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## REPORT

on social services of general interest in the European Union  
(2006/2134(INI))

Committee on Employment and Social Affairs

Rapporteur: Joel Hasse Ferreira

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## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

### on social services of general interest in the European Union (2006/2134(INI))

*The European Parliament,*

- having regard to the Commission communication on Implementing the Community Lisbon programme: Social services of general interest in the European Union (COM(2006)0177) and the accompanying Commission staff working document (SEC(2006)0516),
- having regard to the Treaty establishing the European Community, and in particular Articles 2, 5, 16, 86, 136, 137(1)(j) and (k), 143, 144 and 145 thereof,
- having regard to the Charter of Fundamental Rights of the European Union, and in particular Article 36 thereof,
- having regard to the draft Treaty establishing a Constitution for Europe, and in particular Articles II-94 and III-122 thereof,
- having regard to its position of 15 November 2006 on the Council common position for adopting a directive of the European Parliament and of the Council on services in the internal market<sup>1</sup>,
- having regard to the conclusions of the Brussels European Council of 23 and 24 March 2006,
- having regard to its resolution of 14 January 2004 on the Green Paper on services of general interest<sup>2</sup>,
- having regard to its resolution of 15 March 2006 on social protection and social inclusion<sup>3</sup>,
- having regard to its resolution of 6 September 2006 on a European Social Model for the future<sup>4</sup>,
- having regard to its resolution of 27 September 2006 on the Commission White Paper on services of general interest<sup>5</sup>,
- having regard to Rule 45 of its Rules of Procedure,
- having regard to the report of the Committee on Employment and Social Affairs and the opinions of the Committee on Economic and Monetary Affairs, the Committee on the

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<sup>1</sup> *Texts Adopted*, P6\_TA(2006)0490.

<sup>2</sup> OJ C 92 E, 16.4.2004, p. 294.

<sup>3</sup> *Texts Adopted*, P6\_TA(2006)0089.

<sup>4</sup> *Texts Adopted*, P6-TA(2006)0340.

<sup>5</sup> *Texts Adopted*, P6\_TA(2006)0380.

Environment, Public Health and Food Safety, the Committee on the Internal Market and Consumer Protection, the Committee on Legal Affairs and the Committee on Women's Rights and Gender Equality (A6-0057/2007),

- A. whereas social services of general interest (SSGIs) form one of the pillars of the European social model, play an essential part in securing civic peace and the European Union's economic, social and territorial cohesion, and are one of the means whereby the Lisbon Strategy objectives can be achieved,
- B. whereas, moreover, SSGIs are designed to carry into effect values shared throughout Europe including, among others, social justice, equality, solidarity and the development of democracy and freedom, and whereas the ultimate purpose of the SSGI is to uphold citizens' fundamental rights and respect for human dignity,
- C. whereas SSGIs should not be regarded as a burden on public authorities, because, on the contrary, they generate positive externalities in terms of economic growth, prosperity, employment and social cohesion,
- D. whereas SSGIs are delivered in a changing environment to which they have to adjust constantly in order to maintain high standards of quality and efficiency,
- E. whereas the availability of essential social services varies considerably from one Member State to another; whereas, however, the services in question should be provided throughout the European Union's territory in order to ensure its economic, social and territorial cohesion,
- F. whereas some ambiguity surrounds certain basic concepts in this area, such as 'public service', 'service of general interest', 'service of general economic interest' and 'social service of general interest', and whereas that ambiguity is reflected in recent Community acts, thus contributing to the legal uncertainty prevailing in the sector,
- G. whereas the lack of statutory regulation has given rise to a vast body of judicial interpretation, which is not always consistent; whereas all the sectors concerned are calling for a clear operating framework which reduces the need for judicial interpretation to the minimum and aims to achieve maximum legal certainty,
- H. whereas, consequently, there is an urgent need to clarify the concepts in question and the legal framework in which SSGIs operate, and in particular to clarify the principle of 'general interest' and the rules on competition and aid from public funds,
- I. whereas social services must not in any circumstances be reduced to a residual category defined by the fact that they cannot be equated either with commercial services or with services of general economic interest; whereas, on the contrary, because of the sector of society whose needs they address, and the distinctive features of their organisation, funding and remit, they must be regarded as a separate and specific category of services of fundamental importance for society,
- J. whereas the SSGI sector provides employment for an increasing number of people, the rate of increase in employment in that sector is higher than the average in other sectors of

the economy, a large number of women are employed in the sector, and the sector contains interesting flexible employment models, such as part-time working, 'flexitime' and voluntary work, which should be encouraged and receive adequate protection under employment law; whereas, on the other hand, the sector also presents alarming instances of job insecurity, which should be avoided,

- K. whereas health services, which are excluded from the Commission communication on SSGIs, are also SSGIs, and share the same characteristics and objectives; recognising, however, the special features arising from the complex organisation of health services and the financial burden they place on the Member States' public authorities,
1. Welcomes the Commission initiative, which is linked to the implementation of the White Paper on services of general interest and is designed to provide a specific conceptual and legal framework for the services in question; considers, however, that the Commission communication on SSGIs does not provide sufficient clarification about the classification and definition of SSGIs, and defers any decision on the legal framework which should apply to them;
  2. Reaffirms its commitment to modern and high-quality SSGI based on the values of equality, solidarity, rule of law and respect for human dignity, and the principles of accessibility, universal service, efficiency, economic management of resources, continuity, proximity to service users and transparency, which contribute to the implementation of the Community's tasks as defined in Articles 2 and 3 of the Treaty;
  3. Is convinced that SSGIs are 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, thus contributing to the development of a social Europe;
  4. Welcomes the Commission's recognition of the special nature of the main features whereby SSGIs can be defined, which distinguish them from other types of services; considers, however, that the organisational criteria which, according to the abovementioned communication, are the distinguishing features of SSGIs, cannot be accepted except on a provisional and indicative basis, pending the emergence of more definitive conclusions from the consultation process which the Commission has undertaken to conduct with Member States and SSGI service providers and users;
  5. Considers that it would be a mistake to adopt an approach to SSGI 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; considers, on the contrary, that it is necessary to reconcile them by promoting positive synergies between the economic and social aspects; asserts, however, 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;
  6. Recognises that, in the case of SSGIs, there are two contrasting factors which must be reconciled: on the one hand, the principle of subsidiarity which upholds the Member State authorities' freedom to define, organise and finance SSGIs as they see fit, in

conjunction with the principle of proportionality, and, on the other, the joint responsibility of the Community pursuant to the Treaty, and in particular Article 16 thereof, and the existence of underlying values and principles which are shared throughout Europe and must be respected by all, by ensuring that the rules to which SSGIs are subject uphold human rights and the dignity of the individual;

7. Considers, however, in view of the particular characteristics of SSGIs, which relate to the nature of the services and the situation of those benefiting from them, their general-interest mission and the inability of the market to fulfil certain requirements in the field of social services, that, where conflict arises, priority should be given to the defence of the general interest, which is the characteristic and principal feature of the SSGIs;
8. Notes with concern in this connection recent attempts to apply to certain SSGI, rules and principles appropriate to services and services of general economic interest, without taking into account the factors and principles which distinguish SSGIs from other services;
9. Welcomes the Commission's intention to continue the consultation process in greater depth so as to clarify the application of certain Community rules for social services; takes the view, further, that the proposed extended consultation process should be completed by mid-2007 and ask the Commission to formulate a decision on how to follow up this process and identify the best approach to take, including considering the need and legitimacy of a sector-specific legislative proposal;
10. Calls on the Commission and the 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 and without causing any deterioration in the employment conditions of workers in the sector or recourse to unqualified or poorly qualified staff; also calls on the Commission to include, throughout the consultation process and in its report, questions relating to gender mainstreaming;
11. Calls on the Commission, the Member States and SSGI service providers, in view of the stress, working hours (shift and night work) and dangerous or demanding nature of certain activities carried out by the social services, to develop vocational training initiatives geared to enabling staff to adjust to and cope with circumstances of this kind, with a view to ensuring better-quality services and improve working and living conditions for workers in the sector; considers also that, in view of the changing nature of requirements for SSGIs, public authorities must ensure that workers in SSGIs have a high level of vocational training;
12. Congratulates the Commission on its decision to consult all actors involved in the definition and organisation of SSGIs; believes that such dialogue will result in greater transparency and better-quality services and help to reinforce the principles and values that underpin them;
13. Calls on the Commission and the Member States to respect the diversity of the methods of organising and managing SSGIs, of their resources and of the methods of funding these services; also calls for 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;

14. Considers that the Member States' various competent public authorities are free to decide whether SSGIs should be provided by mutual associations, other forms of social organisation or private businesses, in cases where the provision of services by the private sector is compatible with the principle of upholding the general interest, but considers that public authorities should be able to check at any time that the service providers are abiding by the principles and values associated with SSGIs and whether services are being provided in accordance with the requirements specified in advance by the public authorities;
15. Welcomes the involvement of firms, in the context of fulfilling their social responsibilities, in the funding, support and delivery of SSGIs and calls on the Commission and the Member States to involve the social partners to a greater extent in developing approaches of this kind in accordance with the customs of each Member State;
16. Notes that in some Member States the decentralisation of power to regional or local authorities for the purpose of providing SSGIs has not been accompanied by the allocation of sufficient budget resources to enable them to deliver services of the highest standard in terms of quantity and quality; consequently, calls on the Member States to ensure that any transfer of powers to regional and local authorities for the purpose of delivering SSGI is accompanied by adequate budgetary resources;
17. Recommends the convocation of a forum, under the auspices of the European Parliament, which would bring together European social organisations and representatives of the Council and the Commission to guide the way this process is handled;
18. Instructs its President to forward this resolution to the Council and the Commission.

## EXPLANATORY STATEMENT

1. Social services of general interest are a key component of the European social model. If it is necessary to develop the internal market and strengthen external competitiveness in order to guarantee economic growth throughout the Union area, it is equally important to guarantee the proper functioning of social services throughout the Union. This will help to guarantee social cohesion throughout the European Union and to lend practical shape to the social aspects of the Lisbon Strategy on the ground.
2. Europe is now living in a demographic framework which has undergone radical change. The increase in average life expectancy throughout Union territory and the decline in the birth rate in the overwhelming majority of Member States have created a significantly altered social framework. This process is influencing policies in the areas of social security and protection, intergenerational solidarity, family policies, flexible working time and indeed women's participation in the labour market.
3. Many European Union citizens are highly sensitive to the social aspects of the process of European integration. This was clearly demonstrated by the referendum process for the European Constitutional Treaty launched in various Member States. A connection was often drawn between the initial text of the Services Directive, which gave rise to a great deal of concern in a range of areas and sectors, particularly in western Europe, and an apparent or real drop in the amount of attention being paid by the EU to the social aspects of European integration. In this political context too, the process aimed at clarifying the specific role of SSGI, and SGI as a whole, may prove both useful and informative with a view to future developments in the process of European integration across the Union.
4. The communication submitted by Vladimír Špidla on behalf of the Commission on social services of general interest in the European Union provides an opportunity to clarify the role of SSGI across Europe, in terms of social aspects and legal certainty. No doubt it will also provide an opportunity for an extensive debate which must go beyond the drawing-up of this parliamentary report and the debate and vote thereon. Such an extended debate must also involve the social organisations working at European level, regional and local authorities, the European Parliament, the Commission and the Council.
5. One of the aspects which will need to be analysed is the possible creation of a legal instrument in the area of social services, which would also cover health, to guarantee political clarity in the procedures and legal certainty for the social organisations involved. It should also establish general principles relating to action in this area by the public authorities involved, whether they be local, regional, of federal states or autonomous communities.
6. It appears absolutely necessary that, wherever local or regional authorities perform differentiated functions supporting and financing SSGI, the resources allocated at national level should be adequate to enable the local and regional authorities to fulfil their social function comprehensively and to a high standard, particularly as regards supporting SSGI. It is also absolutely necessary to guarantee full transparency in the financial relations between public authorities and social organisations at all times.



7. The organisational and management arrangements of SSGI vary widely across the Member States. This diversity must be respected, and the quality of the services provided and the proper use of any public resources made available, whether national resources or Community resources, must be verified in each case.
8. At all events, this Commission communication is a step towards providing a clear legal status for SSGI. Carrying out the extended process which it recommends may help define and clarify the legal status of mutual and other organisations active in the social sector within the Union, which appears necessary, fair and useful.
9. SSGI have all the necessary features to strengthen the social dimension of the Lisbon Strategy, in terms of the volume of employment that they can create and the social cohesion which they help guarantee, but essentially thanks to the social role they perform in various ways in the European Union.
10. It is a fact that active social policies are inseparable from economic policies. An economic policy that promotes the development and creation of jobs will make a decisive contribution to shaping and implementing a more active social policy. This makes it possible to forge a link between economic growth and social cohesion.
11. The work done by those who collaborate on a voluntary basis with organisations providing SSGI on the ground needs to be clearly and fully recognised throughout the European Union. In this context, vocational training activities need to be developed that will make it possible to improve the quality of social services provided by SSGI volunteers and paid workers.
12. It is also necessary to consider the role of services of general economic interest across the European Union, ensuring an overall clarification of the concepts of service of general interests, SSGI and services of general economic interest so as to provide legal certainty for all players in the social area and clarify the relevant procedures.
13. The diversity of organisational models and management systems in SSGI must be respected throughout the European Union. Procedures and financing rules for services must comply with common principles of transparency and monitoring by the public authorities to ensure the adequacy of the tasks carried out by comparison with the social missions of public interest that are the responsibility of SSGI across Europe. Action will thus need to be taken to guarantee not only respect for the general interest but also the provision of effective, high-quality services that comply with the missions defined by the public authorities.
14. Businesses that are aware of their social responsibilities will have every interest in contributing to the financing of and support for the provision of SSGI, and may indeed provide a boost to their introduction or enhancement where this is justified.
15. At all events, as far as SSGI are concerned, it is necessary to ensure all possible transparency in the award of concessions and subcontracts for the provision of goods or services to social organisations.

16. It is vital in this context to clarify not only the principle of general interest but also the rules governing competition and state aid. In so doing, account must evidently be taken of the subsidiarity principle, which guarantees national public authorities the freedom to define, organise and finance SSGI, and of the proportionality principle, in accordance with fundamental European values.
17. This explanatory statement and report are intended to help strengthen the social aspects of the process of European integration, guaranteeing the necessary legal certainty for social players and public authorities and ensuring financial transparency, the requisite compatibility with the internal market rules applicable and improvements in the quality of services provided, in accordance with the subsidiarity principle and taking account of the need to lend practical shape to the Lisbon Strategy in the social area.

20.12.2006

## **OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS**

for the Committee on Employment and Social Affairs

on social services of general interest in the European Union  
(2006/2134(INI))

Draftsman: Bernhard Rapkay

### **SUGGESTIONS**

The Committee on Economic and Monetary Affairs calls on the Committee on Employment and Social Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

- A. whereas, SGIs are not only an important element of social and economic cohesion, but also contribute considerably to the competitiveness of the European economy,
- B. whereas the case law of the Court of Justice of the European Communities is now extensive, is continually developing and concerns various aspects of SGIs, including State aid, equal treatment and/or the distortion of competition; whereas the numerous cases brought before the Court of Justice relating to the compatibility of SGIs with the internal market rules, raises the issue of legal clarification in this area; confirmed by the Commission's communication; whereas public authorities and the operators in the field of social services of general interest perceive the constant evolution of the Court of Justice's jurisprudence, in particular for the notion of "economic activity" as a source of uncertainty, whereas although the case law and Community legislation in this area have endeavoured to introduce clarification and reduce uncertainty, a certain ambiguity remains;
- C. whereas, taking into account the principle of subsidiarity pursuant to Article 5(2) of the EC Treaty, it is for the Member States and their regional and/or local authorities to define SGIs and to decide which services should be covered and how they should be organised, financed, delivered, evaluated and controlled, and this should be fully respected when drafting further legislation,
- D. whereas in Article 2 of the Directive on services in the internal market certain social services relating to social housing, childcare and support of families and persons

permanently or temporarily in need which are provided by the State, by providers mandated by the State or by charities recognised as such by the State are explicitly excluded from the scope of the Directive,

1. Welcomes the Commission's intention to continue the consultation process in greater depth so as to clarify the application of certain Community rules for social services; takes the view, further, that the proposed extended consultation process should be completed by mid-2007 and ask the Commission to formulate a decision on how to follow up this process and identify the best approach to take, including considering the need and legitimacy of a sector-specific legislative proposal.
2. Stresses that SGIs should be of a high quality, and accessible and should encompass comprehensive coverage, should be provided at optimum cost, should respect a social balance, and should be provided on the basis of lasting security of supply; and emphasises that the majority of SGIs can be provided under conditions of fair competition, according to the principle that private and public undertakings must receive equal treatment;
3. Recalls the fact that the rules in force in this area are defined by the case law of the Court of Justice and by the Commission's interpretation of individual cases, and that, thus, neither the necessary legal certainty nor adequate transparency has yet been achieved;
4. Emphasises that in those cases where EC market rules manifestly hinder the provision of public services, targeted measures and sector-specific regulations are the preferred solution and a detailed and ongoing evaluation of public services in the EU, identifying the problem areas, must be at the basis of any policy proposals;
5. Calls on the Commission, therefore, to ensure more legal certainty in the area of social and health-care SGIs and where necessary to formulate a proposal for a sector-specific directive of the Council and the Parliament in those fields in which it is appropriate to do so; further calls on the Commission to consider and submit all the relevant proposals together, in order to avoid demarcation problems;

## PROCEDURE

<b>Title</b>	Social services of general interest in the European Union
<b>Procedure number</b>	2006/2134(INI)
<b>Committee responsible</b>	EMPL
<b>Opinion by</b> Date announced in plenary	ECON 15.5.2006
<b>Enhanced cooperation – date announced in plenary</b>	
<b>Drafts(wo)man</b> Date appointed	Bernhard Rapkay 15.5.2006
<b>Previous drafts(wo)man</b>	
<b>Discussed in committee</b>	6.11.2006      22.11.2006
<b>Date adopted</b>	20.12.2006
<b>Result of final vote</b>	+:            33 –:            2 0:            0
<b>Members present for the final vote</b>	Zsolt László Becsey, Pervenche Berès, Sharon Bowles, Udo Bullmann, Elisa Ferreira, Jean-Paul Gauzès, Donata Gottardi, Sophia in 't Veld, Wolf Klinz, Andrea Losco, Astrid Lulling, Cristobal Montoro Romero, Joseph Muscat, John Purvis, Alexander Radwan, Bernhard Rapkay, Dariusz Rosati, Eoin Ryan, Antolín Sánchez Presedo, Manuel António dos Santos, Olle Schmidt, Margarita Starkevičiūtė, Sahra Wagenknecht
<b>Substitute(s) present for the final vote</b>	Katerina Batzeli, Valdis Dombrovskis, Harald Ettl, Syed Kamall, Werner Langen, Klaus-Heiner Lehne, Alain Lipietz, Jules Maaten, Vladimír Maňka, Thomas Mann, Corien Wortmann-Kool
<b>Substitute(s) under Rule 178(2) present for the final vote</b>	Reinhard Rack
<b>Comments (available in one language only)</b>	...

22.11.2006

## **OPINION OF THE COMMITTEE ON THE ENVIRONMENT, PUBLIC HEALTH AND FOOD SAFETY**

for the Committee on Employment and Social Affairs

on social services of general interest in the European Union  
(2006/2134(INI))

Draftsman: Roberto Musacchio

### **SUGGESTIONS**

The Committee on the Environment, Public Health and Food Safety calls on the Committee on Employment and Social Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Welcomes the aim of the Communication on Social services of general interest to promote the modernisation of social services within the Community in order to provide services with a high level of quality, safety and efficiency, respecting consumer and user rights, patient dignity and the freedom to provide cross-border services; considers it desirable to ensure greater legal safety regarding services of general interest, in particular social services and medical and pharmaceutical treatment, by means of a proposal for a specific sectoral European Parliament and Council directive if necessary;
2. Points out that social services of general interest are essential for the economic, social and territorial cohesion in the EU as they respond to public service obligations and objectives of general interest defined by each Member State's competent authorities in accordance with the subsidiarity principle; underlines the importance of transparency in the definition of these objectives particularly given that such services are increasingly delivered by third parties, by way of public-private partnerships and outsourcing, and as such come under Community law;
3. Considers that the freedom to provide social services of general interest and the freedom of establishment of the service providers concerned should entail respect for and contribute to the implementation of the objectives of equal universal access and fair conditions in delivering such services within the general requirements as defined by Member States;
4. Argues that social services of general interest make it possible to guarantee the exercise

of the fundamental rights of EU citizens, as they concern primary services for everyday life; considers, therefore, that they need to be regarded as a specific sector responding mainly to the principles of solidarity, social inclusion, efficiency and financial sustainability; recognises the role of the private sector in this regard;

5. Stresses that in evaluating the characteristics in the supply of such services, public authorities should take into account as an overriding consideration the advantages of guaranteeing social cohesion and better social inclusion when users are often directly involved in providing the service by means of non-profit organisations;
6. Stresses that, in providing for the risks of everyday life, such as those concerning health, work related accidents, etc., particular attention must be given to dependent persons, whether their dependency relates to disability or age;
7. Points out that a European level governance should help to ensure that in the provision of these services, Member States guarantee the following principles:
  - equal universal access;
  - full territorial coverage, geographical and social access to reliable high-quality service at affordable prices and uniform quality standards;
  - socially acceptable concessionary charges for disabled persons, low-income groups and mechanisms designed to combat social exclusion;
  - measures to avoid regional disparities, ensure legal certainty, transparency and compliance with the framework conditions for the provision of services;
8. Is of the opinion that in accordance with these principles, the competent authorities should be free to set up authorisation schemes governing the access to the organisation of social services, simultaneously respecting the principle of non-discrimination;
9. Accordingly, calls for further consultation and cooperation between those concerned to establish the framework necessary for the functioning and realisation of the objectives of social services of general interest while respecting their guiding principles and values.

## PROCEDURE

<b>Title</b>	Social services of general interest in the European Union
<b>Procedure number</b>	2006/2134(INI)
<b>Committee responsible</b>	EMPL
<b>Opinion by</b> Date announced in plenary	ENVI 15.6.2006
<b>Enhanced cooperation – date announced in plenary</b>	
<b>Draftsman</b> Date appointed	Roberto Musacchio 14.6.2006
<b>Previous draftsman</b>	
<b>Discussed in committee</b>	3.10.2006
<b>Date adopted</b>	21.11.2006
<b>Result of final vote</b>	+: 44 -: 1 0: 3
<b>Members present for the final vote</b>	Adamos Adamou, Georgs Andrejevs, Irena Belohorská, Johannes Blokland, Frieda Brepoels, Dorette Corbey, Chris Davies, Avril Doyle, Mojca Drčar Murko, Edite Estrela, Jill Evans, Anne Ferreira, Karl-Heinz Florenz, Alessandro Foglietta, Matthias Groote, Françoise Grossetête, Satu Hassi, Jens Holm, Mary Honeyball, Caroline Jackson, Aldis Kušķis, Peter Liese, Jules Maaten, Roberto Musacchio, Péter Olajos, Adriana Poli Bortone, Vittorio Prodi, Frédérique Ries, Dagmar Roth-Behrendt, Guido Sacconi, Kathy Sinnott, Antonios Trakatellis, Evangelia Tzampazi, Thomas Ulmer, Marcello Vernola, Anja Weisgerber, Åsa Westlund, Anders Wijkman
<b>Substitute(s) present for the final vote</b>	Bairbre de Brún, Christofer Fjellner, Milan Gaľa, Vasco Graça Moura, Erna Hennicot-Schoepges, Ria Oomen-Ruijten, Pál Schmitt, Renate Sommer, Bart Staes, Andres Tarand
<b>Substitute(s) under Rule 178(2) present for the final vote</b>	
<b>Comments (available in one language only)</b>	



27.11.2006

## **OPINION OF THE COMMITTEE ON THE INTERNAL MARKET AND CONSUMER PROTECTION**

for the Committee on Employment and Social Affairs

on social services of general interest in the European Union  
(2006/2134(INI))

Draftswoman: Luisa Fernanda Rudi Ubeda

### **SUGGESTIONS**

The Committee on the Internal Market and Consumer Protection calls on the Committee on Employment and Social Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

- A. whereas social services of general interest are not subject to any special provisions in the Treaties, although they constitute one of the most significant areas of general interest services,
- B. whereas, however, SSGIs contribute to the performance of the Community's tasks as defined in Articles 2 and 3 of the Treaty, including a high level of employment and of social protection, the raising of the standard of living, the attainment of a high level of health protection, equality between men and women and the strengthening of economic and social cohesion,
- C. whereas in this case the principle of subsidiarity is fully applicable, and allows Member States to define their respective social services, the tasks and organisation thereof and the way in which they are funded, including universal access to these essential, vital services,
- D. whereas, following the adoption by Parliament at second reading of the amended directive on services in the internal market, non-economic services of general interest as defined by the Member States have been excluded from the scope of the directive, as have social services such as social housing services, childcare services and family services,
- E. whereas, because of their special characteristics, social services can have a direct impact on the internal market in services, and also have a direct, but differentiated, impact on the public, both male and female, depending in addition on the social groups to which they

belong; whereas changes in society, including demographic changes, mean that there is a need for more action by public authorities to ensure that the main burden of care is not left to families, and hence to women,

- F. whereas the internal market in services and the competition rules may have an impact on the provision of SSGIs, which fulfil a vital role in terms of solidarity and protection of the social fabric throughout the European Union,
1. Welcomes the publication of the Commission communication entitled 'Implementing the Community Lisbon programme: Social services of general interest in the European Union' (COM(2006)0177), which had already been signalled in the White Paper on services of general interest (COM(2004)0374), and which arises from the exclusion of social services from the scope of the amended proposal for a directive on services in the internal market, in connection with which the Council's common position was approved at second reading by the European Parliament; welcomes the Commission's endeavours to conduct a consultation process with the Member States and with all the sectors involved, aiming to find a balance between the special characteristics of these services, which sometimes make them difficult to define in general terms, and the application of the principles of transparency, free competition and non-discrimination, which have mandatory force in the EU, and of Community law on the award of public contracts and concessions;
  2. Approves the Commission's action in recognising that social services are inherently of a character of general interest; stresses that these essential and vital services fulfil a particular role of social protection and solidarity directly provided by local and regional groups or that they are entrusted to specific agents; considers that the different public administrations have to be the guarantors of the provision of these services, with regard to the objectives that they have been assigned in social matters;
  3. Considers that they must satisfactorily fulfil their role as defined in Article 16 and Article 86(2) of the Treaty;
  4. Points out the need for consistency between the Union's position with regard to its rules applicable to SSGIs and the position that it will adopt in the context of the WTO negotiations, especially in connection with the field of social and health services under the General Agreement on Trade in Services (GATS);
  5. Notes that at present the Member States have various different models of social service design, provision and funding, since although the public authorities are responsible for provision of social services to their citizens, they are not always the direct providers;
  6. Considers that in application of the subsidiarity principle, the Member States have the right to define in each case, in accordance with their uses and customs, the characteristics and tasks of social services that constitute the heart of the European social model; believes, however, that in addition to the traditional criteria of universality, transparency and accessibility, there should be a definition of the way in which social services are structured and organised;
  7. Considers that the right of Member States to define their own social services should be made compatible with the required legal certainty capable of protecting the public

authorities which are the guarantors of social services, social service providers and users and the public as a whole throughout the territory of the EU;

8. Considers that the non-profit status of some providers of such services should be considered compatible with the freedom of establishment enshrined in the Treaties; similarly considers that given the specific nature of such services, the payment of any compensation by the administrations responsible for social service provision to the actual providers should also be considered compatible; considers that such compensation should not be deemed to be State aid since the principle of compensation is fulfilled;
9. Considers that the extension of these services, attributable to increasing needs, and the creation of new services have the potential for creating employment which will have a very positive impact on achieving the Lisbon Strategy objectives, especially with regard to female workers, since on the one hand social services are predominantly staffed by women, and on the other hand the expansion of such services enables women, in particular, to continue to be employed and remain on the labour market;
10. Notes that previous experience in some Member States shows that openness to competition with appropriate safeguards for the social services sectors is a positive factor for economic growth and employment creation, and for improving the quality of the services supplied;
11. Welcomes the possibility that the Commission may take initiatives intended to clarify the Community rules applicable to these services and to define the division of responsibilities between the EU and the Member States in the event of obstacles and difficulties arising in connection with the free provision of services in the internal market.

## PROCEDURE

<b>Title</b>	Social Service of General Interest in the EU
<b>Procedure number</b>	2006/2134(INI)
<b>Committee responsible</b>	EMPL
<b>Opinion by</b> Date announced in plenary	IMCO 15.6.2006
<b>Enhanced cooperation – date announced in plenary</b>	
<b>Drafts(wo)man</b> Date appointed	Luisa Fernanda Rudi Ubeda 4.9.2006
<b>Previous drafts(wo)man</b>	
<b>Discussed in committee</b>	10.10.2006      21.11.2006      22.11.2006
<b>Date adopted</b>	23.11.2006
<b>Result of final vote</b>	+ :                32 - :                0 0 :                2
<b>Members present for the final vote</b>	Charlotte Cederschiöld, Mia De Vits, Janelly Fourtou, Małgorzata Handzlik, Malcolm Harbour, Christopher Heaton-Harris, Anna Hedh, Edit Herczog, Anneli Jäätteenmäki, Pierre Jonckheer, Alexander Lambsdorff, Kurt Lechner, Arlene McCarthy, Manuel Medina Ortega, Zita Pleštinská, Guido Podestà, Luisa Fernanda Rudi Ubeda, Heide Rühle, Leopold Józef Rutowicz, Christel Schaldemose, Andreas Schwab, Eva-Britt Svensson, József Szájer, Marianne Thyssen, Jacques Toubon, Bernadette Vergnaud
<b>Substitute(s) present for the final vote</b>	Jean-Claude Fruteau, Benoît Hamon, Konstantinos Hatzidakis, Othmar Karas, Maria Matsouka, Joseph Muscat, Olle Schmidt, Anja Weisgerber
<b>Substitute(s) under Rule 178(2) present for the final vote</b>	Marie-Line Reynaud
<b>Comments (available in one language only)</b>	...

21.11.2006

## **OPINION OF THE COMMITTEE ON LEGAL AFFAIRS**

for the Committee on Employment and Social Affairs

on social services of general interest in the European Union  
(2006/2134(INI))

Draftswoman: Gabriele Stauner

### **SUGGESTIONS**

The Committee on Legal Affairs calls on the Committee on Employment and Social Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Has considerable doubts as to whether EU rules on social services of general interest can bring about an actual improvement for the public and an improvement in the effectiveness of such services;
2. Calls on the Commission, therefore, to use the results of the study referred to in its communication to set out its position in detail, supported by facts and figures, on the question of the actual need for such rules at EU level and also on the *raison d'être* of such rules;
3. Calls on the Commission to indicate the legal basis that it intends to use for any legal provisions that it might be considering; points out at this juncture that Article 16 of the EC Treaty cannot provide that legal basis;
4. Stresses the need, in connection with any rules being considered by the Commission, to observe and to apply the subsidiarity principle laid down in Article 5 of the EC Treaty in connection with social services ;
5. Stresses expressly that, on the basis of their powers and of the subsidiarity principle, it is for the Member States alone to determine what constitutes social services;
6. Stresses that it is solely a matter for the Member States and local authorities to be responsible for the individual details of the organisation, funding and structure of social services of general interest;

7. Rejects at this stage, therefore, any (mixed) funding which may be under consideration by the Commission as an infringement of the Member States' fundamental responsibilities.

## PROCEDURE

<b>Title</b>	Social services of general interest in the European Union
<b>Procedure number</b>	2006/2134(INI)
<b>Committee responsible</b>	EMPL
<b>Opinion by</b> Date announced in plenary	JURI 15.6.2006
<b>Enhanced cooperation – date announced in plenary</b>	
<b>Drafts(wo)man</b> Date appointed	Gabriele Stauner 11.9.2006
<b>Previous drafts(wo)man</b>	
<b>Discussed in committee</b>	3.10.2006
<b>Date adopted</b>	21.11.2006
<b>Result of final vote</b>	+: 13 –: 8 0: 0
<b>Members present for the final vote</b>	Maria Berger, Carlo Casini, Rosa Díez González, Giuseppe Gargani, Klaus-Heiner Lehne, Katalin Lévai, Antonio López-Istúriz White, Achille Occhetto, Aloyzas Sakalas, Gabriele Stauner, Andrzej Jan Szejna, Diana Wallis, Jaroslav Zvěřina
<b>Substitute(s) present for the final vote</b>	Nicole Fontaine, Jean-Paul Gauzès, Othmar Karas, Eva Lichtenberger, Arlene McCarthy, Manuel Medina Ortega
<b>Substitute(s) under Rule 178(2) present for the final vote</b>	Sharon Bowles, Albert Deß, Ewa Klamt
<b>Comments (available in one language only)</b>	

24.11.2006

## **OPINION OF THE COMMITTEE ON WOMEN'S RIGHTS AND GENDER EQUALITY**

for the Committee on Employment and Social Affairs

Social services of general interest in the European Union  
(2006/2134(INI))

Draftswoman: Edit Bauer

### **SUGGESTIONS**

The Committee on Women's Rights and Gender Equality calls on the Committee on Employment and Social Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

- A. whereas the Community and the Member States have shared competence for services of general economic interest,
  - B. whereas the subsidiarity principle needs to be respected and applied in connection with services of general interest, in accordance with Article 5 of the EC Treaty,
  - C. whereas the expansion of social services of general interest has been a driving force in drawing more women into the labour force,
  - D. whereas social services of general interest make an essential contribution to Community values, such as equality between men and women and economic, social and territorial cohesion and whereas they are closely linked to fundamental social rights,
  - E. whereas social services of general interest are not protected against the application of Community internal market and competition rules, whenever they are provided under market conditions, and whereas they are profoundly affected by changes to the way services are provided, funded and regulated,
1. Points out that social services, like all services of general interest, are a central pillar of the European social model, which makes a crucial contribution to social cohesion, social inclusion and the application of fundamental rights;



2. Underlines the fact that in February 2006 Parliament voted in favour of excluding social services from the Services Directive;
3. Supports the development of a specific legal instrument for social services of general interest at the European level; calls on the Commission to present a legal instrument on social services of general interest in order to clarify the way in which social services relate to the framework of EU legal rules such as competition and internal market rules;
4. Calls on the Commission to create more legal certainty in the field of social services of general interest and to propose a legislative framework clarifying the regulatory framework in which they operate and can be modernised, and respecting the freedom of Member States to define what they consider to be social services of general interest and how they are organised;
5. Reiterates the importance of market regulation by the Member States in the field of social services of general interest and the freedom of Member States to maintain or set up authorisation schemes in order to ensure access for all, continuity and high quality of social services of general interest;
6. Recommends to the Member States, when they define social services of general interest, to take into consideration gender-specific services, mainly consulting and social services intended in particular for women, and important services that contribute to the quality of women's lives or to equality, such as health services and education;
7. Calls on the Member States to guarantee non-discriminatory access for all citizens, particularly disadvantaged groups, including single mothers and elderly women, to social services of general interest;
8. Calls on the Member States, in their policies on social services of general interest, to make faster progress in achieving the Lisbon and Barcelona targets as regards ensuring a greater degree of reconciliation between professional and family life.
9. Requests the Commission to include in its monitoring reports issues of social inclusion and gender equality and to mainstream the rights of children in specific policies;
10. Calls on the Member States to conduct a gender-impact assessment of the various services of general interest and ensure respect for anti-discrimination legislation in the provision of social services of general interest;
11. Recommends that the Commission and Member States consult with all the relevant stakeholders, including representatives of women's organisations and organisations representing children's and disabled persons' rights.

## PROCEDURE

<b>Title</b>	Social services of general interest in the European Union
<b>Procedure number</b>	2006/2134(INI)
<b>Committee responsible</b>	EMPL
<b>Opinion by</b> Date announced in plenary	FEMM 15.6.2006
<b>Enhanced cooperation – date announced in plenary</b>	
<b>Drafts(wo)man</b> Date appointed	Edit Bauer 22.6.2006
<b>Previous drafts(wo)man</b>	
<b>Discussed in committee</b>	5.10.2006      23.11.2006
<b>Date adopted</b>	23.11.2006
<b>Result of final vote</b>	+:            13 –:            3 0:            0
<b>Members present for the final vote</b>	Edit Bauer, Hiltrud Breyer, Ilda Figueiredo, Věra Flasarová, Zita Gurmai, Esther Herranz García, Livia Járóka, Pia Elda Locatelli, Marie Panayotopoulos-Cassiotou, Christa Prets, Eva-Britt Svensson, Britta Thomsen
<b>Substitute(s) present for the final vote</b>	Anna Hedh, Sophia in 't Veld, Heide Rühle, Bernadette Vergnaud
<b>Substitute(s) under Rule 178(2) present for the final vote</b>	
<b>Comments (available in one language only)</b>	...

## PROCEDURE

<b>Title</b>	Social services of general interest in the European Union					
<b>Procedure number</b>	2006/2134(INI)					
<b>Committee responsible</b> Date authorisation announced in plenary	EMPL 15.6.2006					
<b>Committee(s) asked for opinion(s)</b> Date announced in plenary	ECON 15.6.2006	ENVI 15.6.2006	IMCO 15.6.2006	JURI 15.6.2006	FEMM 15.6.2006	
	ITRE 15.6.2006					
<b>Not delivering opinion(s)</b> Date of decision	ITRE 20.6.2006					
<b>Enhanced cooperation</b> Date announced in plenary						
<b>Rapporteur(s)</b> Date appointed	Joel Hasse Ferreira 3.5.2006					
<b>Previous rapporteur(s)</b>						
<b>Discussed in committee</b>	23.11.2006	18.12.2006	28.2.2007			
<b>Date adopted</b>	1.3.2007					
<b>Result of final vote</b>	+ 34 - 1 0 5					
<b>Members present for the final vote</b>	Jan Andersson, Alexandru Athanasiu, Roselyne Bachelot-Narquin, Emine Bozkurt, Philip Bushill-Matthews, Alejandro Cercas, Christina Christova, Derek Roland Clark, Proinsias De Rossa, Harlem Désir, Harald Ettl, Richard Falbr, Carlo Fatuzzo, Ilda Figueiredo, Joel Hasse Ferreira, Stephen Hughes, Karin Jöns, Jan Jerzy Kułakowski, Jean Lambert, Raymond Langendries, Bernard Lehideux, Elizabeth Lynne, Thomas Mann, Ana Mato Adrover, Maria Matsouka, Marie Panayotopoulos-Cassiotou, Pier Antonio Panzeri, Jacek Protasiewicz, José Albino Silva Peneda, Kathy Sinnott, Jean Spautz, Gabriele Stauner, Anne Van Lancker					
<b>Substitute(s) present for the final vote</b>	Edit Bauer, Françoise Castex, Donata Gottardi, Sepp Kusstatscher, Roberto Musacchio					
<b>Substitute(s) under Rule 178(2) present for the final vote</b>	André Brie, Jaromír Kohlíček, Anja Weisgerber					
<b>Date tabled</b>	6.3.2007					
<b>Comments</b> (available in one language only)						