

# Reform of the EU state aid rules on services of general economic interest

2011/2146(INI) - 15/11/2011 - Text adopted by Parliament, single reading

The European Parliament adopted by 448 votes to 134, with 17 abstentions, a resolution on the reform of the EU state aid rules on Services of General Economic Interest (SGEI) in response to the Commission communication on the same subject.

The resolution stresses that the services of general economic interest (SGEI) have an important place in the shared values of the Union, and promote fundamental rights and social, economic and territorial cohesion, and are thus crucial to the fight against societal inequalities and, increasingly, also to sustainable development. Moreover, SGEI make a significant contribution to the Member States' economic performance and competitiveness and thus not only help to prevent and overcome economic crises but also serve the cause of general economic well-being.

**(1) Improve clarity in the application of the rules:** Parliament notes the aims of the reform proposed by the Commission in seeking to clarify the application of the rules on aid for SGEI, taking into account their diversity. Parliament demands that the Commission **provide clarification of the relationship between the rules of the internal market, and the provision of public services** and that it ensure that the **principle of subsidiarity is applied** in the definition, organisation and financing of public services.

Members welcome the Commission's move to provide further clarifications on the distinction between non-economic and economic activities in the context of SGEI, in order to create greater overall legal certainty, and to avoid cases being brought before the European Court of Justice and infringement proceedings opened by the Commission. They call on the Commission to provide further clarification regarding the fourth criterion which the European Court of Justice stated in the Altmark judgment and to ensure that the method of calculation of reasonable profit is clear enough and appropriate to the diversity of SGEI.

Parliament calls on the Commission, therefore, to avoid a closed list and suggests that, in doing so, the Commission should not confine itself to reiterating the case law of the European Court of Justice but should provide **determining criteria to help understand and apply the concepts used**. It asks the Commission to elaborate its understanding of a genuine SGEI.

The resolution notes that any legal instrument will have to ensure **satisfactory legal certainty**. It calls on the Commission to bring forward by the end of 2011 a communication with measures designed to ensure that SGEI and SSGI have a framework enabling them to perform their tasks, as it undertook to do in the Single Market.

**(2) Simplification/proportionality:** Parliament calls for the provisions to be framed in such a way as to ensure that they can be applied correctly and that they place no unnecessary burden on the public authorities and the undertakings entrusted with the operation of services of general interest. It asks the Commission in that context:

- to make it easier to understand the rules and foresee the obligations regarding public compensation payments for SGEI and thus attain greater legal certainty for public authorities and service providers;
- to introduce greater flexibility and transparency in the monitoring of over-compensation and in particular to improve measures to prevent over-compensation;
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- to ascertain from the public authorities and operators whether the ‘Guide to the application of the European Union rules on state aid, public procurement and the internal market to services of general economic interest, and in particular to social services of general interest’ of 7 December 2010 effectively fulfils its purpose;
- to simplify the rules for mandating (a call for proposals accompanied by a target-based contract be deemed to constitute a mandate).

(3) **Social services:** Members call on the Commission to come up with **special *de minimis* arrangements** for SSGI that can be assumed to entail no substantial detriment to trade between Member States. They support the retention of the existing exemption without thresholds for hospitals and social housing. The Commission is invited to ensure that compensation payments for all SGEI meeting **essential social needs** as defined by Member States, such as care of the elderly and of people with disabilities, the care and social inclusion of vulnerable groups, child and youth welfare, healthcare and access to the labour market are exempted from the requirement of notification.

(4) **Local services:** the resolution calls on the Commission to **propose appropriate thresholds for the ‘*de minimis*’ rule for compensation payments** to undertakings entrusted with the operation of SGEI, so that these services can be dealt with by a simplified procedure. It suggests as a possible reference in this respect the combined indices of amount of compensation payment and level of turnover of the undertaking entrusted with the operation of the service by the local authority. Members ask the Commission to assess whether SGEI in the field of culture and education should also be the subject of a special arrangement.

(5) **Quality and efficiency aspects:** the resolution emphasises how important it is for SGEI to be of **high quality and the need for them to be universally accessible**. It points out in this regard that the Commission’s responsibility, under the TFEU competition rules, is confined to monitoring state aid for the provision of SGEI, and that these do not provide a legal basis for setting quality and efficiency criteria at European level. Lastly, it considers that the definition of quality and efficiency for SGEI should be established with due regard for the subsidiarity principle.