

## Questionnaire on Social Services of General Interest

HOPE welcomes the decision by the European Commission to launch a wide debate on Social Services of General Interest (SSGI).

### Field 1 – Overview of the national SGI

1. What are the general characteristics of the national social SGI<sup>1</sup> with regard to e.g. the following points?
  - Organisation, design and structure (geographical, market structure, administrative level);
  - financing (e.g. contributions, direct funding via government budget, payment of remuneration for the service, charity donations, mutualisation);
  - service provider (e.g. state and local authorities, public enterprises, public-private partnership, voluntary non-profit organisations, role of volunteers, private enterprises);
  - definition of tasks/obligations (what are these tasks/obligations and how are these laid down, i.e. contract, law or other);
  - quality standards.

Answers from Member States.

2. Please indicate whether and if so how these characteristics are likely to develop and change in the coming years. This with a view of the modernisation of these services (taking into account developing users' needs, quality standards and (financial) efficiency).

Answers from Member States.

3. Are there examples of social SGI which use market mechanisms to fulfil their tasks; what could be learnt from these experiences?

Answers from Member States.

### Field 2 – Definitions of social SGI

4. Is there at national level a notion or definition of social SGI or social services generally?

Answers from Member States.

5. It has been argued that social SGI are different to other SGI – Do you agree with this? Is a more detailed analysis of these possible differences –especially in relation to networks industries<sup>2</sup> – a way forward to gain more certainty?

Yes, by some aspects social SGI are different to other SGI. Yes, it is certainly possible to gain more certainty by a more detailed analysis of these differences.

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<sup>1</sup> This is the field where it is impossible to give an overview covering all different aspects. So it might be useful to place the services in comparable groups and treat these groups together. Member States are invited to concentrate on those services which seem most important or where the biggest uncertainty is noticeable.

<sup>2</sup> In this context reference has to be made to the Commission Staff Working Paper “Horizontal Evaluation of the Performance of Network Industries providing Services of General Economic Interest” (SEC(2004) 866), which gives a good overview of the different aims and the performance of these services.

6. In case you feel that social SGI are different to other SGI please indicate what could then be the elements for a description at European level of these specificities of social SGI's, taking into account the diversity of general interest missions related to social services in the Member States and the general principles<sup>3</sup>?

The specificities are the following:

- social services of general interest are usually based upon solidarity since market rules cannot efficiently apply;
- social services of general interest are usually funded using redistribution principles;
- social services of general interest are usually delivered by public and non-for-profit institutions;
- social services of general interest are different by nature of the relationship created between the user and the provider;
- social services of general interest are based upon basic human rights principles.
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Could the elements worked out in the "Key issues" of the Conference "Social Services of General Interest in the EU" (28 and 29 June 2004) be a good base for this description<sup>4</sup> in the European context?

Yes

7. Which of the different sectors outlined under Field 1 should have priority for examination at European level ?

There should not be any discrimination in examining the social services of general interest.

### Field 3 – Experience with EC internal market or competition rules

8. Please indicate for the services identified under question 7 with regard to the EC rules listed below (see also background document) whether:

- a. it is established (in case-law or by way of Community law) that these services fall outside the scope of these rules
- b. it is established (in case-law or by way of Community law) that these services fall within the scope of these rules
- c. it is unclear if these rules apply to these services; there is a need for clarification ("grey zone")

Answers from Member States.

9. Please describe experiences concerning the influence of these EC rules on social SGI (may be "good" or "bad" examples; e.g. have these rules enabled the efficient provision of certain services or have they limited the freedom to realise national social policy goals)?

Answers from Member States.

10. Are there examples where the mentioned EC rules were taken into account in advance when planning or reforming national social policy?

Answers from Member States.

<sup>3</sup> These principles are *inter alia* quality, availability, equal access, universality, affordability, continuity, participation, transparency).

<sup>4</sup> Document in Annex

#### FIELD 4 – FURTHER STEPS AT EUROPEAN LEVEL

11. Are there specific fields of European law and activities which necessitate further clarification with regard to their impact on social SGI (see also question 8), like e.g:

- Internal market rules

Yes, there are specific legal fields:

- public procurement;
- accounting standardisation;
- standardization of services;
- directive on services.

- Art. 81 and/or Art. 82 EC;

Yes, for grouping of public authorities and groupings of social operators.

- Art. 86 EC;

Yes since according to article 86.2 SGEI are subject to the rules of the Treaty and in particular to competition « to the extent that the application of these rules does not hinder the accomplishment in law or in fact of the particular mission assigned to them». This needs clarification for social services of general interest considering their mission.

- Art 87;

Yes, the concept of « typical well-managed undertaking » needs to be adapted to the social services of general interest.

- **Public procurement rules;**

Yes, the notion of « in house » in the sense of the Teckal ruling needs to be defined, especially in its application to the performance of social services of general interest by operators subject to the approval and control of the public authorities, and thus qualified as a tendering authority by the Court of Justice.

- **External trade negotiations.**

Yes, further clarification is needed and an impact study is necessary in this field.

12. Should the work to be carried on only concern social services of general economic interest and concentrate on e.g. competition rules and certain internal market rules or should social SGI both of an economic or non-economic nature be subject for further work?

It is first necessary to define economic and non-economic activities with objective criteria.

13. What should be the concrete aim (especially concerning further steps) of the Communication of the Commission on social SGI including health services ?

The concrete aim of the Communication should follow the Commission's White Paper on Services of General Interest: to develop a systematic approach to social services of general interest (particularities); to clarify the framework in which they operate; to modernise social services.

*14. Do you consider the use of the open method of co-ordination (existing or new) an appropriate means for further steps? If so, what should be the concrete task of this method? (e.g. common objectives, exchange of good practices, evaluation etc)*

The open method of coordination is an interesting tool. However it cannot deal with the implementation of EU law to social services of general interest. In particular competition and internal market rules may have a strong impact on quality and accessibility of social services.

*15. Could at some stage and without prejudging the right of initiative of the Commission, legislative acts be considered as an appropriate means for further steps (under the assumption that a valid legal base can be found), and if so what should be the concrete task of these instruments (Directives, Regulations, Recommendations)?*

This is too early.

The following additional questions seem **NOT** to be possible:

- *Should these legal acts limit the scope of EU rules and their application to social services?*
  
- *Should these legal acts establish common standards for social services, allowing EU rules, like the Internal Market rules, to be applied while taking into account fully the social policy goals?*
  
- *Should there be legally defined criteria, e.g. criteria concerning quality, affordability, accessibility or solidarity at European level?*

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