Procedure file

Basic information

INI - Own-initiative procedure	2006/2134(INI)	Procedure completed
Implementing the Community Lisbon programme: social services of general interest in the European Union Subject 2.40.02 Public services, of general interest, universal service 4.10.10 Social protection, social security		

Key players

European Parliament	Committee responsible	Rapporteur	Appointed
	EMPL Employment and Social Affairs	PSE HASSE FERREIRA Joel	03/05/2006
	Committee for opinion	Rapporteur for opinion	Appointed
	ECON Economic and Monetary Affairs	PSE RAPKAY Bernhard	15/05/2006
	ENVI Environment, Public Health and Food Safety		
	ITRE Industry, Research and Energy	The committee decided not to give an opinion.	
	IMCO Internal Market and Consumer Protection	PPE-DE RUDI UBEDA Luisa Fernanda	04/09/2006
	JURI Legal Affairs	PPE-DE STAUNER Gabriele	11/09/2006
	FEMM Women's Rights and Gender Equality	PPE-DE BAUER Edit	22/06/2006
Council of the European Union	Council configuration	Meeting	Date
	Employment, Social Policy, Health and Consumer Affairs	2803	30/05/2007
European Commission	Commission DG	Commissioner	
	Employment, Social Affairs and Inclusion	ŠPIDLA Vladimír	

Key events

26/04/2006	Non-legislative basic document published	COM(2006)0177	Summary
15/06/2006	Committee referral announced in Parliament		

01/03/2007	Vote in committee		Summary
06/03/2007	Committee report tabled for plenary	A6-0057/2007	
12/03/2007	Debate in Parliament		
14/03/2007	Results of vote in Parliament		
14/03/2007	Decision by Parliament	T6-0070/2007	Summary
14/03/2007	End of procedure in Parliament		
30/05/2007	Debate in Council	2803	

Technical information

Procedure reference	2006/2134(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	EMPL/6/37584

Documentation gateway

Non-legislative basic document		COM(2006)0177	26/04/2006	EC	Summary
Document attached to the procedure		SEC(2006)0516	26/04/2006	EC	Summary
Committee draft report		PE378.584	15/11/2006	EP	
Committee opinion	FEMM	PE378.626	20/11/2006	EP	
Committee opinion	JURI	PE378.894	21/11/2006	EP	
Committee opinion	ENVI	PE378.777	22/11/2006	EP	
Committee opinion	IMCO	PE378.790	27/11/2006	EP	
Amendments tabled in committee		PE378.585	04/12/2006	EP	
Committee opinion	ECON	PE380.763	20/12/2006	EP	
Committee report tabled for plenary, single reading		A6-0057/2007	06/03/2007	EP	
Text adopted by Parliament, single reading		T6-0070/2007	14/03/2007	EP	Summary
Commission response to text adopted in plenary		SP(2007)1901/2	03/05/2007	EC	
Commission response to text adopted in plenary		SP(2007)2139	11/05/2007	EC	

Implementing the Community Lisbon programme: social services of general interest in the European Union

PURPOSE : to present a communication on social services of general interest (SSGI) in the EU.

CONTENT : this Communication is a follow-up to the White Paper on services of general interest, which had announced its intention to identify

the specific characteristics of social and health services of general interest and to clarify the framework in which they operate. It should be remembered that the existing Community framework respects the subsidiarity principle. Member States are free to define what they mean by services of general economic interest, or in particular by social services of general interest. On the other hand, the Community framework requires Member States to take certain rules into account when they determine the arrangements for applying the objectives and principles they have established. This Communication is a further step in taking the specific nature of social services into account at European level and clarifying the Community rules applicable to them.

The Communication begins by attempting to define and categorise social services in the EU, and describes a general trend towards modernisation and quality. It presents an open list of characteristics reflecting the specific nature of social services as services of general interest. In addition to the traditional criteria of the general interest (universality, transparency, continuity, accessibility, etc.)

recognised for social service missions, these characteristics refer to the organizational conditions and modalities applying to them. Social services constitute a booming sector, in terms of both economic growth and job creation. Although they are organised very differently in the Member States, certain general aspects of this modernisation process can be seen, such as the outsourcing of public sector tasks to the private sector, with the public authorities becoming regulators, guardians of regulated competition and effective organisation at national, local or regional level.

The Communication goes on to discuss the application of the subsidiarity principle and the distinction between economic and non-economic services of general interest. Member States freedom to define missions of general interest and to establish the organisational principles of the services intended to accomplish them must be exercised transparently and without misusing the notion of general interest. Member States must take account of Community law when fixing the arrangements for implementing the objectives and principles they have laid down. For example, they must respect the principle of non-discrimination and the Community legislation on public contracts and concessions when organising a public service. To understand properly the specific conditions for the application of the Community framework to social services, the Communication deals with the most frequent situations. These include the following:

- delegation, where Community law on public contracts and concessions may come into play;

- use of public financial compensation, which must be compatible with competition rules;

- regulation of the market, with particular reference to the rules and general principles of the Treaty pertaining to the freedom to provide services and freedom of establishment;

- compatibility with the rules on access to the market: Community rules encourage public authorities to be clear about the correspondence between the burdens associated with the mission and the restrictions on access to the market they consider necessary to allow these organisations to perform properly.

The characteristics of social services of general interest identified in this Communication will constitute the starting point for a consultation by the Commission of all the actors concerned: Member States, service providers and users. This consultation will notably look at:

- the elements constituting these characteristics as well as their pertinence to gauge the specific features of social services of general interest;

- how they could be considered by the Member States when defining the general interest missions of social services and the arrangements for their organisation, so as to ensure a good institutionalised link with the Community framework;

- the experiences with the application of Community law in the field of social services of general interest and possible problems that are faced in this context;

- how the same (or other) characteristics could be considered by the Commission where it has to check subsequently and individually, the compatibility of the organization modalities of social services with the applicable Community rules.

Furthermore, in order to improve the reciprocal knowledge of operators and the European Commission of questions concerning the application of the Community rules to the development of social services, a monitoring and dialogue procedure in the form of biennial reports will be established. The aim is to take better account of the diversity of social services, and to consider how the Commission and Member States could use the specific characteristics of social services of general interest in order to reduce the legal uncertainty inherent in situations where a case-by- case approach is needed. In the light of this experience, the Commission will decide how to follow up this process and identify the best approach to take, including, giving consideration to the need and legal possibility for a legislative proposal.

Implementing the Community Lisbon programme: social services of general interest in the European Union

This report complements the Commission Communication on ?Social services of general interest in the European Union?. It is divided into two Annexes.

The content of the first Annex is based on reports sent to the Commission from the Member States on their national social services. The issues examined include:

- The role of the State: Public intervention appears to be critical to the equitable uptake of many services. In the absence of state intervention many services (such as those offered to the disadvantaged and elderly) would be characterised by substantial inequality in terms of access, coverage and quality.
- Social Services in the Member States: This chapter examines, in detail, the role of social security (guaranteeing a minimum income) and personal social services (housing, drug addiction, language training for immigrants etc.).
- The process of change: Fundamental societal changes and changes in the labour market have led to more complex social service needs. Increased female participation in the workforce as well as increased life expectancy has changed the focus of Member State social services in recent years.
- The response of public authorities: Member States are reacting to changing trends through the use of three policy tools: i) more use of non-profit organisations; ii) the partial privatisation of social services and iii) the partial shifting of activities to non-public funding.

- Past and present employment trends in social services: This heading examines the impact of continuous job creation; the increase of women and educated workers in the workforce and ageing, on social security services.

The second Annex, entitled, ?Social services of general interest and Community law? sets out competition (state aid, anti-trust) jurisprudence as well as the jurisprudence of the internal market. It examines in considerable detail:

- the central role of Article 86;
- the distinction between activities of an economic and non-economic nature;
- the effect of social services on trade;
- the role of public procurement legislation on social services; and
- the role of insurance on the provision of social services.

Implementing the Community Lisbon programme: social services of general interest in the European Union

The committee adopted the own-initiative report drawn by Joel Hasse FERREIRA (PES, PT) in response to the Commission communication on implementing the Community Lisbon programme as regards social services of general interest (SSGIs) in the EU. The report stressed that SSGIs were "an appropriate means" of strengthening the social dimension of the Lisbon Strategy, attaining the objectives of the social agenda and addressing challenges such as globalisation, industrial change, technological progress, demographic change, migration and changing social and employment patterns. However, although it welcomed the Commission initiative, the committee pointed out that the communication lacked sufficient clarification about the classification and definition of SSGIs and "defers any decision on the legal framework which should apply to them". MEPs accepted only "on a provisional and indicative basis" the organisational criteria which, according to the communication, are the distinguishing features of SSGIs and urged the Commission to find definitive conclusions through the consultation process it has pledged to conduct with the Member States and the SSGIs providers and users.

The report was opposed to an approach to SSGIs which sets up a "false opposition" between rules on competition, public aid and the market on the one hand, and concepts of public service, general interest and social cohesion on the other. MEPs nevertheless stressed that, in the case of SSGIs, the rules on competition, public aid and the internal market must be compatible with public service requirements and not the other way round.

The committee called on the Commission and Member States to protect and promote the patterns of employment frequently found in the SSGI sector, including female employment, flexible working hours, part-time working and use of the voluntary sector, while taking care not to encourage fraud and job insecurity or to cause any deterioration in employment conditions of workers. It also wanted the Commission, Member States and SSGI service providers to develop vocational training initiatives to help staff deal with the stress, working hours (shift and night work) and dangerous or demanding nature associated with certain activities in this sector.

Among its other recommendations, the report called for the establishment of public-private partnerships to provide SSGIs, while taking care to promote the general interest and ensure the provision of efficient and high-quality services. Lastly, it called for a forum to be convened, under the auspices of the European Parliament, to bring together European social organisations and representatives of the Council and the Commission to guide the way the SSGI process is handled.

Implementing the Community Lisbon programme: social services of general interest in the European Union

The European Parliament adopted a resolution based on the own-initiative report drafted by Joel Hasse FERREIRA (PES, PT) in response to the Commission communication on implementing the Community Lisbon programme as regards social services of general interest (SSGIs) in the EU. Parliament pointed out that there was an urgent need to clarify concepts such as ?public service?, ?service of general interest?, ?service of general economic interest? and ?social service of general interest?, and the legal framework within which SSGIs operate. There was a particular need to clarify the principle of 'general interest' and the rules on competition and aid from public funds.

Parliament welcomed the Commission initiative, but felt that the Commission communication on SSGIs did not provide sufficient clarification about the classification and definition of SSGIs, and deferred any decision on the legal framework which should apply to them. SSGIs were an appropriate means of strengthening the social dimension of the Lisbon Strategy, attaining the objectives of the social agenda and addressing challenges such as globalisation, industrial change, technological progress, demographic change, migration and changing social and employment patterns.

Parliament considered that the organisational criteria which, according to the Commission communication on SSGIs, were the distinguishing features of SSGIs, could not be accepted except on a provisional and indicative basis, pending the emergence of more definitive conclusions from the consultation process which the Commission had undertaken to conduct with Member States and SSGI service providers and users. It would be a mistake to adopt an approach to SSGIs which juxtaposed the rules on competition, State aid and the internal market on the one hand, and concepts of public service, general interest and social cohesion on the other. On the contrary, it was necessary to reconcile them by promoting positive synergies between the economic and social aspects. However, in the case of SSGIs, the rules on competition, State aid and the internal market must be compatible with public service requirements, and not vice versa.

In the case of SSGIs, two contrasting factors must be reconciled: on the one hand, the principle of subsidiarity which upholds the Member State authorities? freedom to organise SSGIs as they see fit, and, on the other, the joint responsibility of the Community to ensure that the rules to which SSGIs were subject uphold human rights and the dignity of the individual. In view of the particular characteristics of SSGIs, which relate to their general-interest mission and the inability of the market to fulfil certain requirements in the field of social services, priority should be given to the defence of the general interest. Parliament noted, with concern, recent attempts to apply to certain SSGIs rules

appropriate to other services including services of general economic interest, without taking into account the factors which distinguish SSGIs from other services.

The Commission and Member States were called upon to protect the patterns of employment frequently found in the SSGI sector, including female employment, flexible working hours, part-time working and use of the voluntary sector, while taking care not to encourage fraud and job insecurity or to cause any deterioration in employment conditions of workers. It also wanted the Commission, Member States and SSGI service providers to develop vocational training initiatives to help staff deal with the stress, working hours (shift and night work) and dangerous or demanding nature associated with certain activities in this sector. The Commission was asked to include in its report, questions relating to gender mainstreaming.

Parliament went on to call for the following:

- the establishment of public-private partnerships to provide such services, while taking care to promote the general interest and ensure the provision of efficient and high-quality services;

- the involvement of social partners to a greater extent in developing approaches in accordance with the customs of each Member State;

- Member States must ensure that any transfer of powers to regional and local authorities for the purpose of delivering SSGIs was accompanied by adequate budgetary resources.

Lastly, Parliament recommended the convocation of a forum, under the auspices of Parliament, which would bring together European social organisations and representatives of the Council and the Commission to guide the way this process was handled.