

Basic information	
2011/2146(INI) INI - Own-initiative procedure Reform of the EU state aid rules on services of general economic interest Subject 2.40.02 Public services, of general interest, universal service 2.60.03 State aids and interventions	Procedure completed

Key players																									
European Parliament	<table border="1"> <thead> <tr> <th>Committee responsible</th> <th>Rapporteur</th> <th>Appointed</th> </tr> </thead> <tbody> <tr> <td>ECON Economic and Monetary Affairs</td> <td>SIMON Peter (S&D)</td> <td>10/05/2011</td> </tr> </tbody> </table>	Committee responsible	Rapporteur	Appointed	ECON Economic and Monetary Affairs	SIMON Peter (S&D)	10/05/2011																		
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Key events			
Date	Event	Reference	Summary
23/03/2011	Non-legislative basic document published	COM(2011)0146 	Summary
07/07/2011	Committee referral announced in Parliament		
17/10/2011	Vote in committee		Summary
24/10/2011	Committee report tabled for plenary	A7-0371/2011	
14/11/2011	Debate in Parliament		
15/11/2011	Decision by Parliament	T7-0494/2011	Summary
15/11/2011	Results of vote in Parliament		
15/11/2011	End of procedure in Parliament		

Technical information	
Procedure reference	2011/2146(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Initiative
Legal basis	Rules of Procedure EP 55
Stage reached in procedure	Procedure completed
Committee dossier	ECON/7/06102

Documentation gateway				
European Parliament				
Document type	Committee	Reference	Date	Summary
Committee draft report		PE469.843	08/08/2011	
Amendments tabled in committee		PE472.191	19/09/2011	
Committee opinion	IMCO	PE469.871	27/09/2011	
Committee opinion	ITRE	PE469.885	28/09/2011	
Committee report tabled for plenary, single reading		A7-0371/2011	24/10/2011	
Text adopted by Parliament, single reading		T7-0494/2011	15/11/2011	Summary
European Commission				
Document type	Reference	Date	Summary	
Non-legislative basic document	COM(2011)0146 	23/03/2011	Summary	

For information	SEC(2011)0397 	23/03/2011	
Commission response to text adopted in plenary	SP(2012)55	05/03/2012	
National parliaments			
Document type	Parliament /Chamber	Reference	Date
Contribution	DE_BUNDESRAT	COM(2011)0146	06/06/2011
Contribution	IT_CHAMBER	COM(2011)0146	09/08/2011

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

2011/2146(INI) - 23/03/2011 - Non-legislative basic document

PURPOSE: to launch a political debate on the revision of the state aid package on services of general economic interest (SGEI).

BACKGROUND: public services (generally identified in the Treaties as SGEI) occupy a vital role in the shared values of the Union. The Lisbon Treaty recognises the essential role of public services and, at the same time, their diversity in the European model of society.

The purpose of this Communication is to launch a debate on the forthcoming revision of the state aid package on SGEI (also known as post-Altmark Package, in reference to the Court of Justice ruling in 25003 on the Altmark case.). The package includes a series of measures adopted in 2005, in particular Commission Decision (EC) No 842/2005 and the SGEI Framework, in which the Commission has clarified the application of the Treaty articles on State aid, i.e. Articles 106 and 107 TFEU, to compensation for SGEI. The SGEI Framework expires in November 2011.

In accordance with the Decision and the SGEI Framework, the Commission conducted an evaluation of the rules based on a wide consultation. Overall, the consultation process has confirmed that the existing legal instruments were a necessary and appropriate response in the light of the Altmark ruling. Since their entry into force, they have been applied to a large number of State aid cases. The consultation has also shown that, in certain areas, e.g. in the social services sector, the Package has not always been implemented as foreseen.

Many stakeholders feel that the existing legal instruments have made a positive contribution to the overall objective of legal certainty. However, the consultation also showed that there is scope for improvement. In particular, there is a need for clearer, simpler, more proportionate and more effective instruments to ensure an easier application of the rules and hence to promote a more efficient delivery of high quality SGEIs to the benefit of people living in the EU.

The review of the Package must be seen in the context of the Commission's wider policy objectives in the area of public services. In its Communication "[Towards a Single Market Act](#)", the Commission undertook to produce, by 2011, a Communication and a series of measures on services of general interest.

CONTENT: the purpose of this Communication is to deal only with the reform of the State aid rules in relation to SGEI that the Commission has adopted pursuant to Articles 106 and 107. The overall objective of the reform is to boost the contribution that SGEI can make to the wider EU economic recovery. Member States need, in fact, to guarantee certain services at affordable conditions to the general population (e.g. hospitals, education, social services, but also communications, energy or transport).

In order to have clearer, simpler, more proportionate and more effective legal framework so as to make compliance easier for national, regional and local authorities ensure an easier application of the rules the Commission is considering **basing the reform on two key principles:**

(1)Clarification: the Commission wishes to provide additional **clarity on a number of key concepts** relevant for the application of the State aid rules for SGEI, including the scope of those rules, the conditions for the approval of SGEI aid by the Commission and the relationship between State aid and public procurement rules. Issues on which stakeholders have asked for more clarity and on which the Commission is considering providing further guidance include:

- the distinction between economic and non-economic activities under State aid rules and the qualification of certain entities as undertakings;
- the limits Member States have under State aid rules when defining an economic activity as an SGEI;
- the conditions under which compensation for certain SGEI provided at local level affects trade between Member States, thereby falling within the scope of State aid rules;
- the requirements which public authorities have to follow under State aid rules when they entrust an undertaking with the performance of an SGEI;
- the conditions under which compensation for SGEI does not involve State aid because the tender selects the provider at the least cost for the community or because the price charged is in line with that of an efficient and "well-run" undertaking;
- how to increase convergence between the application of State aid and public procurement rules; and

- the interplay between the rules of the Package and other sector specific SGEI rules.

(2) A diversified and proportionate approach: the current Package applies in a more or less uniform way to a very wide range of economic sectors and actors. The Commission intends to **distinguish more clearly between different types of services** depending on the extent to which State aid in these economic sectors poses a serious risk of creating distortions of competition in the internal market. It aims to make the degree of State aid scrutiny dependent on the nature and scope of the services provided. One element of this strategy could be to simplify the application of the rules for certain types of small-scale public services of a local nature with a limited impact on trade between Member States and for certain types of social services. At the same time, the Commission could take greater account of efficiency and competition considerations in the treatment of large scale commercial services with a clear EU-wide dimension.

Consultation of the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and Member States as well as stakeholders on drafts of the new SGEI Decision and SGEI Framework is currently envisaged for July 2011.

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;
- 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.