



Social Services of General Interest

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Today's presentation

- Their role in our societies
- Social services and Community law
- The Commission strategy on Quality





- Statutory and complementary social security schemes, organised in various ways and covering the main risks of life (linked to health, ageing, occupational accidents, unemployment, disabilities...)
- Services to the person (social assistance services; employment and training services, social housing, child care, long-term care...)





- role of prevention and social cohesion, facilitating social inclusion and safeguarding fundamental rights
- Crucial to the most vulnerable but also addressed to the whole population
- often considered by public authorities as being services of general interest
- All the more crucial in period of crisis





- Not specific to social services
- No definition at EU level
- Expresses the importance of these services for a given community and the role of public authorities in their organisation, provision and financing.
- EC Treaty (Articles 16 and 86.2) and future Protocol





- At national level, social services are engaged in an important modernisation process
 - to better respond to changing needs and societal challenges (e.g. ageing of the population),
 - and face financial constraints.
- Changes in the way SSGI are organised and provided (e.g. increased outsourcing of public tasks to the private sector/increased devolution to the local level...)





- Consequences: some SSGI considered by ECJ as *economic activities* → Community rules on competition and internal market apply to them.
- But specificities taken into account
 - EC Treaty Article 86(2) – SGEI subject to the rules of the Treaty **"in so far as the application of such rules does not obstruct the performance"** of their mission of general interest.
 - State aid: adoption of the SIEG package in 2005 - facilitates the financing of SSGI
 - PP rules: only limited provisions apply to social services
 - Internal market rules: social objectives are overriding reasons of general interest





- Large consultation process
- Results in 2007 Communication
 - new environment : Community rules are often not well known and wrongly applied
 - very largely shared uncertainty and strong call for guidance/clarification





Examples of « misinterpretations »

The application of Community rules does not mean:

- that public entities should be privatised
- that a multiplicity of operators should operate on the market; that exclusive or special rights should be abolished
- that measures intended to regulate markets, such as authorisation requirements, are prohibited
- that the cheapest provider should be chosen in the context of a call for tender





At this stage, no need to change the rules but rather to explain them better

- Guidance tools
 - two FAQs documents on State Aid and Public Procurement, focused on SSGI – update in 2010
 - an interactive information service
- Training initiative
- Evaluation of the SGEI package (state aid)
- SPC work – report in November 2008 and follow-up



- Concrete examples of activities that have been considered as non-economic or not affecting trade between Member States, and therefore not subject to competition rules;

- What does it mean when an activity is subject to competition rules? It does not mean that public authorities have:

- to ensure that a multiplicity of operators operate on the market
- to privatize public entities,
- to abolish existing special or exclusive rights that are necessary and proportionate for the provision of the service





- Explains e.g. under which conditions public financing is considered compatible with Community rules and can be exempted from notification requirements
- Main requirements:
 - an act of entrustment;
 - the definition of parameters for cost compensation;
 - the absence of overcompensation (and the existence of mechanisms aimed at preventing overcompensation)



Examples to show that these requirements are rather basic; special focus on two important conditions:

- act of entrustment: can take various forms/are compatible with the autonomy enjoyed by service providers;
- a priori definition of parameters of costs: no obligation to provide detailed calculation in advance, but only to determine the basis for the future compensation



No judgment of the **efficiency** of the service provider

- Public authority to define the extent of the mission
- If non measurable tasks do generate costs (e.g. time spent with the people), these costs can be compensated.





- A public authority has full discretion to decide whether it provides services itself or entrust them to a third party
- Applicable legal framework is flexible for social services - only a few provisions of Public Procurement Directive 2004/18/EC apply! - It is possible to define **quality** criteria.
- Public procurement rules do not limit the number of service providers selected





- certain requirements related to the knowledge of the **local context** might be acceptable! Must be justified by the particularities of the service and strictly related to the performance of the contract
- under certain – strict – circumstances, public authorities may limit the participation in tender procedures for the provision of social services only to **non-profit providers**



Inter-municipal cooperation

- PP rules apply when contract concluded for remuneration with a third party (no distinction public/private)
- ...however PP rules do not apply when
 - public authorities (e.g. municipalities) organise common calls for tender
 - several public authorities create a new entity (e.g. association) to which they completely transfer a particular task
 - no remuneration
 - recent case-law of the ECJ gives further examples of situations where PP rules do not imply to public-public cooperation (to be integrated in revised version of the FAQ)





- dealing with a variety of providers, public authorities need to clearly define the services they are delegating and thus the quality they expect
- societal challenges and changing needs have a direct impact on the demand for social services, which has increased and has become more sophisticated. Enhancing social services quality and efficiency is essential in order to address this increasingly more sophisticated and evolving demand for social services and to foster the ability of users to make informed choices





- a consistent part of social services addresses the (multiple) needs of vulnerable users. A EU Quality framework will enhance their ability to make informed choices, thereby strengthening equitable access to social services
- the expanding and more complex demand for social services raises the need for sufficient and well trained human resources
- in the EU context, the debate on social services quality and efficiency acquires a special value also because of the cross-border dimension of social services provision.





- the development of a voluntary EU quality framework
- the support of cross-European bottom-up initiatives
- the promotion of training of public authorities





- Call for proposal within the PROGRESS programme launched in 2008
- bottom-up initiatives aimed at developing mechanisms for the definition, measurement, assessment and improvement of social services quality
- selection of 8 projects which have started at the end of 2008
- a variety of social services, such as long-term care services to elderly people, services for the integration of migrants, services to people with disabilities, services to homeless people and childcare services;





- Target : (local) public authorities directly responsible for the organisation of social services
- Focus on State aid and public procurement rules
- Pilots in 2009 to multiply in the following years





- within the Social Protection Committee
- general quality principles + methodology for the development of tools concerning the definition, measurement and evaluation of social services quality
- voluntary





Where to find the documents/tools?

- IIS
http://ec.europa.eu/services_general_interest/registration/form_en.html
- FAQ on state aid and PP procurement
http://ec.europa.eu/comm/competition/state_aid/legislation/sgei.html

http://ec.europa.eu/internal_market/publicprocurement/sgi_en.htm
- Other background documents on SSGI
<http://ec.europa.eu/social/main.jsp?catId=794&langId=en>





Questions?