas prices in line with EU rules. EU law on the internal energy market foresees that prices are set primarily by supply and demand. End-user prices set by state intervention put obstacles to new market entrants and therefore deprive consumers and companies of their right to choose the best service on the market. The Commission has decided to send a reasoned opinion to Portugal. If Portugal does not comply with its legal obligations within two months, the Commission may refer it to the Court of Justice.*

According to the internal energy market rules all companies must have the possibility to freely provide services all over the EU and set their own prices which reflect the real situation on the markets. Regulated prices distort the functioning of the market, defining prices which do not reflect the real needs of the market and prevent free competition and market integration.

However, the rules also foresee that in exceptional cases, e.g. in order to protect vulnerable customers, regulated prices can be set. In that case the measures have to be specifically targeted at the customers who need it the most, they must be limited in time and guarantee equal access for EU gas companies to national consumers.

The Portuguese law still requires undertakings to supply natural gas at a regulated price for all small and medium sized enterprises and households. This measure does not provide for any phasing-out mechanism or any regular review in which it is analysed whether such a measure is still needed. According to the EU legislation periodic reviews are required to assess the real needs of the market.

Moreover, the Commission also requests Portugal to provide the national regulatory authority with the ability to act as a dispute resolution body which can take binding decisions in case of disputes between energy companies and consumers. This will guarantee that consumers' interests are fully protected.

### **Background**

The Internal Energy Market legislation ([Directive 2003/55/EC](#), which was replaced by [Directive 2009/73/EC](#) on 3 March 2011) provides that Member States shall ensure that consumers are free to buy gas from the supplier of their choice as from 1 July 2007.

The Court of Justice clarified in its *Federutility* judgment ([Case C-265/08](#)) the criteria under which regulated prices could be compatible with Internal Energy Market legislation, i.e. the measure must be adopted in the general economic interest, be in compliance with the principle of proportionality, be clearly defined, transparent, non-discriminatory and verifiable, and guarantee equality of access for EU energy companies to national consumers.

### **More information**

Latest information on infringement proceedings against Member States:

[http://ec.europa.eu/eu\\_law/index\\_en.htm](http://ec.europa.eu/eu_law/index_en.htm)

For more information on EU infringement procedures, see [MEMO/11/312](#).