

# EUROPEAN PARLIAMENT

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*Committee on the Internal Market and Consumer Protection*

**2006/2101(INI)**

13.6.2006

## **OPINION**

of the Committee on the Internal Market and Consumer Protection

for the Committee on Economic and Monetary Affairs

on Services of General Interest  
(2006/2101(INI))

Draftsman(\*): József Szájer

(\*): Enhanced cooperation between committees - Rule 47 of the Rules of Procedure

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## SUGGESTIONS

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

- A. whereas Services of General Interest (SGIs) and Services of General Economic Interest (SGEIs) are not subject to specific rules in the Treaty,
- B. whereas with regard to SGIs different historic and cultural traditions of the Member States must be taken into account; whereas organisation and availability of efficient SGIs represent key objectives in the Member States' economic and social policies,
- C. whereas SGEIs have a direct effect on the internal market for services, and whereas Parliament approved by a substantial majority their inclusion within the scope of the proposal for a directive on services in the internal market (Services Directive),
- D. whereas Articles 43 to 49 of the Treaty provide the legal basis for Community action in the sphere of SGEIs,
- E. whereas Article 86 of the Treaty and the jurisprudence of the Court of Justice give clear indications as to how to deal with state aid and modalities and levels of funding of SGEIs,
- F. whereas Article 36 of the Charter of fundamental Rights of the European Union (Charter) lays down that the Union recognises and respects access to services of general economic interest as provided for in national laws and practices,
- G. whereas Article 38 of the Charter lays down that the policies of the Union shall ensure a high level of consumer protection,
- H. whereas the jurisprudence of the Court of Justice specifies that reimbursements for public service obligations must not be treated as state aid as long as they are clearly defined, objective, proportional and subject to public tender,
- I. whereas services which combine economic and non-economic activities in an indivisible unit should be regarded as an economic activity,

### *With regard to Services of General Economic Interest*

1. Considers that guaranteed efficient and high quality SGEIs can only be achieved by enhancing competitiveness in these sectors and better cooperation between Member States, especially with regard to network based industries and the completion of cross-border linkages between services, and by promoting equal access for all; welcomes the new common policy of the Community on the energy sector;
2. Notes that SGEIs which have been opened up to competition have experienced an improvement in the quality of services, an increase in the number of competitors and a reduction in prices, all of which has resulted in the modernisation and integration of these services markets to the benefit of consumers; notes that this opening was done in a controlled way and was accompanied by measures to protect the general interest, in

particular the concept of universal services;

3. Notes that the liberalisation of certain SGEIs has brought major benefits to consumers in terms of lower prices, better quality and greater choice;
4. Takes into consideration the economic weight of these services and their importance for the production of other goods and the provision of other services; underlines that the way in which SGEIs are organised can affect the internal market, for example by prohibiting establishment in the country where the service is provided;
5. Notes that it is particularly important, so as to fully exploit the opportunities offered by the internal market, that the conditions and provisions regulating the opening up of markets guarantee fair, transparent and efficient competition, while maintaining social cohesion and universal service accessibility, and avoid abuses of dominant position and the formation of new monopolies which hamper access to the market for new participants, ;
6. Underlines the importance of the experiences of the new Member States with regard to the transformation towards a market economy and the opening up of markets and asks the Commission to draw the necessary conclusions from this for further improvement of the regulatory framework;
7. Considers that Article 86(2) of the Treaty provides sufficient guarantees for the Member States to ensure that SGEIs are provided according to the universal service obligations established by Community law or by the Member States; follows the interpretation of the Court of Justice that there is a parallel between this evaluation and the examination of proportionality in the framework of Article 49 of the Treaty;
8. Underlines that especially after the enlargement of the European Union, cohesion has to be ensured in the field of SGEIs and that in the framework of structural policy, Member States' infrastructures for network-based SGEIs have to be interlinked and cross-border cooperation enhanced in order to create a real internal market and to facilitate standardisation;
9. Notes that SGEIs are included within the scope of the Services Directive; considers that the Services Directive will serve as a horizontal regulation on SGEIs, thus complementing the existing sector-specific legislation; notes that the Services Directive provides sufficient definitions for distinguishing between economic and non-economic services;
10. Considers it indispensable that there should be a better clarification of the division between SGIs and SGEIs, as the latter are subject to the same internal market rules as all other services with the sole exception of the application of Article 86(2) of the Treaty; notes that in the framework of Article 86(2) of the Treaty, SGEIs should be treated on the same basis as all other economic services except in those cases where the application of these rules would put into question the provision of these services;
11. Underlines that for those sectors that are excluded from the scope of the Services Directive, a sectoral approach seems to be appropriate so as to take account of the specific requirements and situations in the relevant sectors with a view to establishing an

internal market for these services; notes that existing sectoral regulation should be constantly supervised;

12. Welcomes the new communication of the Commission on social services of general interest and the systematic approach to identifying the specific characteristics of social and health services;
13. Points out, in that connection, that the allocation of responsibilities between local authorities, for example on the basis of laws, regulations or public law agreements or through the establishment of special purpose associations, is subject to national law governing the organisation of public administrations;

*With regard to non economic services of general interest*

14. Considers, after due evaluation of the provisions of the Treaty and the jurisprudence of the Court of Justice, that there is no legal basis for a framework directive on SGIs if such a framework directive aimed at the non-application of the Treaty provisions to certain specific services;
15. Stresses that the specific issues related to SGIs do not allow for general solutions and that therefore a case-by-case approach to evaluate what is admissible with regard to state intervention in the framework of the provisions of the Treaty seems preferable on the grounds that technically a complete codification of the jurisprudence of the Court of Justice does not seem to be possible;
16. Stresses the importance of strengthening Member States' supervisory capacities in order to ensure that public policy objectives, including affordability and quality standards, are effectively achieved; stresses further that it is necessary for the relevant public authorities to have adequate instruments and expertise at their disposal to be able to enforce competition and to ensure consumer protection;
17. Notes that there is no need to confer additional legal powers on the EU in the area of SGIs; notes, however, that there is a need to clarify how responsibilities are shared between the EU and the Member States in so far as there might be distortions of the free provision of services between Member States;

*Conclusions*

18. Considers that the Treaty and the jurisprudence of the Court of Justice give sufficient possibilities for the Member States to secure the overriding reasons related to the public interest with regard to the provision of SGIs;
19. Requests a clarificatory communication from the Commission on the consequences of the jurisprudence of the Court of Justice and giving guidelines on the application of Community rules in the fields of SGIs and SGEIs to the Member States and regional local authorities;
20. Furthermore calls on the Commission to come forward with a clarificatory communication with regard to the application of competition law in the field of SGIs and SGEIs, especially with regard to the financing of these services;

21. Is convinced that benchmarking is a vital instrument for maintaining and developing high-quality, accessible, affordable and efficient SGIs, and that the systematic evaluation and monitoring of performance of SGIs at Community level as well as at national level is crucial and must be based on common and broad criteria; asks the Commission therefore to propose a system for benchmarking SGIs in the framework of the Lisbon process.

## PROCEDURE

<b>Title</b>	Services of General Interest			
<b>Procedure number</b>	2005/2101(INI)			
<b>Committee responsible</b>	ECON			
<b>Opinion by</b> Date announced in plenary	IMCO 18.5.2006			
<b>Enhanced cooperation – date announced in plenary</b>	18.5.2006			
<b>Draftsman</b> Date appointed	József Szájer 21.2.2006			
<b>Previous drafts(wo)man</b>				
<b>Discussed in committee</b>	31.1.2006	21.3.2006	19.4.2006	3.5.2006
<b>Date adopted</b>	12.6.2006			
<b>Result of final vote</b>	+: –: 0:	19 15 0		
<b>Members present for the final vote</b>	Charlotte Cederschiöld, Mia De Vits, Evelyne Gebhardt, Małgorzata Handzlik, Malcolm Harbour, Edit Herczog, Anneli Jäätteenmäki, Pierre Jonckheer, Alexander Lambsdorff, Kurt Lechner, Lasse Lehtinen, Arlene McCarthy, Manuel Medina Ortega, Zita Pleštinská, Zuzana Roithová, Luisa Fernanda Rudi Ubeda, Heide Rühle, Leopold Józef Rutowicz, Andreas Schwab, Eva-Britt Svensson, József Szájer, Marianne Thyssen, Bernadette Vergnaud, Barbara Weiler, Glenis Willmott			
<b>Substitute(s) present for the final vote</b>	Ieke van den Burg, Simon Coveney, Benoît Hamon, Joel Hasse Ferreira, Othmar Karas, Anja Weisgerber			
<b>Substitute(s) under Rule 178(2) present for the final vote</b>	Roselyne Bachelot-Narquin, Sharon Bowles, Elisabeth Jeggle, Wolf Klinz			
<b>Comments (available in one language only)</b>	...			