ANNEX: SGEI REPORTING SHEETS - June 2016

Culture, Youth, Sport & Media Policy Area

Sub-area: MEDIA

1) Structural aid for Flemish regional television broadcasting organisations

2) Accessibility aid to private television broadcasting organisations for television programmes

Clear and comprehensive description of how the respective services are organised in your Member State	
What kind of services in the respective sector have been defined as SGEI in your Member State? Please provide the clearest possible description of the contents **of the services entrusted as SGEI**.	**Structural aid for Flemish regional television broadcasting organisations**: – vzw [not-for-profit association]) Antwerpse Televisie (ATV) – vzw Regionale Omroep Brabant (ROB) – private limited company RTV (TV-Kempen and Mechelen) – public limited company TV Oost-Vlaanderen (TV Oost) – vzw Audio Video Studio Oostvlaamse Televisie (AVS) – vzw non-public regional television association Brussels (tvbrussel) – vzw Tele-Visie-Limburg (TV Limburg) – vzw West-Vlaamse Regio Zuid (WTV) – vzw FOCUS Televisie - regional television for the north of West Flanders – vzw Regionale Televisie Vlaams-Brabant, Halle-Vilvoorde (Ring TV)
What are the (typical) **forms of entrustment**? If standardised models for entrustments are used for a certain sector, please attach them	Decree of 27 March 2009 on radio and television broadcasting (= Media Decree). Cooperation agreements (2012-2016) with the Flemish regional television broadcasters (no standard model)

Average duration of the entrustment (in years) and the proportion of entrustments that are longer than 10 years (in %) per sector Please specify the sectors in which SGEIs were entrusted with a duration exceeding 10 years and explain how this duration is justified.	Duration of the cooperation agreement = 5 years
Please explain whether **exclusive or special rights** are (typically) assigned to the undertakings.	no
What is the (typical) **compensation mechanism** for the respective services? Please specify whether a methodology based on cost allocation or the net avoided cost methodology is used.	Operating grant and project grant through annual grant decision in implementation of the cooperation agreement via the methodology of cost allocation
Typical **arrangements for avoiding and repaying any overcompensation**	Annual settlement with a report from an independent auditor or external accountant + deduct or refund balance if necessary
Amount of aid granted	
Total amount of aid granted (in millions EUR). This includes all aid granted in your territory, including aid granted by regional and local authorities. ⇨ **A: Total amount of aid granted (in millions EUR)** paid by national central authorities ⇨ **B: Total amount of aid granted (in millions EUR)** paid by regional authorities **C: Total amount of aid granted (in millions EUR)** paid by local authorities	**B:** 2014: EUR 2.076 million to be divided among the 10 Flemish regional TV organisations = EUR 0.205 million per Flemish regional television broadcaster. Only RTV will receive an additional EUR 0.025 million because this broadcaster serves two news areas. 2015: EUR 1.876 million to be divided among the 10 Flemish regional TV organisations = EUR 0.185 million per Flemish regional television broadcaster. Only RTV will receive an additional EUR 0.025 million because this broadcaster serves two news areas. **A+C**: Media policy does not provide any prospects for other financial flows to the Flemish regional television broadcasting organisations
Share of expenditure per aid instrument (direct subsidy, guarantees, etc.) (if available)	Operating grant and project grant via subsidy decision
Additional quantitative information (e.g. number of beneficiaries per sector, average aid amount, size of the undertakings)	/

Clear and comprehensive description of how the respective services are organised in your Member State	
What kind of services in the respective sector have been defined as SGEI in your Member State? Please provide the clearest possible description **of the contents of the services entrusted as SGEI**.	**Accessibility funding for television programmes for private television broadcasting organisations:** – N.V. Medialaan – N.V. SBS Belgium
What are the (typical) **forms of entrustment**? If standardised models for entrustments are used for a certain sector, please attach them	Article 151 of the Decree of 27 March 2009 on radio and television broadcasting (= Media Decree). Decision of the Flemish government dated 14 December 2012 regarding the establishment of a timeline and quota for making broadcasting programmes accessible and regarding the granting of subsidies for implementing Article 151 of the Media Decree (= implementing decision)
Average duration (in years) of the entrustment and the proportion of entrustments exceeding 10 years (in %) per sector. Please specify the sectors in which SGEIs were entrusted with a duration exceeding 10 years and explain how this duration is justified.	10 years as from the date of entry into force of the implementing decision (i.e. date of publication in Belgian Official Gazette (BS), namely 19 December 2012)
Are **exclusive or special rights** (typically) assigned to the undertakings?	no
What is the (typical) **compensation mechanism** for the respective services? Please specify whether a methodology based on cost allocation or the net avoided cost methodology is used.	Project grant Annual reporting as to the implementation of the aid measure for the relevant year using the cost allocation methodology
Typical **arrangements for avoiding and repaying any overcompensation**	Annual settlement with a report from an independent auditor or external accountant + deduct or refund balance if necessary
Amount of aid granted	

Total amount of aid granted (in millions EUR). This includes all aid granted in your territory, including aid granted by regional and local authorities. ⇨ **A: Total amount of aid granted (in millions EUR)** paid by national central authorities ⇨ **B: Total amount of aid granted (in millions EUR)** paid by regional authorities ⇨ **C: Total amount of aid granted (in millions EUR)** paid by local authorities	**B**: Media policy allocates the following aid measures: 2014: EUR 0.346 million to Medialaan and EUR 0.128 million to SBS Belgium 2015: EUR 0.355 million to Medialaan and EUR 0.119 million to SBS Belgium **A+C**: Media policy does not provide any prospects for other financial flows to these private television broadcasting organisations
Share of expenditure per aid instrument (direct subsidy, guarantees etc.) (if available)	Project grant from subsidy decision
Additional quantitative information (e.g. number of beneficiaries per sector, average aid amount, size of the undertakings)	/

Welfare, Public Health and Family Policy Area
Sub-areas
1) Childcare **2) Service flats**

Report of the Member States in the meaning of Article 9 of the SGEI Decision and Para. 62 of the SGEI Framework

For childcare, particularly: childcare for babies and toddlers 2016

1. Description of the application of the SGEI Decision and the SGEI Framework and amount granted

a. What kind of services in the respective sector have been defined as SGEI in your Member State? Please provide the clearest possible description of the contents of the services entrusted as SGEI.

Definition of childcare
(Article 2(2) of the Decree of 20 April 2012 regarding the organisation of childcare for babies and toddlers)
'childcare for babies and toddlers, namely looking after, contributing to the development of and caring for babies and young children, on a professional basis and in return for payment, until they go to nursery school, as specified in Article 3(26) of the Decree of 25 February 1997 on primary education'

Location of childcare
Childcare may be organised only if the organiser has a licence for childcare. In order to obtain and hold a licence, the organiser must comply with the licence conditions. The licence conditions must guarantee a minimum quality. There is no corresponding subsidy for this, and it applies to everyone (Flemish Community) who wants to organise childcare. In other words, an organiser of childcare must always comply with the licence conditions without receiving a subsidy for this purpose.
Organisers with a licence (i.e. who already comply with the licence conditions and consequently guarantee a minimum quality) can obtain one or more subsidies if they meet additional conditions, namely subsidy conditions. These are conditions which are linked to specific services and specific contracts which the organisers would not be able to undertake without subsidy. Organisers must fulfil specific subsidy conditions, depending on the subsidy. The government subsidises provision of these specific services.

Services which are subsidised
(the following references to articles concern articles from the Flemish Government Decree of

22 November 2013 establishing subsidies and the conditions attached thereto for the provision of specific family-based and group-based childcare services for babies and toddlers. Official title: Subsidies Decree of 22 November 2013)

Basic subsidy
Article 1(1) (definition) 'basic subsidy: the subsidy for provision of the basic service, operated as specified in Article 7 of the Decree of 20 April 2012'.

Conditions for Specific Services – Basic subsidy (Articles 14, 15 and 16)
'Article 14. Organisers shall provide at least 220 opening days per full calendar year at the level of:
1) the subsidised group, for home-based care;
2) each childcare facility for which the organiser fulfils the conditions specified in Articles 15 and 16, for group-based care.

The number of days specified in (1), shall be reduced proportionally:
1) for home-based care, if none of the childcare facilities operate for a full calendar year;
2) for group-based care, if the childcare facility does not operate for a full calendar year.

The Minister shall lay down the detailed rules for calculating this proportion.

Article 15. Organisers shall have a certificate of active knowledge of Dutch for the childcarers, as established by the Minister, showing that the level of competence achieved in the language is EFR level B1 for listening and conversation and EFR level A2 for reading and writing.

For every three full-time equivalent childcarers, at organiser level, with a certificate of active knowledge of Dutch as specified in the first paragraph, organisers may employ one childcarer without such a certificate, on condition that:
1) this childcarer obtains that certificate a maximum of four years after starting work as a childcarer for the organiser;
2) a childcarer with that certificate is always present at the childcare facility.

Article 16. Organisers shall ensure that the number of different children enrolled each year is at least equivalent to the number of subsidised places at the level of the subsidised group.'

Subsidy for income-related charges
Article 1(17) (definition) 'subsidy for income-related charges: the subsidy for the provision of childcare for which the families pay an income-based price, and for providing access to childcare for certain families, specified in Article 8 of the Decree of 20 April 2012'

Conditions for Specific Services (Articles 20 through 36/1 + conditions for basic subsidy[1])
'Section 1. Opening hours and occupancy
Article 20. Organisers shall ensure that, on the minimum opening days specified in Article 14, the facility is open for an uninterrupted period of at least eleven hours between 6.00 and 20.00.

Article 21. Organisers shall have an occupancy rate of at least 80% per calendar year. Occupancy shall be calculated on the basis of 220 opening days and the number of subsidised childcare places for which the organiser receives the subsidy for income-related charges.

All childcare services performed for the children cared for at the childcare facilities of

[1] See point 'e' for further information about this: the application of a graded system for the composition of, among others, the subsidy conditions for the basic subsidy, subsidy for income-related charges and 'plussubsidie' (a subsidy for vulnerable families)

the same subsidised group, which comply with the conditions specified in Articles 20 through 36, shall be eligible for calculation of the occupancy rate.

The Minister shall lay down the detailed rules, including calculation of the occupancy rate.

Section 2. Access for certain families

Article 22. Organisers shall give priority to certain families in the following way:

1) Absolute priority for families who require childcare because of their work situation. When choosing between applications, organisers shall always give priority to the application from a family requiring childcare in order to look for work or to keep a job or to pursue vocational training for this purpose;

2) Priority shall be given to single parents;

3) Priority shall be given to families with an income which is below a certain amount;

4) Priority shall be given to foster children who need childcare;

5) Priority shall be given to children who have a sister or brother being cared for at the childcare facility.

Furthermore, organisers shall ensure that at least 20% of all children who are cared for on an annual basis are children from families who fulfil at least two of the first four criteria set out in the first paragraph. Children from vulnerable families shall also be included for the purpose of calculating that percentage. That percentage shall be calculated across all childcare facilities of the subsidised group which apply the income-related charges specified in Article 28. As long as 20% is not reached, it is possible to depart from the absolute priority specified in subparagraph (1) of the first paragraph.

Organisers shall include the way in which they apply priority in their rules and regulations.

The Minister shall lay down the detailed rules, including the amount of income.

Article 23. In accordance with Article 8(1) of the Decree of 20 April 2012, at childcare facilities in the bilingual region of Brussels-Capital, priority shall be given to children with at least one parent who has a sufficient command of Dutch, up to a maximum of 55% of their care capacity, subject to the provisions of Article 8(1) of the aforementioned Decree.

Furthermore, organisers shall ensure that at least a percentage of all children cared for on an annual basis, as specified by the organiser and up to a maximum of 55%, shall be children from families as specified in the first paragraph. This percentage shall include a minimum of one child and is justified on the basis of the necessity and its proportionality in relation to the objective to be achieved, namely that children in the bilingual region of Brussels-Capital who are being brought up using Dutch within the family can have continuity with that language in childcare. That percentage shall be calculated across all childcare facilities of the subsidised group which apply the income-related charges specified in Article 28.

Organisers shall include the way in which they apply this priority in their rules and regulations.

Section 3. Organisational management

Article 24. Organisers with more than eighteen places eligible for subsidy at the level of the organiser shall be a legal entity pursuing a social objective.

Article 25. Organisers, as specified in Article 24, shall ensure that the group-based childcarers who are required according to the number of children present at the same time have employee status.

This requirement, specified in paragraph 1, does not apply to the childcarer who is also the person in charge.

Article 26. Organisers specified in Article 24:

1) shall keep accounts according to the double-entry principle and shall add an extension to their system of accounts;

2) shall draw up a financial report each year consisting of:

a) approved annual accounts of the legal entity;

b) a profit and loss account, subdivided according to group-based care or home-based

care;

c) a list of all subsidy amounts, linked to childcare, which have been awarded by an authority, stating the awarding authority and the purpose of the subsidy.

The conditions specified in the first paragraph (1) and (2) (a) and (b) do not apply to a public administration. A public administration does have a profit and loss account, subdivided according to group-based care or home-based care.

Organisers must have the financial report available no later than seven months after the end of the financial year.

The Minister determines the detailed rules, inter alia, for the supplementary extension of the system of accounts.

Section 4. System of income-related charges

Sub-section 1. System for all childcare places at the childcare facility Article 27.

Organisers are required to operate the system of income-related charges, specified in Articles 28 through 36, for all childcare places at the childcare facility, except for the children who form part of the home environment of the home-based childcarer and for whom the childcarer is responsible.

Sub-section 2. Payment for reserved childcare days

Article 28. Under Article 8(3)(1) of the Decree of 20 April 2012, families shall pay for the childcare days they have reserved. More specifically, contract holders shall pay for the childcare days they have reserved, as laid down in the care plan specified in the written agreement, and for any additionally agreed childcare days.

The contract holder shall pay:

1) when the child is present at the childcare facility: the income-related charge or the individually reduced income-related charge calculated in accordance with Articles 32 through 34/1;

2) when the child is absent: a charge to be fixed by the organiser with a maximum of the maximum charge, as specified in Article 33(2)(3). The organiser shall include that amount in the rules and regulations and in the written agreement.

Article 29. Notwithstanding Article 28, the contract holder shall pay nothing for:

1) reserved childcare days which fall on days when the childcare facility is closed;

2) justified days of absence. Justified days of absence are childcare days reserved in the care plan on top of the days of closure, specified in (1), on which the contract holder does not send the child to childcare and for which the organiser must allow at least a minimum number per calendar year, regardless of the reason. The organisers shall include that amount in the rules and regulations and in the written agreement.

The Minister shall lay down the minimum number of justified days of absence per calendar year available to the contract holder.

Article 29/1. Notwithstanding Article 28, the organisers may determine that there be no charge for reserved childcare days that fall under families' right to allow their children to become accustomed to childcare. Organisers shall include this exception explicitly in the rules and regulations and in the written agreement.

Article 30. The income-related charge shall cover childcare services for a period of up to eleven hours, excluding night-time. 60% of the income-related charge is applicable to childcare services for a period of up to five hours. In any event, the lowest possible amount is the amount of the lowest possible income-related charge, as established by the Minister.

The Minister shall lay down the detailed rules for determining the length of stay.

Article 31. Families do not pay anything on top of the income-related charge, except for an additional charge which organisers may require for:

1) specified additional costs;

2) the reservation or guarantee of a childcare place. If organisers ask for a registration fee, security or any other sum, regardless of its name, before commencement of the childcare, it

may be for a maximum amount only and as a guarantee for the following obligations of the contract holder, which are included in the written agreement or the rules and regulations:

a) compliance with the written reservation of a childcare place;

b) payment of invoices;

c) compliance with cancellation terms.

The Minister shall lay down the detailed rules for determining the additional charge.

Sub-section 3. Determination of income-related charges

Article 32. The contract holder requires a certificate of the income-related charges so that the contract holder's child can receive childcare provided by organisers who apply the income-related charges system.

The contract holder shall request a certificate of the income-related charges via the calculation tool on the Child and Family [Kind en Gezin] website, using his or her electronic identity card. This online tool calculates the income-related charges or individually reduced income-related charges on the basis of the contract holder's income and, if applicable, that of any other person residing at the same address (= cohabiting party). The certificate of income-related charges shall state, at minimum, the income-related charge, a start date and an end date.

The contract holder shall request a certificate of income-related charges in the following cases:

1) within the two-month period before the commencement of childcare, unless such commencement of childcare is last-minute, in which case the certificate must be requested no more than 30 calendar days after the start date;
2) the month in which the cohabiting party changes and such change is verified by the Crossroads Bank for Social Security;
3) the month in which an additional child is listed as a dependant of the contract holder or the cohabiting party;
4) within the two-month period prior to the expiry date of the income-related charge or the individually reduced income-related charge.

The contract holder shall receive the certificate of income-related charges after requesting it, as well as automatically after indexation. The contract holder shall present the certificate of income-related charges from Child and Family to the organiser after each issuance of the certificate of income-related charges.

If necessary, organisers shall provide the contract holder with information and support about the correct use of the online tool. In the event that the contract holder cannot make use of the online tool, organisers shall take this task upon themselves. Organisers shall be given access to the online tool via a specific module and in accordance with the administrative guidelines of Child and Family. Organisers shall employ the tool using the information provided them by the contract holder.

The Minister shall specify any further rules applicable to the start date and the end date on the certificate of income-related charges.

Article 32/1. If the contract holder and, where applicable, the cohabiting party, indicate in their application for a certificate of income-related charges that they do not wish to disclose their income, the maximum charge shall apply. Reductions apply to this maximum charge.

The maximum charge shall not apply if the contract holder who does not wish to disclose his or her income applies for a certificate of income-related charges for a foster child residing at his or her address. The contract holder may indicate this situation, as specified in Article 34(1)(3).

The Minister shall lay down the detailed rules as they apply to the amount of the maximum charge and the applicable reductions.

Article 33. (1) If the contract holder or, where applicable, the cohabiting party or both, has a Belgian notice of assessment for personal income tax and supplementary taxes, then the online calculation tool shall be applied automatically, specifically on the basis of the income

as specified in the most recent assessment notice as supplied by the Federal Public Service for Finance and on the basis of the details supplied by the Crossroads Bank. The contract holder shall enter the number of child dependants in the online tool if such is not supplied by the Crossroads Bank.

If the contract holder or, where applicable, the cohabiting party or both, does not have a Belgian notice of assessment for personal income tax and supplementary taxes, but does have income which he or she can demonstrate on the basis of a formal document, then the income-related charges shall be calculated on the basis of the income as specified in this formal document: 1) upon the start date of childcare based on the income of:

a) the month preceding the month of the application for a certificate of income-related charges;

b) in case the childcare starts directly following maternity leave, the month preceding the commencement of maternity leave;

2) during the course of childcare based on the income from the month preceding the month of the application for a certificate of income-related charges.

If the contract holder or, where applicable, the cohabiting party or both, does not have any income and can demonstrate this on the basis of a formal document, then the income-related charges shall be calculated on the basis of this particular income. If there is no cohabiting party, then the standard minimum charge shall apply, in the presence of a formal document.

(2). The calculation is made according to the following principles:
1) income, up to a specified amount, shall be multiplied by a coefficient; Above that specified amount, a banded system applies;
2) a minimum charge shall apply;
3) a maximum charge shall apply;
4) reductions shall apply.

(3). The Minister shall lay down the detailed rules, including what income is liable in the absence of a Belgian notice of assessment for personal income tax and supplementary taxes, and the times at which that income is calculated, which person residing at the same address is liable, and detailed principles for calculating the income-related charge, the amount for the maximum charge and the indexation.

Article 34. (1). If the contract holder can demonstrate, based on official documentation, that one of the following situations applies to the family, then he or she can select this situation using the online tool. The system will use this to automatically calculate an individually reduced income-based charge. The following situations may be selected:
1) the contract holder or, if applicable, the cohabiting party:

a) at the time of applying for an individually reduced income-based charge, is receiving disability benefit under Article 100 of the Act of 14 July 1994 regarding mandatory insurance for medical healthcare, which had not yet been included in the previous calculation of the income-related charge;

b) has been receiving full unemployment benefit or self-employed bankruptcy benefit for six consecutive months prior to the application for individually reduced income-related charges, and this had not yet been accounted for in the previously calculated income-based charge;

c) has income that is not increasing and the other person has documents attesting to decreased income, in a situation that will persist for at least twelve consecutive months. Such an attestation must specifically demonstrate that:

1) in the case of an employee: that their income is at least 50% lower than the income as reported for the previously calculated income-based charge;

2) in the case of a self-employed person: that they have been paying contributions based on income that was established in accordance with Article

11(3)(6) of the Belgian Royal Decree No. 38 of 27 July 1967 organising social security for self-employed persons;

d) the person receives a subsistence income as laid down in the Act of 26 May 2002 concerning the right to social integration, or is entitled to a subsistence income by the Public Social Welfare Centre (OCMW) decision to grant a subsistence income;

e) the person receives a subsistence income as laid down in the Act of 26 May 2002 concerning the right to social integration, or is entitled to a subsistence income by an OCMW decision to grant a subsistence income, and at least one of both people has an attestation from the Flemish Employment and Training Service (VDAB) or the OCMW regarding a training course;

2) the contract holder or, where applicable, the cohabiting party:

a) has an income that is lower than the income that triggers the standard minimum charge and at least one of the two people is taking part in an integration programme;

b) has an income that is lower than the income that triggers the standard minimum charge and both people are employed for at least an average of 19 hours a week;

c) in application of Article 57ter of the organic law of 8 July 1976 concerning the OCMWs, is not entitled to social services provided by the OCMW, and is in possession of a certificate from the Federal Agency for the Reception of Asylum Seekers or one of its partners within the meaning of Article 2(9) of the Act of 12 January 2007 concerning the reception of asylum seekers and other particular categories of foreign nationals which states that the family is entitled to material assistance in the meaning of Article 2(6) of the aforementioned Act of 12 January 2007, or medical care within the meaning of Articles 24 and 25 of the same Act of 12 January 2007;

3) the contract holder requests the certificate of income-related charge for a foster child in their household.

(2). The individually reduced income-related charge is determined by way of:
1) a 25% or 50% reduction of the calculated income-related charge;
2) the standard minimum charge;
3) an exceptional minimum charge;
4) the lowest possible income-related charge.

An individually reduced income-related charge shall be granted for one year, unless:
1) it is for a foster child, in which case the charge shall apply until the child no longer resides with the contract holder;
2) there is an earlier moment at which the contract holder is required to request a new certificate of income-related charge as provided for in Article 32(3).

3. The Minister shall lay down the detailed rules, including the amounts of the individually reduced income-related charges.

Article 34/1. Contract holders in possession of a certificate of income-related charge may request that the OCMW recalculate the income-related charge. If the contract holder lacks the financial resources to pay the previously calculated income-related charge or the last assigned individually reduced income-related charge, the OCMW shall assign an individually reduced income-related charge.

The OCMW shall electronically report the amount of the individually reduced income-related charge to Child and Family. The OCMW may decide to allocate the amount retroactively.

For contract holders resident in the bilingual region of Brussels-Capital, the organisers

will fulfil the role of the OCMW if the OCMW does not do so. In such cases, organisers are subject to the provisions as stated in this Article, which apply to the OCMW.

The Minister shall lay down the detailed rules, including the amounts of the individually reduced income-related charges.

Sub-section 4. Invoicing and collection of income-related charges
Article 35. Organisers shall be responsible for invoicing and collection of the income-related charge, calculated or individually reduced as indicated in Articles 32 through 34, with respect to the contract holder. Child and Family shall inform organisers as to the income-related charge applicable to the contract holders making use of their childcare facility.

The Minister shall lay down the detailed rules.

Sub-section 5. Incorrect information or failure to pass on up-to-date information
Article 36. Contract holders are required to retain documents concerning allocation, as indicated in Articles 33, 34 and 34/1, for a period of five years. Contract holders must submit the documents to Child and Family upon request.

If the contract holder provides incorrect information or fails to pass on up-to-date information:
1) Child and Family shall determine the correct income-related charge and organisers shall base the contract holder's future invoices on this charge. Child and Family shall not make any rectifications retroactively;
2) Child and Family may hold contract holders liable for compensation retroactively. This compensation consists of twice the amount of the correct income-related charge per childcare day as included in the care plan.

Article 36/1. Within the three months following issuance of the certificate of income-related charge, contract holders may alert Child and Family to errors in their certificate of income-related charge, in accordance with the administrative guidelines of Child and Family. If this leads to a newly issued certificate of income-related charge, contract holders shall submit the new certificate of income-related charge to the organiser. Child and Family shall not make any rectifications retroactively.'

'Plussubsidie'
Article 1(14) (definition) "plussubsidie": the subsidy for implementation of childcare tasks in support of vulnerable families and for provision of access for those families, as set out in Article 9 of the Decree of 20 April 2012' Definition of vulnerable family: a family fulfilling at least two criteria (see Article 1(10) Decision)

Conditions for Specific Services (Articles 38 through 40 + conditions for basic subsidy and subsidy for income-related charges)
'Section 1. Access for certain families
Article 38. Organisers shall give priority to vulnerable families. When choosing between applications, organisers shall always give priority to the application from the vulnerable family. Moreover, priority is to be given to families who require childcare because of their work situation, as indicated in Article 22(1), only in the absence of an application for a vulnerable family.

Furthermore, organisers shall ensure that at least 30% of the children who are cared for on an annual basis are children from vulnerable families. That percentage shall be calculated over all childcare facilities of the subsidised group which apply the income-related charges referred to in Articles 39 and 40.

Organisers shall include the way in which they apply this priority in their rules and regulations.

The Minister shall lay down the detailed rules, including the amount of income as a criterion for the financial situation of a vulnerable family.

Section 2. Operation
Article 39. Organisers shall ensure:
1) implementation of a proactive inclusion policy to give vulnerable families a childcare place in their own childcare facility, with consideration for occasional and urgent childcare, in cooperation with other organisations, with agencies that work with families who may have childcare issues, and with the local childcare offices in the care district;
2) coordination of the effects on vulnerable families;
3) development and dissemination, within the sector, of their own expertise in dealing respectfully with differences between families, with particular attention to vulnerable families, in cooperation with pedagogical support organisations and with the local childcare consultative body;
4) joint implementation of local objectives with regard to social family policy, as laid down in the local government multi-annual planning, in cooperation with local government and with other local actors;
5) efforts are made to recruit employees from vulnerable groups and to offer them equivalent opportunities at the childcare facility;
6) that they work on participation and involvement of families, employees and the neighbourhood, and that they promote cohesion between these families, employees, the neighbourhood and the operation of the childcare facility;
7) appropriate use of staff or specific expertise.

Article 40. Organisers shall have procedures and processes for provision of the services indicated in Article 39. Organisers shall include these procedures and processes in their quality manual, and more specifically in the quality management system.'

Subsidy for childcare with flexible opening times
Article 1(17)/1 (definition) 'subsidy for childcare with flexible opening times: the subsidy for the provision of childcare at flexible opening times, as set out in Article 10(1) of the Decree of 20 April 2012. This subsidy comprises three different forms:
a) **subsidy for flexible home-based care**: the subsidy for childcare at flexible opening times in a childcare facility for home-based care;
b) **subsidy for flexible group-based care**: the subsidy for childcare at flexible opening times in a childcare facility for group-based care;
c) **subsidy for flexible hourly packages of group-based care**: the subsidy for childcare services at flexible opening times, for a number of hourly packages allocated by Child and Family;'
Definition of flexible opening times: see Article 1(3)(1) in the decision

subsidy for flexible home-based care
Conditions for Specific Services (Articles 40/2 through 40/4)
'Article 40/2. Organisers shall provide for childcare at flexible opening times.
Article 40/3. The contract holder shall pay for childcare services at flexible opening times: 1) for a period of up to eleven hours between 6.00 and 20.00, or at night: an income-related charge as indicated in Articles 30 through 34;
2) for a period of eleven hours or longer between 6.00 and 20.00, or at night: 160% of the income-related charge indicated in 1).

Article 40/4. Organisers shall have a policy on childcare with flexible opening times, taking into account the capacity of the child, and shall include this in the rules and regulations.
Organisers with more than 18 licensed childcare places shall set out in the quality manual, more specifically in the quality management system, what form the policy on childcare at flexible opening times takes.'

Subsidy for flexible group-based care

Conditions for Specific Services (Article 40/6)
'Article 40/6. Organisers shall provide for at least 440 hours of childcare at flexible opening times per calendar year.'

Subsidy for flexible hourly packages for group-based care
Conditions for Specific Services (Articles 40/8 through 40/10)
'Article 40/8. Organisers shall provide for at least 150 child attendances per hourly package. Child attendance means: the attendance of a child per start of the hour, at flexible opening times.
Article 40/9. The contract holder shall pay the income-related charge indicated in Article 40/3.
Article 40/10. Organisers shall comply with conditions laid down in Article 40/4.'

Subsidy for inclusive childcare
Article 1(15) (definition) 'subsidy for inclusive childcare: the subsidy for implementation of tasks with regard to inclusive childcare for children with specific care needs, as set out in Article 10(2) of the Decree of 20 April 2012'. This subsidy comprises three forms of subsidy:

- subsidy for individual inclusive childcare
- subsidy for structured inclusive childcare
- subsidy for a Centre for inclusive childcare

Article 1(16) (definition) '**subsidy for individual inclusive childcare**: the subsidy for the provision of inclusive childcare for an individual child with specific care needs, for whom Child and Family has made a specific allocation for a certain duration'

Conditions for Specific Services (Articles 42 through 44)
'Article 42. Organisers shall ensure that more intensive care is offered for children with specific care needs, consisting of:
1) adapted infrastructure;
2) adapted use of staff or specific expertise;
3) adapted pedagogical procedures and specific pedagogical support.
Article 43. Organisers shall subscribe to the general principles of Article 3 of the International Convention of 13 December 2006 on the Rights of Persons with Disabilities.
Article 44. Organisers shall regularly assess the way in which they implement the conditions set out in Article 42 and adjust their actions as necessary.'

Article 1(18) (definition): '**subsidy for structured inclusive childcare**: the subsidy for implementation of the structured development of inclusive childcare within a childcare facility;'

Conditions for Specific Services (Articles 47 through 50)
'Article 47. Organisers shall ensure that more intensive care is offered in a structured way for children with specific care needs, consisting of:
1) adapted infrastructure;
2) adapted use of staff or specific expertise;
3) adapted pedagogical procedures and specific pedagogical support;
4) specific analysis-based annual training.

Article 48. Organisers shall ensure that each childcare facility where inclusive childcare takes place is linked to a network of available institutions or care-providers with specific expertise related to children with specific care needs, which can be called on for collaboration.
Article 49. Organisers shall have an occupancy rate of at least 60% per calendar year. Occupancy shall be calculated on the basis of the number of subsidised childcare places for which the organiser receives the subsidy for structured inclusive childcare.

To calculate the occupancy rate, all childcare services provided for the children with specific care needs cared for at the childcare facilities of the same subsidised group shall be taken into account.

The Minister shall lay down the detailed rules, including calculation of the occupancy rate. Article 50. Organisers shall pursue a policy regarding such inclusive childcare, taking account of the condition set out in Article 43, and shall include this in the rules and regulations.

Organisers with more than 18 licensed childcare places shall set out the inclusive childcare in the quality manual, more specifically in the quality policy and in the quality management system.'

Article 1(14)/1 (definition) '**subsidy for a Centre for inclusive childcare**: the subsidy for pursuing a proactive inclusion policy, implementation of inclusive childcare, dissemination of expertise and raising awareness of inclusive childcare, in cooperation with other actors responsible for inclusion, granted to an organiser with at least 22 subsidised childcare places with a subsidy for income-related charges within that care district'

Conditions for Specific Services (Articles 50/2 through 50/5)
'Article 50/2. Organisers shall ensure:
1) implementation of a proactive inclusion policy to give children with specific care needs a childcare place in one or more of their own childcare facilities, in cooperation with other organisers, with agencies which work with families with a child with a specific care need and with the local childcare offices in the care district;
2) implementation of inclusive childcare in one or more of their own childcare facilities, in which they cooperate with a network of available institutions or care-providers with specific expertise with regard to children with specific care needs, which can be called on for collaboration, or with associations of families as practical experts, so that at minimum the tasks set out in Article 50/4 are carried out;
3) the development and dissemination of expertise for implementation of inclusive childcare within the entire care district, in cooperation with pedagogical support organisations accredited by Child and Family and with the local childcare consultative bodies, paying particular attention to advisory programmes to support other childcare organisers in implementing inclusive childcare. The objective is for at least seven childcare facilities to provide care for at least one child with specific care needs;
4) joint implementation of local and provincial objectives with regard to inclusion, as laid down in the multi-annual planning of the local or provincial government, in cooperation with local government and with other actors who work in the care district and are responsible for supervision of people with a disability or for related policy;
5) raising awareness of childcare organisers and partners in the care district regarding implementation of inclusive childcare;
6) providing information for and facilitating the involvement of families and interested parties in the tasks set out in points (1) through (4);
7) a tailored use of staff for carrying out the tasks set out in points (1) through (6).

The childcare facilities indicated in point (3) of the first paragraph shall be located within the care district of the organiser and shall be the facilities of other organisers. For an organiser of home-based care, his or her own childcarers cannot be included in the number of childcare facilities to be supervised.
Article 50/3. Organisers shall fulfil the conditions laid down in Article 50.
Article 50/4. Within the care district in which they are authorised as a Centre for inclusive childcare, each year organisers shall:
1) provide care for at least seven children with specific care needs;
2) provide at least 750 childcare services for children with specific care needs.

Organisers shall receive a subsidy for individual inclusive childcare for the children referred to in (1).
Article 50/5. Organisers shall play an active part in the advisory programmes for

development of the Centres for inclusive childcare which Child and Family organises in cooperation with the Flemish Agency for People with Disabilities.'

b. What are the (typical) forms of entrustment? If standardised models for entrustments are used for a certain sector, please attach them.

Entrustment takes place on the basis of a government decree; in the case of childcare on the basis of the Subsidies Decree of 22 November 2013; An individual entrustment follows on the basis of that government decree. A decision memorandum (a global memorandum with a decision on all applications) is drawn up, and this is signed by the general administrator of the independent government agency Child and Family.
This individual entrustment takes place after a budget allocation exercise. The programming rules and specification regarding calls for tenders are laid down in the Procedural Decree (Flemish Government Decree) of 9 May 2014 and a Ministerial Decree concerning its implementation. The entries that must be included in the allocation decision in accordance with Article 4 of the 2012/21/EU Decision are set out in the combination of these separate documents.

c. Average duration of the entrustment (in years) and the proportion of entrustments that are longer than 10 years (in %) per sector. Please specify the sectors in which SGEIs were entrusted with a duration exceeding 10 years and explain how this duration is justified.

Almost all the subsidies have been granted for 10 years, with the exception of the subsidy for individual inclusive childcare, which is linked to the childcare for one specific child and which, therefore, can only be applicable within one specific period (in practice this is equivalent to a period of approximately two years at most).

d. Are exclusive or special rights (typically) assigned to the undertakings?

There are no special rights.

e. Which aid instruments have been used (direct subsidies, guarantees, etc.)?

The aid consists of direct subsidies.
The subsidies (basic subsidy, subsidy for income-related charges and 'plussubsidie') are composed of an incremental system. This means that a multi-tiered system is used both for the subsidy conditions and for the subsidy amount.
For example, for the 'plussubsidie':

- organisers must fulfil the conditions for specific services linked to the basic subsidy + the subsidy for income-related charges + the 'plussubsidie',
- the subsidy amount is made up of the subsidy amount of the basic subsidy + the subsidy for income-related charges + the 'plussubsidie'.

Therefore, the more services provided, the bigger the subsidy given, since the subsidy increases as more costs are incurred for carrying out the specific services. The subsidy given does not exceed that which is necessary to enable the special services to be carried out.

Incremental system: Article 7 of the Subsidies Decree
'Article 7. The basic subsidy, the subsidy for income-related charges and the 'plussubsidie' shall be awarded according to the following incremental system:
1) an eligible childcare place from a higher tier can be awarded only if that place is also an eligible childcare place at a lower tier, more specifically:

a) the ‘plussubsidie’ laid down in Title 4 can be granted only if the organiser has been assigned the subsidy for income-related charges laid down in Title 3;
b) the subsidy for income-related charges laid down in Title 3 can be granted only if the organiser has been allocated the basic subsidy laid down in Title 2;
2) the number of eligible childcare places at a higher tier shall never be higher than the number of eligible childcare places at a lower tier, more specifically:
a) the number of childcare places for which the organiser receives the subsidy for income-related charges laid down in Title 3 can never be higher than the number of childcare places for which the organiser receives the basic subsidy laid down in Title 2;
b) the number of childcare places for which the organiser receives the ‘plussubsidie’ laid down in Title 4 can never be higher than the number of childcare places for which the organiser receives the subsidy for income-related charges laid down in Title 3.’

In addition to the incremental system, there are two forms of subsidy (subsidy for flexible opening times and subsidy for inclusive childcare) which are more modular.

Assignment of ‘modular’ subsidy: Article 7/1 of the Subsidies Decree
‘Article 7/1. The subsidies for inclusive childcare shall be awarded in the following way:
1) the subsidy for individual inclusive childcare can be granted if the organiser has a licence;
2) the subsidy for structured inclusive childcare or the subsidy for a Centre for inclusive childcare can be granted if the organiser has been awarded at least a subsidy for income-related charges;
3) the subsidy for individual inclusive childcare may be combined with a subsidy for structured inclusive childcare or with a subsidy for a Centre for inclusive childcare;
4) the subsidy for structured inclusive childcare cannot be combined with the subsidy for a Centre for inclusive childcare within the same care district;
5) the number of eligible childcare places with a subsidy for structured inclusive childcare shall never exceed the number of eligible childcare places based on the incremental system.
The subsidies for childcare with flexible opening times shall be assigned in the following way:
1) the subsidy for flexible group-based care can be awarded if the organiser has a basic subsidy. The number of eligible childcare places with a subsidy for flexible group-based care may never exceed the number of eligible childcare places with a basic subsidy;
2) the subsidy for flexible home-based care and the subsidy for flexible hourly packages of group-based care can be granted if the organiser uses them at a childcare facility which has a subsidy for income-related charges.’

f. Please explain the (typical) compensation mechanism as regards the respective services, Include the aid instrument (direct subsidy, guarantee, etc.) used and whether a methodology based on cost allocation or the net avoided cost methodology is applied.

The amounts are determined on the basis of the costs incurred by the organiser for carrying out the specific services.
In other words, the level of the subsidy amounts depends on a number of concrete parameters, which determine the costs organisers must incur, such as the number of childcare services provided by the organiser and the average age of staff, considering that this is also a determining factor in the costs.
Furthermore, the regulations further stipulate a number of quantitative conditions that must be met, which ensure that in principle, organisers will not receive too much subsidy if in compliance with these conditions (e.g. provide places to a certain number of children from vulnerable families, achieve an occupancy rate of at least 80%, have minimum opening hours per day and per year, maintain a certain pricing system with respect to parents, etc.) (the conditions are provided under item a, with the summarised Articles/provisions concerning the specific services per subsidy)

‘Article 11. The basic subsidy for home-based care is EUR 267.30 per subsidised childcare place per calendar year.
Article 12. The basic subsidy for group-based care is EUR 578.37 per subsidised childcare place per calendar year.
Article 13. The amount indicated in Articles 11 and 12 shall be reduced proportionally for a subsidised childcare place that is not assigned for a full calendar year.

The Minister shall determine the detailed rules for calculation of this proportion.’

‘Article 17. The subsidy for income-related charges for home-based care shall be made up of:
1) a part based on childcare services;
2) a part based on the age of the individuals in charge and of the employees who are responsible at the childcare facility for providing systematic support for the individual in charge and who fulfil the conditions regarding knowledge of Dutch and the qualifications which the individual in charge must satisfy.

The part based on childcare services indicated in point (1) of the first paragraph shall be calculated as follows:
1) the subsidy shall be EUR 21.90 for a childcare service lasting between five and eleven hours and 60% of that amount for a childcare service lasting less than five hours;
2) all childcare services at each home-based childcare facility of the subsidised group which fulfils the conditions set out in Articles 20 through 36 shall be included, with the exception of the following childcare services:

a) childcare services at night;

b) childcare services for children who form part of the home environment of the home-based childcarer and for whom the childcarer is responsible;

c) childcare services to which the organiser decides not to apply the income-related charges system as laid out in Article 27(2);

3) the number of childcare services being subsidised shall not exceed 120% of the number of subsidised childcare places multiplied by the minimum number of compulsory opening days indicated in Article 14. To calculate that percentage, 100% of childcare services lasting between five and eleven hours and 60% of childcare services lasting less than five hours shall be included.

The part based on the age of the persons indicated in point (2) of the first paragraph shall be calculated as follows:
1) the subsidy shall be EUR 431.42 per subsidised childcare place per calendar year if the average age of those persons is 20;
2) for each year above the average age of 20, the subsidy shall be increased by EUR 7.42 per subsidised childcare place, up to a maximum average age of 60;
3) the average age shall be calculated on the basis of all ages and the work arrangements of those persons.

The Minister shall lay down the detailed rules, including how the persons in charge and the employees indicated in point (2) of the first paragraph shall be included in the calculation of the average age and how their work arrangements shall be taken into account.

Article 18. The subsidy for income-related charges for group-based care shall be made up of:
1) a part based on childcare services;
2) a part based on the age of the childcarers, the persons in charge and of the employees who are responsible at the childcare facility for providing systematic support for the person in charge and who fulfil the conditions regarding knowledge of Dutch and the qualifications which the individual in charge must satisfy.

The part based on childcare services indicated in point (1) of the first paragraph shall be calculated as follows:
1) the subsidy shall be EUR 23.37 for a childcare service lasting between five and eleven

hours and 60% of that amount for a childcare service lasting less than five hours;
2) with the exception of childcare services at night, all childcare services at each home-based childcare facility of the subsidised group which fulfils the conditions set out in Articles 20 through 36 shall be included;
3) the number of childcare services being subsidised shall not exceed 120% of the number of subsidised childcare places multiplied by the minimum number of compulsory opening days indicated in Article 14. To calculate that percentage, 100% of childcare services lasting between five and eleven hours and 60% of childcare services lasting less than five hours shall be included.

The part based on the age of the persons indicated in point (2) of the first paragraph shall be calculated as follows:
1) the subsidy shall be EUR 5,529.66 per subsidised childcare place per calendar year if the average age of those persons is 20;
2) for each year above the average age of 20, the subsidy shall be increased by EUR 96.76 per subsidised childcare place, up to a maximum average age of 60;
3) the average age shall be calculated on the basis of all ages and the work arrangements of those persons.

The Minister shall lay down the detailed rules, including how the childcarers, the persons in charge and the employees indicated in point (2) of the first paragraph shall be included in the calculation of the average age and how their work arrangements shall be taken into account.

Article 19. The amount of the subsidy indicated in Articles 17 and 18 shall be offset against the income-related charges indicated in Article 28, in proportion to the number of childcare places with a subsidy for income-related charges, as set out in Articles 17 and 18.

Offsetting is not possible against:
1) any additional charge as indicated in Article 31;
2) the income-related charge paid for days of absence which are not justified.

The Minister shall lay down the detailed rules for offsetting.'

'Article 37. The 'plussubsidie' for home-based care and group-based care shall be EUR 647.50 per subsidised childcare place per calendar year.'

'Article 40/1. The subsidy for flexible home-based care shall be:
1) per childcare service at flexible opening times with a maximum of one subsidy per child per day: EUR 2.87;
2) per subsidised childcare place with a subsidy for income-related charges per calendar year: EUR 10.75.

In addition, the subsidy indicated in Article 17(2)(1), shall be 160% of that amount for a childcare service which lasts longer than eleven hours or for a childcare service at night. Notwithstanding Article 17(2)(2), all childcare services shall be counted, including childcare services at night.

If, within the limits of the appropriations established for that purpose in the budget, some budget remains after payment of the subsidy for flexible home-based care per childcare service, as indicated in point (1) of the first paragraph, and after payment of the subsidy for flexible home-based care per subsidised childcare place, as indicated in point (2) of the first paragraph, this remaining budget shall be apportioned as follows:
1) the amount per childcare service, indicated in point (1) of the first paragraph shall be increased by a maximum of EUR 0.50;
2) if there is budget remaining after payment of the sum indicated in point (1), the amount per subsidised childcare place shall be increased by a maximum of EUR 2.00;
3) if there is budget remaining after payment of the sums indicated in points (1) and (2), the amount per childcare service shall be further increased by what is possible based on the remaining budget.'

'Article 40/5. The subsidy for flexible group-based care is EUR 113.64 per subsidised

childcare place per calendar year.'

'Article 40/7. The subsidy for flexible hourly packages of group-based care shall be EUR 2,660.41 per hourly package.

Notwithstanding Article 17(2)(2), all childcare services shall be counted, including childcare services at night.'

'Article 41. The subsidy for individual inclusive childcare for home-based and group-based care shall be EUR 9.54 per childcare service provided for a child with a specific care need.'

'Article 45. The subsidy for structured inclusive childcare for home-based and group-based care shall be EUR 2,891.49 per subsidised childcare place per calendar year.

For each subsidised group, a maximum of one-third of the number of licensed childcare places shall be eligible for the subsidy.

Article 46. The amount indicated in Article 45 shall be reduced proportionally for a subsidised childcare place that is not allocated for a full calendar year.

The Minister shall determine the detailed rules for calculation of this proportion.'

'Article 50/1. The subsidy for a Centre for inclusive childcare shall be EUR 32,845 per calendar year and shall be reduced proportionally if the Centre for inclusive childcare does not operate for a full calendar year.'

g. Further information concerning (typical) arrangements for avoiding and repaying any overcompensation.

In practice, the regulations result in a variety of mechanisms:

- in the case of fewer services, Child and Family will pay less subsidy
- in the year following payment of the subsidies, occupancy in the previous year will be calculated and Child and Family will establish whether the other conditions were met. If they were not, then Child and Family will recover the excess subsidy paid on the basis of the Enforcement Decree of 11 December 2015 (Flemish Government Decree of 11 December 2015 on administrative measures for childcare for babies and toddlers)

Articles 4 and 5 of the Subsidies Decree

'Article 4. Each year, organisers shall draw up a budget with a summary of the foreseeable income and the projected expenditure for the relevant specific services indicated in this Decree.

Organisers shall use an accounting system which separates income and expenditure relating to childcare activities in a transparent way for the purposes of allocating costs and incomes.

Article 5. Organisers may build up reserves with the subsidies indicated in this Decree in the following way:

1) the reserves shall be used for the purpose of carrying out the specific services indicated in this Decree;

2) a maximum of 20% of the annual subsidy amounts indicated in this Decree may be carried forward as a reserve to the following calendar year;

3) the accumulated reserve, built up from the annual subsidy amounts, indicated in point (2), shall not exceed 50% of the annual subsidy amounts indicated in point (2);

4) if the maximum indicated in points (2) and (3) is exceeded, the excess amount shall be repaid to Child and Family, unless the organiser has a use plan or a payment plan which meets a number of criteria, including approval by the Finance Inspectorate of the Flemish

Government.
The Minister shall lay down the detailed rules, including the criteria which the use plan or payment plan must meet.'

Article 7 of the Enforcement Decree
'Article 7. Child and Family shall recover the subsidy in accordance with Article 57 of the Audit Decree, Article 13 of the Act of 16 May 2003 laying down the general conditions applicable to budgets, control of subsidies and to the accounting of communities and regions, as well as for the organisation of control by the Court of Audit, and Article 18 of the Flemish Government Decree of 8 November 2013 on the general rules for subsidisation.'

h. Please provide short explanation of how the transparency requirements (see Article 7 of the 2012 SGEI Decision) for the aid above EUR 15 million to undertakings that also have activities outside the scope of the SGEI are being complied with. In your answer, please also include some relevant examples of information published for this purpose (e.g. some links to websites or other references), indicate whether you have a central website on which you publish this information for all aid measures concerned in your Member State (and if so, provide the link to this website), or alternatively explain whether and how the publication takes place at the level at which aid is granted (e.g. central, regional or local level)

Here, we refer to Flanders' cooperation in creating the state aid transparency website (application developed by the European Commission).

Pending the launch of that site, Child and Family will publish on its own website the information concerning subsidies granted to organisers for childcare in Flanders. Link to the website:http://www.kindengezin.be/cijfers-en-rapporten/rapporten/kinderopvang/babys-en-peuters/#Transparantie-Europa

i. Total amount of aid granted. This includes all aid granted in your territory, including aid granted by regional and local authorities.

The Flemish Government, more specifically for childcare the independent government agency Child and Family, has no insight into the amounts of aid paid by regional and local authorities.

Evolution of total subsidy for childcare for babies and toddlers

	2014	2015
Total subsidy (including ICP)*	**515.580.746,70**	**513.115.596,39**
Financial compensation	6.102.550,93	

* without financial compensation, VIA (Vlaams Intersectoraal Akkoord or Flemish Intersectoral Agreement) and DAC (Derde Arbeidscircuit or Third Employment Circuit)

j. Additional quantitative details (e.g. number of beneficiaries per sector, average amount of aid, amount per aid instrument, size of the undertakings)

In 2015, 1,371 organisers received subsidies for childcare for babies and toddlers.

MISCELLANEOUS QUESTIONS:

We kindly invite you to indicate whether your authorities experienced difficulties in applying the 2012 SGEI Decision and request that you focus particularly on the following issues:

- **drawing up an entrustment act that complies with Article 4 of the SGEI Decision;**

  The Decision is quite clear with respect to this point and we generally experienced no difficulties

- **specifying the amount of compensation in line with Article 5 of the SGEI Decision;**

  The amount of the subsidies is laid down in the regulations on the basis of the actual costs faced by childcare organisers. Here, too, no significant problems were experienced.

- **determining the reasonable profit level in line with Article 5(5) through (8) of the SGEI Decision;**

  Determining the reasonable profit is not straightforward considering the diversity of types of organisers in the sector: natural persons, not-for-profit legal persons and other legal persons.
  Apart from that, Child and Family did not really experience any problems in the application, simply because in practice, it investigates whether organisers have any subsidy left. If so, they are only permitted to keep it if it goes to subsidised contracts and remains within the predetermined regulatory reserve. Anything in excess of that must be paid back.

- **regularly checking overcompensation as required by Article 6 of the SGEI Decision;**
  There were no specific problems in this area relating to the Decision. Child and Family has procedures in place to request a considerable amount of figures each year relating to the services organisers provide and the personnel they employ. This is taken into consideration to determine the amount of subsidy to which a party is entitled and whether anything should be paid back.
  For example, if an organiser only achieves 70% occupancy during the year, Child and Family can reclaim part of the subsidy. This organiser would already receive less subsidy because calculation of the amount is linked to the services effectively provided. If fewer services are provided, less subsidy is paid.

  In addition, the Flemish Care Inspectorate carries out site visits to assess the use of the subsidies and potential overcompensation.

Please be as specific as possible, provide pertinent examples and identify, if applicable, the sector in which the difficulties (most often) arise.

Service flats

What kind of services in the respective sector have been defined as SGEI in your Member State? Please provide the clearest possible description of the **contents of the services entrusted as SGEI.**	***General description of the service flats and sheltered housing complexes***: These are independent housing units for elderly people with communal facilities for optional services. Subsidies for the construction of additional service flats with the closed-end investment company (CEIC) formula Contribution towards the final buildings fee under a property leasing contract in respect of private and public service flats/CEIC. The blocks of service flats and sheltered housing complexes are provided with a view to integrating elderly people into society, as well as from the perspective of maintaining optimal independence and the sense of an adapted form of living which also provides protection. As regards the services offered, the Decree states that 'the services must be brought within the reach of residents who may make use of them as desired, whenever this is necessary'. In a block of service flats, the emphasis is on independent living. The services (maintenance, meals, …) are extra, additional, with no objective other than providing a means of supporting the independence of the residents. The Flemish Government chose to subsidise the building of service flats on the basis of the finding that, because the population is ageing, there is an enduring need for adapted housing options for elderly people, with service flats – as part of a differentiated range of facilities for the elderly – increasing in importance as a suitable housing alternative for the elderly. At the same time, it was established in 1994 that the number of completed housing units was falling far short of programming and, as a result, the available capacity was well below actual needs. It was decided, therefore, to stimulate this via a new funding system, under which investment subsidies from the Flemish Government

	are supplemented with the contribution of private capital. The service flats are built on the basis of building rights which the initiator (OCMW [Public Centre for Social Welfare] or vzw [not-for-profit association]) wishes to grant to the CEIC (closed-end investment company) NV Serviceflats Invest subject to certain conditions, so that Serviceflats Invest gets full ownership of the service flats ('the buildings contract'). The initiator undertakes to use the service flats, once built, as long-term leaseholder and to repay Serviceflats Invest the costs and financial expenses of construction in return for a minimum payment ('the ground rent') on the basis of a long-term lease agreement ('the lease'). ***Description of the public service obligations with which the service flats and sheltered housing complexes must comply:*** Services are subject to a licence obligation (Flemish Government Decree 17 March 1998) and accreditation obligation (Flemish Government Decree 10 July 1985): The flats must comply with pre-determined quality requirements, which are both architectural and structural, floor area standards, materials used and cost price. They must be functional and comfortable and adapted to the needs of elderly people. The flats and the entire building are designed in such a way as to take account of the potential problems elderly people may encounter when moving around. The flats are adapted in such a way that the elderly can remain responsible for maintaining the flat, for personal care and for preparing their meals for as long as possible. These requirements form part of the accreditation standards described in Annex A to the Flemish Government Decree of 17 July 1985 laying down the standards which blocks of service flats and sheltered housing complexes must meet in order to be eligible for accreditation.

	As regards the services offered, the Decree states that 'the services must be brought within the reach of residents who may make use of them as desired, whenever this is necessary' (Decree on facilities for elderly people, coordinated in the Flemish Government Decree of 18 December 1991). In a block of service flats, the emphasis is on independent living. The services (maintenance, meals, …) are extra, additional, with no objective other than providing a means of supporting the independence of the residents. Specific requirements: - Quality: the quality requirements are laid down in the Ministerial Decree of 10 December 2001 on quality control in rest homes, day-care centres, short-stay centres, service flats and sheltered housing complexes in rest homes. The other accreditation standards are specified in Annex A to the Flemish Government Decree of 10 July 1985 laying down the judicial procedure for accreditation and closure of blocks of service flats and sheltered housing complexes - Affordability: determination of the first daily rate is free. The following adjustments must be approved by the Flemish Agency for Care and Health. The composition of the daily rate is specified in Article 1.8 of Annex A to the Flemish Government Decree of 10 July 1985 laying down the judicial procedure for accreditation and closure of blocks of service flats and sheltered housing complexes, with further details in point 3.3 of the Annex to Circular SFG/1/96 of 10 September 1996 providing clarification on the operation of blocks of service flats and sheltered housing complexes. - Accessibility: in order to be able to obtain a licence, it is necessary inter alia to be able to demonstrate the accessibility of the facility (Article 20 of the Ministerial Decree of 7 June 1999 laying down assessment criteria in the meaning of Article 5 of the Flemish Government Decree of 17 March 1998 establishing the programme for blocks of service flats and sheltered housing complexes).

	- Continuity of services: accreditation standard 4.2 states that 'a member of staff, who can respond to any call by an elderly person without delay, must always be present in the facility itself or in the immediate vicinity during the day and the night.'
What are the (typical) **forms of entrustment?** If standardised models for entrustments are used for a certain sector, please attach them	• Decrees relating to facilities for elderly people, coordinated in the Flemish Government Decree of 18 December 1991 (Belgian Official Gazette (B.S.) 20.VIII.1992); • Residential Care Decree of 13 March 2009 (B.S. 14.V.2009); • Flemish Government Decree of 10 July 1985 laying down the judicial procedure for accreditation and closure of blocks of service flats, sheltered housing complexes, rest homes (B.S. 30.VIII.1985); • Flemish Government Decree of 5 June 2009 laying down the rules for granting prior authorisation for some residential care facilities (B.S. 4.IX.2009); • Ministerial Decree of 7 June 1999 laying down assessment criteria in the meaning of Article 5 of the Flemish Government Decree of 17 March 1998 establishing the programme for blocks of service flats, sheltered housing complexes, rest homes and day-care centres (B.S. 29.IX.1999) • Flemish Government Decree of 17 July 1985 laying down the standards which blocks of service flats, sheltered housing complexes or rest homes must meet in order to be eligible for accreditation (B.S. 30.VIII.1985)

	• Circular SFG/1/96 of 10 September 1996 providing clarification on the operation of blocks of service flats and sheltered housing complexes • Ministerial Decree of 10 December 2001 on quality control in rest homes, day-care centres, short-stay centres, service flats and sheltered housing complexes in rest homes (B.S. 28.III. 2002) • Flemish Government Decree of 30 November 2001 awarding a subsidy to Public Centres for Social Welfare and not-for-profit associations as a contribution to the fee for acquiring ownership of the blocks of service flats constructed on their land under a property leasing contract with the CEIC (B.S. 21.XII.2001) • Flemish Government Decree of 16 May 2008 amending the Flemish Government Decree of 30 November 2001 awarding a subsidy to public centres for social welfare and not-for-profit associations as a contribution to the fee for acquiring ownership of the blocks of service flats constructed on their land under a property leasing contract with the CEIC. (B.S. 27.VIII.2008) The award of the subsidy to the initiators is subject to the conditions in Article 12 of the General Agreement between the Flemish Community and the CEIC Serviceflats Invest nv (B.S. 17 January 1996). The requirements for eligibility for subsidies are laid down in Articles 3, 4 and 5 of the Flemish Government Decree of 30 November 2001 awarding a subsidy to Public Centres for Social Welfare and not-for-profit associations as a contribution to the fee for acquiring ownership of the blocks of service flats constructed on their land under a property leasing contract with the CEIC: o Article 3. The subsidy shall be granted with effect from the year following the year in which the service flats in question receive accreditation in accordance with the Decrees on facilities for elderly people, coordinated on 18 December 1991. It shall be paid to the initiator in the first quarter of the year to

	which it relates. The payment shall be made via the custodian of the CEIC. The subsidy shall be paid only for as long as the service flats in question are accredited in accordance with the decrees indicated in the first paragraph. o Article 4: The subsidy is a contribution to the fee which the initiator has to pay the CEIC at the end of the property leasing contract in order to acquire ownership of the service flats. Each year that it receives the subsidy, the initiator shall pay an amount that is at least equal to that subsidy into an account as security for the obligation to pay the fee referred to in the first paragraph, as laid down in the property leasing contract which it concluded with the CEIC. The amounts paid annually shall be invested continuously and shall be used to pay the fee referred to in the first paragraph. o Article 5: 1. Each year before 31 January, the initiator shall provide the authorities with proof of the payment it made in accordance with Article 4(2) during the preceding year, by means of an extract from the account in question. 2. The initiator shall pay the fee referred to in Article 4(1) to the CEIC, as stipulated in the property leasing contract concluded between them. Not later than one month after that payment, it shall provide the authorities with proof thereof by means of a receipt supplied by the CEIC. 3. The authorities may at any time ask an initiator for documents which relate to the subsidy. The subsidy shall be paid only for as long as the service flats in question are accredited (Flemish Government Decree of 30 November 2001 awarding a subsidy to Public Centres for Social Welfare and not-for-profit associations as a contribution to the fee for acquiring ownership of the blocks of service flats constructed on their land under a property leasing contract with the CEIC). In order to be accredited, the accreditation standards must be met as set out in Annex A to the Flemish Government

	Decree of 17 July 1985 laying down the standards which blocks of service flats, sheltered housing complexes or rest homes must meet in order to be eligible for accreditation.
Explanation of the (typical) **duration of the entrustment.** Indicate the minimum and maximum duration. Please also specify the proportion of entrustments that are longer than 10 years.	The annual subsidy for each block of service flats or sheltered housing complex is paid for 18 years.
Please explain whether **exclusive or special rights** are (typically) assigned to the undertakings.	no
Please explain the (typical) **compensation mechanism** as regards the respective services, including the aid instrument (direct subsidy, guarantee, etc.) used and whether a methodology based on cost allocation or the net avoided cost methodology is used	The compensation was determined on the basis of the investment cost for construction of a service flat. Initially, the subsidy was EUR 961.83 per year per flat for 18 years (Flemish Government Decree 30 November 2001). When this amount was set in 1995, it was calculated on the basis of the option that the subsidy, paid over 18 years and financed over 27 years, was supposed to constitute a sum equal to the nominal investment costs of a service flat (estimated at that time to be about BEF 2.4 million). This cost price was calculated on the basis of the data relating to the construction costs of the flats built as part of the emergency programme for social housing. This calculation included:

	Net construction cost for service flat with 50 m2 net floor area + 15% communal areas. Additional expenditure for adapted furniture or additional m2 (to allow for the use of standard furniture). Other fixed costs (12% VAT, 6% study costs, 2% for other costs such as soil investigation, technical inspection and decennial insurance). On 16 May 2008, the Flemish Government amended its Decree awarding a subsidy to public centres for social welfare and not-for-profit associations as a contribution to the acquisition of blocks of service flats built on their land under a property leasing contract with the CEIC. The subsidy to the initiator was increased from EUR 961.83 to EUR 1,140.43 per flat per year for 18 years, for initiators who, from 1 January 2007, sign a notarially authenticated property leasing contract for the construction of service flats with the CEIC. The reasoning behind the increase in the total subsidy sum received by initiators is the rise in construction costs recorded since the start-up phase. Initially, the proposal was to extend the duration of the subsidies to 24 years. In order to achieve the same result while retaining the subsidy period of 18 years, it was necessary to increase the amount of subsidy paid annually. In view of the fact that the financing of 24 annual subsidy amounts (EUR 961.83 per year) at 4.77% interest results in capital of EUR 50,043 after 30 years, the same amount can be achieved by paying 18 annual subsidy amounts of EUR 961.83 x 1.1857 = EUR 1,140.43 per year.
Further information concerning (typical) **arrangements for avoiding and repaying any overcompensation.**	In principle, no overcompensation is possible as the average investment cost per flat today is about EUR 114,000 and the total subsidy granted per flat is a maximum of EUR 20,527.74 (1140.43 x 18 years). The subsidy is paid only for as long as the service flats for which the subsidy is

	granted are accredited. For each payment (annual, for 18 years) a check is made to see whether the block of flats is still accredited, i.e. meets the accreditation standards as described in Annex A to the Flemish Government Decree of 17 July 1985 laying down the standards which blocks of service flats, sheltered housing complexes or rest homes must meet in order to be eligible for accreditation. The subsidy shall be paid only for as long as the service flats in question are accredited. If a block of service flats which was built with a CEIC no longer meets the accreditation standards and, as a result, is closed, the subsidy is no longer paid (Flemish Government Decree of 30 November 2001 awarding a subsidy to public centres for social welfare and not-for-profit associations as a contribution to the fee for acquiring ownership of the blocks of service flats constructed on their land under a property leasing contract with the CEIC). During inspection visits to the facility, a check is carried out to see whether the accreditation standards are still met. The initiator submits a statement of account each year, showing that the annual subsidy is paid and invested in accordance with Article 4(2) of the Flemish Government Decree of 30 November 2001 awarding a subsidy to public centres for social welfare and not-for-profit associations as a contribution to the fee for acquiring ownership of the blocks of service flats constructed on their land under a property leasing contract with the CEIC. There is no specific arrangement for repaying subsidies already paid.

	Each year, before each payment, the agency itself verifies whether the block of service flats is still accredited or whether an investment certificate has been submitted. Recovery has not taken place in a single dossier.
Amount of aid granted	
Total amount of aid granted. This includes all aid granted in your territory, including aid granted by regional and local authorities.	Subsidy from VAZG (Vlaams Agentschap voor Zorg en Gezondheid or Flemish Agency for Care and Health) 2015: Public CEIC: EUR 1,897,520.19 Private CEIC: EUR 102,819.09
Other quantitative information	

ENVIRONMENT, NATURE AND ENERGY POLICY AREA

Sub-area overview:

A. **Water supply**
B. **Waste collection**
C. **Renewable energy**
D. **Nature-related activities**

Introduction

This report follows the format of the DG Competition letter of 16 March 2016 insofar as the questions on each ENE sector were considered relevant to the actual reporting. Where appropriate, the explanations included for the individual sectors in Part I are non-compulsory, as indicated in the DG Competition format.

A. Water supply

I. NON-COMPULSORY REPORT ON SERVICES OF GENERAL ECONOMIC INTEREST AND CLASSIFICATION AS STATE AID

a) SG(E)I Description

Water supply services provided through public networks in Flanders and financed with public funds include the following:

1. Subsidy for municipalities to construct sewer systems and small-scale water treatment;

2. The subsidies for waste water treatment for the so-called supra-municipal infrastructure under management of NV Aquafin and for which the Flemish water companies are obliged to carry out decontamination services for the drinking water they supply;

3. The regional contribution to polders and water boards [‘wateringen’] for certain water management operations;

4. The regional contribution to grey water suppliers;

b) Explanation of why the SGEI Decision or the SGEI Framework does not apply when other instruments for management apply (direct aid to users, four Altmark judgment criteria, de minimis, etc.)

The Flemish government considers it unnecessary to classify the services indicated under a, 1 through 3 as services of general economic interest when implementing the rules listed in Article 106 TFEU or in their direct application. Explanation is provided under c).
Where 4. is concerned (regional contribution to grey water suppliers), the State aid can be considered compatible. This notified aid scheme was deemed compatible on the basis of grounds extraneous to the SGEI regulations, especially pursuant to Article 87(3)(c) of the EEC Treaty (now Article 107(3)(c), TFEU).

c) Explanation of why the State aid rules do not apply due to the non-

economic nature of the activities

With respect to the aid measures under a, 1 through 3, pending a different position at European level, these can still be considered typical core tasks of government and therefore, as non-economic activities within the meaning of EU competition law. Water supply in Flanders is typically organised and regulated by municipal government, sometimes in an intermunicipal partnership or in cooperation with the central (Flemish) government. Provision of these services is based on a natural monopoly or is quantitatively and qualitatively entirely dependent on the public initiative.

For the construction and management of supra-municipal waste water infrastructure, a statutory monopoly was granted to the public legal entity N.V. Aquafin, whose sole statutory objective is providing these services. N.V. Aquafin's contribution to the costs for the construction of this infrastructure and the treatment realised (a contribution which may also indirectly take the form of additional compensation for the obligation to carry out decontamination services for operators of public water distribution networks, in addition to the costs they charge to consumers), may not distort competition in the market. Partly for this reason, this does not constitute State aid.

II. DESCRIPTION OF THE APPLICATION OF THE 2012 SGEI DECISION

The Flemish government does not apply the SGEI Decision to the aforementioned services.

III. DESCRIPTION OF THE APPLICATION OF THE 2012 SGEI FRAMEWORK

The Flemish government does not apply the SGEI Framework to the aforementioned services.

B. Waste collection

I. NON-COMPULSORY REPORT ON SERVICES OF GENERAL ECONOMIC INTERESTAND CLASSIFICATION AS STATE AID

a) SG(E)I Description

The publicly funded services of general economic interest carried out in Flanders in the field of waste collection include collection by or on behalf of municipalities or by intermunicipal partnerships in household waste.

b) Explanation of why the SGEI Decision or the SGEI Framework does not apply when other instruments for management apply (direct aid to users, four Altmark judgment criteria, de minimis, etc.)

The Flemish government considers it unnecessary to classify the aforementioned services as services of general economic interest when implementing the rules listed in Article 106 TFEU or in their direct application. Explanation is provided under c).

c) Explanation of why the State aid rules do not apply due to the non-economic nature of the activities

The Flemish legislator has assigned responsibility for the collection of household waste to

the municipal authorities. The Materials Decree states that each municipality, '*whether in cooperation with other municipalities or not, shall ensure that as much household waste as possible is reduced or reused, that household waste is collected at regular times or collected in some other way, and that it is either put to good use or removed*.' The Decree also stipulates that '*the collection of household waste shall be governed by municipal regulations*.' The Municipalities Act also imposes a duty of care on municipalities: they are required to ensure '*cleanliness*' '*on public streets and places, and in buildings open to the public*.' Based on a longstanding administrative tradition, the collection of waste from households can thus be considered a typical core task of government, for which the public initiative and government control is indispensable for reasons of the general interest. Waste collection is a service for all citizens and, as such, cannot be subject to normal market forces in the interest of hygiene, environmental policy and economic reasons. Therefore, in Flanders these services are classified as non-economic services within the meaning of EU competition law.

I. DESCRIPTION OF THE APPLICATION OF THE 2012 SGEI DECISION

The Flemish government does not apply the SGEI Decision to the aforementioned services.

II. DESCRIPTION OF THE APPLICATION OF THE 2012 SGEI FRAMEWORK

The Flemish government does not apply the SGEI Framework to the aforementioned services.

C. Renewable energy

I. NON-COMPULSORY REPORT ON SERVICES OF GENERAL ECONOMIC INTERESTAND CLASSIFICATION AS STATE AID

Supporting the production and use of electricity from renewable energy resources and cogeneration in Flanders through the submission of certificates (quota obligation) is motivated by interests in protecting the environment, but not based on the application of the SGEI Decision or the SGEI Framework, excepting certain support measures, which are discussed under II.

The certificates mechanism does not constitute State aid, because the system is not funded by State resources.

II. DESCRIPTION OF THE APPLICATION OF THE 2012 SGEI DECISION

Clear and comprehensive description of how the respective services are organised in your Member State.

What kind of services in the respective sector have been defined as SGEI in your Member State?
Please list the contents of the services entrusted as SGEI as clearly as possible.

SGEI compensation was awarded for the **banking of certificates for green energy and cogeneration.**

A stable investment climate is needed for the construction of green energy and cogeneration plants. In order to keep the surplus of green energy and cogeneration certificates under control, the Flemish Region anticipates the temporary and obligatory banking (freezing) of 1.5 million green energy certificates and 1 million cogeneration certificates by network managers. The Flemish Government estimates the value of these certificates at EUR 166.5 million (EUR 154.8 million excluding share of Elia).

The requirement of setting aside capital (certificates) represents a certain cost of capital for network managers. To mitigate the impact of these public service obligations on distribution network fees, a reasonable allowance for the cost of capital (SGEI support) in conformity with the market will be granted to network managers (except Elia).

The certificates will later be gradually returned to the market again. In this way, these public service obligations contribute to the market forces for green energy and cogeneration certificates, as well as investment stability.

In the Flemish Region, this SGEI support was granted within the framework of the banking regulations, as laid down in Article 6.4.14/1 and 6.4.14/2 of the Energy Decision (the Flemish Government Decree of 19 September 2010 on general provisions relating to energy policy), introduced by the Flemish Government Decree of 10 January 2014 amending the Energy Decree on 19 November 2010, with respect to the banking of green energy certificates and cogeneration certificates by network managers (B.S. 14 February 2014) and the Ministerial Decree of 8 December 2014 (BS 30 December 2014).

The electricity distribution network managers and the local transport network for electricity are required to immobilise an average number of certificates they held between 1 November 2011 and 1 November 2012. Thus, the network managers must temporarily remove from the market a number of the green energy certificates and cogeneration certificates registered to them (end: 1 July 2016).

They will be compensated for banking the certificates.

What are the (typical) ***forms of entrustment?*** *If standardised models for entrustments are used for a certain sector, please attach them.*

In order to fulfil the requirements, after making an application to the Flemish Energy Agency, an allowance shall be paid to electricity distribution network managers within the resources allocated for that purpose in the budget. Bearing in mind the number of certificates banked that year, the Minister determines the annual amount of the resources allocated for that purpose, which must not exceed EUR 2.8 million. The share of resources foreseen in the budget to be granted to an electricity distribution network manager may not exceed its share of the resources retained in the budget for 2013.

The amount of compensation is calculated proportionally to the electricity distribution network managers' share of the total bankable certificates and is based on the actual external financing costs.

The Flemish Region is only obliged to pay compensation for immobilised resources to the extent that the electricity distribution network managers apply for the compensation each year and present evidence to the Flemish Energy Agency documenting the actual external financing costs and the market compliance thereof.

Average duration of the entrustment (in years) *and the proportion of entrustments that are* ***longer than 10 years*** *(in %) per sector.*
Please specify the sectors in which SGEIs were entrusted with a duration exceeding 10 years and explain how this duration is justified.

The banking regulation was introduced by the Flemish Government Decree of 10 January 2014 amending the Energy Decree of 19 November 2010, with respect to the banking of green energy certificates and cogeneration certificates by network managers (B.S. 14 February 2014) and expires on 1 July 2016.

Furthermore, Article 6.4.14/1(3) of the Energy Decree expressly states that an extension of the respective banking obligation may only be granted if the total duration of the banking period does not exceed 10 years.

Please explain whether ***exclusive or special rights*** *are (typically) assigned to the undertakings.*

Not applicable for the 2014-2015 period.

Which ***aid instruments*** *have been used (direct subsidies, guarantees, etc.)?*

Direct subsidies have been granted to electricity distribution network managers, following applications to the Flemish Energy Agency.

Please explain the (typical) ***compensation mechanism*** *as regards the respective services, and whether a methodology based on cost allocation or the net avoided cost methodology is used.*

The compensation given to network managers does not exceed that which is necessary to cover the net costs made by the undertaking to manage the service. On the contrary, compensation is only given for the banking of certificates that are lower than the legal interest rate (and for which the value of the banked capital is fixed at EUR 93 per green energy certificate and EUR 27 per cogeneration certificate, while the purchase price for network managers tended to be higher, e.g. EUR 450 for PV certificates).
Typical ***arrangements for avoiding and repaying any overcompensation.***
The first paragraph of Article 6.4.14/2(1) of the Energy Decree stipulates that the costs for public service obligations in excess of the compensation granted by the government must be considered as a financial public service obligation for electricity distribution network managers and for the manager of the local transport network for electricity, and consequently will not be compensated. In addition, Article 11.1.3 of the Energy Decree states the following: 'The civil servants of the Flemish Energy Agency are appointed to carry out the necessary checks with respect to compliance with Articles 6.4.14/1 and 6.4.14/2. The electricity distribution network managers must submit any relevant information at the request of the Flemish Energy Agency as evidence that the compensation received does not exceed that which is necessary *for covering the net costs of fulfilling the public service obligations*, as specified in Article 6.4.14/1. If the Flemish Energy Agency establishes that an electricity distribution network manager is not in compliance with the conditions specified in Article 6.4.14/1 or Article 6.4.14/2, any *erroneously paid compensation shall be recovered*. For this reason, the Flemish Energy Agency retains all data required to establish whether the compensation paid is consistent with the 2012/21/EU Decision for a period of 10 years following expiry of the obligation, specified in Article 6.4.14/1, and must make this information available to the European Commission.
Please provide a short explanation of how the transparency requirements (see Article 7 of the 2012 SGEI Decision) for the aid above EUR 15 million to undertakings that also have activities outside the scope of the SGEI) are being complied with. In your answer, please also include some relevant examples of information published for this purpose (e.g. some links to websites or other references), indicate whether you have a central website on which you publish this information for all aid measures concerned in your Member State (and if so provide the link to this website), or alternatively explain if and how the publication takes place at the level granting the aid (e.g. central, regional or local level).
No compensation exceeding EUR 15 million has been paid to undertakings that also have activities outside the scope of the SGEI.
Amount of aid granted
Total amount of aid granted (in EUR millions) This includes all aid granted in your territory, including aid granted by regional and local authorities. (**A+B+C**)

2014	2015
2,8	**2,52**
A: **Total amount of aid granted (in millions EUR)** paid by national central authorities	
2014	**2015**
0	**0**
B: **Total amount of aid granted (in millions EUR)** paid by regional authorities	
2014	**2015**
2,8	**2,52**
C: **Total amount of aid granted (in millions EUR)** paid by local authorities	
2014	**2015**
0	**0**
Share of expenditure per aid instrument (direct subsidy, guarantees etc.) (if available)	
2014	**2015**
100% direct subsidy	**100% direct subsidy**

Additional quantitative details (e.g. number of beneficiaries per sector, average amount of aid, amount per aid instrument, size of the undertakings)	
2014	**2015**
Number of beneficiaries = 11 **Average compensation per network manager = EUR 254,546**	**Number of beneficiaries = 11** **Average compensation per network manager = EUR 229,091**

III. DESCRIPTION OF THE APPLICATION OF THE 2012 SGEI FRAMEWORK

The Flemish government does not apply the SGEI Framework to the aforementioned services. The compensation for banking does not amount to more than EUR 15 million/year.

E. Nature-related activities

I. NON-COMPULSORY REPORT ON SERVICES OF GENERAL ECONOMIC INTEREST AND CLASSIFICATION AS STATE AID

a) SG(E)I Description

The nature-related activities carried out in Flanders and financed with public funds include the following:

1. Purchase and development of land as nature reserve and setting up and managing visitors' centres there by authorised associations.

   On the basis of the Nature Decree of 21 October 1997 and the Flemish Government Decree of 27 June 2003, the Flemish Region grants subsidies to authorised land management nature associations for both the purchase of valuable natural areas on its territory with the intention of establishing an official nature reserve ('purchase grant'), and for the compensation of the operational costs of visitors' centres in official nature reserves ('receiving the public'). The latter grant, for 'receiving the public,' facilitates nature associations in opening a visitors' centre within walking distance of an official nature reserve in accordance with the conditions set down by the government. Grants are also available for nature preservation and management in official nature reserves.

2. Implementation of environment- and nature-related activities by specific actors making use of target group employees (Flemish Government Decree of 28 March 2014 on the granting of compensation to different actors for environmental initiatives performed by target-group employees).

b) Explanation of why the SGEI Decision or the SGEI Framework does not apply when other instruments for management apply (direct aid to users, four Altmark judgment criteria, de minimis, etc.)

With respect to the aforementioned activities under a), 1 the Flemish Government **mainly considers** all these activities to fall outside the scope of the rules concerning competition and State aid. The reasons for this are given under c).
At present, DG Competition is investigating a complaint relating to the grants for purchase and receiving the public. The Flemish Region is awaiting the conclusion of the investigation, whereupon it will, if necessary, take appropriate measures, such as potential reporting in the meaning of Article 9 of the SGEI Decision and point 62 of the SGEI Framework. If DG Competition determines that the grants for purchase and receiving the public do indeed constitute aid measures within the meaning of the rules governing European State aid, the Flemish Region will consider these grants to fall within the scope of the SGEI Decision or the SGEI Framework.
With respect to the aid mentioned under a),2, the Flemish Government has declared the rules outlined in the SGEI Decision applicable, because this aid for actors is linked to the use of target group employees, for whom the ALTMARK package was deemed applicable in a broader context. The report concerning compensation paid by the Flemish government towards actors' nature-related activities has been drawn up according to the reporting form in Part II.

c) Explanation of why the State aid rules do not apply due to the non-economic nature of the activities

The Flemish Region does not consider **grants for the purchase, development and management of land as a nature reserve and setting up and managing visitors' centres there by authorised associations** as forms of aid within the meaning of the rules governing European State aid because they do not meet the conditions stated therein. Primarily, these grants enable nature associations to conduct the non-economic activities entrusted to them by the government, namely nature conservation and preservation and providing nature education and information. Nature conservation and preservation are activities in the general interest which protect the environment and are essential to maintaining biodiversity and natural green areas in Flanders. These activities are therefore non-economic. This was also confirmed by the recent 'Commission Notice on the notion of State aid as referred to in Article 107(1) TFEU.' Point 34 of this Commission Notice states that:

> "*Taking into account their particular nature, certain activities related to culture, heritage and nature conservation may be organised in a non-commercial way and thus be non-economic in nature. Public funding thereof may therefore not constitute State aid. The Commission considers that public funding of a cultural or heritage conservation activity accessible to the general public free of charge fulfils a purely social and cultural purpose which is non-economic in nature. In the same vein, the fact that visitors of a cultural institution or participants in a cultural or heritage conservation activity, including nature conservation, open to the general public are required to pay a monetary contribution that only covers a fraction of the true costs does not alter the non-economic nature of that activity, as it cannot be considered genuine remuneration for the service provided.*"

The secondary activities of logging and mowing/grazing are subject to and inherent in the non-economic activity of nature conservation and preservation. Furthermore, the profits from these secondary activities are reinvested in the non-economic core activity. In visitors' centres, the secondary activities are chiefly other paid activities which support the core activities of nature conservation and preservation and providing nature education and information. The income from visitors' centres also goes towards financing the costs of the core activities.

Moreover, the purchase grants do not give nature associations any economic advantage, as these associations are not permitted to transfer any land purchased with grants.

Finally, there is no distortion of competition or adverse effect on trade between Member States. The recent 'Commission Notice' expressly underscores that the facilities associated with the non-economic activity of nature conservation do not have an adverse effect on interstate trade. Footnote 50 states that:

> *"the Commission considers that public financing to customary amenities that are provided in the context of non-economic culture and heritage conservation activities (for instance, a shop, bar, or paid cloakroom in a museum) normally has no effect on trade." between Member States."*

II. DESCRIPTION OF THE APPLICATION OF THE 2012 SGEI DECISION

Clear and comprehensive description of how the respective services are organised in your Member State.
What kind of services in the respective sector have been defined as SGEI in your Member State? *Please list the contents of the services entrusted as SGEI as clearly as possible.*

In implementing the Flemish Government Decree of 28 March 2014 on the granting of **compensation to different actors for environmental initiatives performed by target-group employees**, compensation is paid for the services of actors (other than municipalities) which are related to preserving biodiversity, habitats and species.

Actors (any land user, land owner, forest group, regional landscape or game management unit) are eligible for compensation for nature-related activities (green jobs) which they employ target group employees to carry out, provided that the works are related to the following types of land:
1) official nature reserves, as defined in Articles 32 through 36 of the Decree of 21 October 1997 on nature conservation and the natural environment;
2) nature areas whose official status is still in the process of being recognised in line with Articles 32 through 36 of the aforementioned Decree;
3) forests where works are being carried out under the authority of a forest group;
4) land that is open to the public.

This scheme falls under the scope of application of Articles 2.1.a and 2.1.c of the SGEI Decision. This last point can be considered a derivative of social inclusion of vulnerable groups. The section 'biodiversity policy' in the ministerial policy document 2014-2019 states that Flanders must do its utmost to stimulate cooperation and integration between policy areas and sectors with an eye to preservation and reinforcement of biodiversity.

Target group employees are those referred to in:
a) Article 5 of the Decree of 14 July 1998 on sheltered workshops;
b) Article 79(1) of the Decree of 23 December 2005 on provisions for managing the 2006 budget;
c) Article 2(3) of the Decree of 22 December 2006 on the local service economy.

The activities which are eligible for compensation are specified in the same Decree.

*What are the (typical) **forms of entrustment?** If standardised models for entrustments are used for a certain sector, please attach them.*

No standardised model for entrustments is used. The submitted applications are tested for compliance with the conditions in the Flemish Government Decree of 28 March 2014. The requested compensation is granted provided it meets the conditions and sufficient appropriations are available.

***Average duration of the entrustment (in years)** and the proportion of entrustments that are **longer than 10 years** (in %) per sector.*
Please specify the sectors in which SGEIs were entrusted with a duration exceeding 10 years and explain how this duration is justified.

SGEIs are entrusted to actors for a duration of three years, based on the submission of standard contract and work plans. A three-year duration has been chosen in order to give the area of activity the opportunity to act flexibly in reaching nature objectives such as conservation objectives for special protected areas and protected European species, or implementation of species protection programmes.

*Please explain whether **exclusive or special rights** are (typically) assigned to the undertakings.*

Not applicable.
*Which **aid instruments** have been used (direct subsidies, guarantees, etc.)?*
Grants
*Please explain the (typical) **compensation mechanism** as regards the respective services, and whether a methodology based on cost allocation or the net avoided cost methodology is used.*
The compensation per activities package (= 600 hours) consists of a fixed sum of EUR 5,250. The grant only covers the compensation of those tasks performed by the target group employee.
*Typical **arrangements for avoiding and repaying any overcompensation.***
The grant only covers the compensation of those tasks performed by the target group employee. It may not be combined with other Flemish Government aid for the same purpose. The ministerial decisions assigning the grants systematically specify that an actor must repay the awarded compensation if the conditions under which it was granted were not met; for example, the grant was not used for the intended objectives or the Nature and Forest Agency has been impeded in its assessment of how the grant is being used.
Please provide a short explanation of how the transparency requirements (see Article 7 of the 2012 SGEI Decision) for the aid above EUR 15 million to undertakings that also have activities outside the scope of the SGEI) are being complied with. In your answer, please also include some relevant examples of information published for this purpose (e.g. some links to websites or other references), indicate whether you have a central website on which you publish this information for all aid measures concerned in your Member State (and if so provide the link to this website), or alternatively explain if and how the publication takes place at the level granting the aid (e.g. central, regional or local level).
Not applicable
Amount of aid granted
Total amount of aid granted (in EUR millions) This includes all aid granted in your territory, including aid granted by regional and local authorities. (**A+B+C**)

2014	**2015**
Nil (decision applies as from 01-01-2015)	EUR 1.2705 million budgeted, of which: EUR 0.635250 million (advances paid); EUR 0.635250 million (maximum balances to be paid)

A: **Total amount of aid granted (in millions EUR)** paid by national central authorities

2014	**2015**

0	**0**
B: **Total amount of aid granted (in millions EUR)** paid by regional authorities	
2014	**2015**
Nil (decision applies as from 01-01-2015)	EUR 1.2705 million budgeted, of which: EUR 0.635250 million (advances paid); EUR 0.635250 million (maximum balances to be paid)
C: **Total amount of aid granted (in millions EUR)** paid by local authorities	
2014	**2015**
0	**0**
Share of expenditure per aid instrument (direct subsidy, guarantees, etc.) (if available)	
2014	**2015**

Additional quantitative details (e.g. number of beneficiaries per sector, average amount of aid, amount per aid instrument, size of the undertakings)	
2014	**2015**
not applicable	not available

III. DESCRIPTION OF THE APPLICATION OF THE 2012 SGEI FRAMEWORK

The Flemish government does not apply the SGEI Framework to the aforementioned services.

Work and Social Economy Policy Area

The report below is submitted in accordance with Article 9 of the SGEI Decision of 20 December 2011 on behalf of the Flemish policy area Work and Social Economy (WSE). During the 2014-2015 period, there were six measures in operation within the WSE policy area that are based on the SGEI Decision.

The following specific measures are already in operation: career guidance, Social Economy support body, the provision of vocational entrepreneurship training courses entrusted by Syntra Vlaanderen, activities cooperatives, local service economy and four ESF calls promoting social inclusion and poverty reduction.

A brief general description of these measures within the WSE policy area, including their general features, is provided below.

1. Description of the application of the SGEI Decision

The measures career guidance, Social Economy support body and vocational entrepreneurship training courses fall within the scope of point (5) Other SGEI compensation not exceeding EUR 15 million (Article 2(1)(a)).

The measures on activity cooperatives, local service economy (WSE part) and ESF calls come under point (2) social services, c) access to the labour market and reintegration (Article 2(1)(c)).

The Flemish Government has decided that each of these measures is a service which benefits society and that these services are offered in a principled and high-quality manner.
The parties providing these services are given a period of entrustment by the Flemish Government if they meet the established conditions. These conditions are proportionate and non-discriminatory and relate to the requirements regarding quality and implementation of the service.
In a number of cases, the entrusted service-providers may also be chosen on the basis of a public procurement procedure.
The entrustment period varies from two to six years, depending on the measure. Occasionally, short-term contracts are awarded, lasting anywhere from six months to a year.

The compensation mechanism also varies between the different measures. The price may be determined on the basis of the public procurement procedure combined with predetermined target prices or may be a fixed amount which is set in advance on the basis of objective parameters. Control points have been incorporated for all measures in order to verify whether the price and the parameters are still in line and whether any adjustments have to be made for the subsequent period. In addition, there is provision for a check on implementation; if abuses are discovered, the compensation will be recovered.

The total amount of the aid granted varies greatly according to the measure:

Measure	2014		2015	
	Amount	Entrustments	Amount	Entrustments
Career guidance	EUR 8,876,000.00	129	EUR 12,408,000.00	176
Support body	EUR 1,105,804.48	1	EUR 815,502.49	1
Vocational entrepreneurship training courses	EUR 1,476,966.68	70	EUR 1,118,974.95	86
Activity cooperatives	EUR 750,000.00	5	EUR 750,000.00	5
Local Service Economy	EUR 20,253,779.39	263	EUR 21,251,000.00	225
ESF	/	/	EUR 1,433,830.85	30
Total	EUR 32,462,550.55	/	EUR 37,777,308.29	/

2. Difficulties with the application of the SGEI Decision or SGEI Framework

The basic principles regarding compensation, calculation of costs and reasonable profit are described in the current SGEI from the perspective of an economic logic, which is applicable mainly to economic services concerning network industries or comparable sectors. Applying this to social services within the framework of Work and Social Economy is difficult, and it is certainly not applicable in all respects.

Working with concepts such as reasonable profit, rate of return on capital or other profit level indicators and swap rates are suited to a business context, but cannot easily be applied to subsidising training courses, reintegration measures for job seekers or services of a predominately social nature, where making a profit is not always an objective. Where charges are determined for the provision of a service, this is often based on anticipated costs, but no account is taken of a reasonable percentage of profit. The concept of reasonable profit in such a context chiefly creates many questions and uncertainties for policy-makers and service providers in the field.

It goes without saying that it is important to assess the implementation of a public contract and the financial resources used to realise it, but the current SGEI regulations are not feasible in practice when a very large number of service-providers receive entrustments for a certain measure. The administrative burden that accompanies the current SGEI regulations is great, especially for smaller measures (< EUR 15 million) and requires an additional, disproportionate government investment.

In order to ensure that funding for service providers within the framework of more social SGEI entrustments can, in future, be provided correctly and with legal certainty, the SGEI regulations need to be rewritten in this respect and must take into account the uniqueness of various service providers. At the present time, there is considerable uncertainty in the field and in practice, which is dealt with to the best of the ability of those concerned, but without any legal certainty.

3. Complaints by third parties

Nil

4. Miscellaneous

Nil

Draft report on State aid within the framework of the SGEI Decision

Sector: Hospitals

- **DESCRIPTION OF THE APPLICATION OF THE SGEI DECISION AND THE SGEI FRAMEWORK AND AMOUNT GRANTED**

1) Hospitals (Article 2(1)(b))

- Please list the contents of the services entrusted as SGEI

I) FEDERAL GOVERNMENT

All Belgian hospitals, regardless of their type, size or legal form, fulfil a service of general economic interest (hereafter, SGEI), i.e. providing hospital care. This SGEI is defined by the Consolidated Act of 10 July 2008 on hospitals and other care institutions (hereafter, the Hospitals Act) and its implementing decisions. Some hospitals, however, may also have other SGEIs, each with their own funding mechanisms.

La mission dévolue aux hôpitaux est définie essentiellement à l'article 2 loi sur les hôpitaux, qui dispose :

> « *Pour l'application de la présente loi coordonnée sont considérés comme hôpitaux, les établissements de soins de santé où des examens et/ou des traitements spécifiques de médecine spécialisée, relevant de la médecine, de la chirurgie et éventuellement de l'obstétrique, peuvent être effectués ou appliqués à tout moment dans un contexte pluridisciplinaire, dans les conditions de soins et le cadre médical, médico-technique, paramédical et logistique requis et appropriés, pour ou à des patients qui y sont admis et peuvent y séjourner, parce que leur état de santé exige cet ensemble de soins afin de traiter ou de soulager la maladie, de rétablir ou d'améliorer l'état de santé ou de stabiliser les lésions dans les plus brefs délais.*
>
> *Ces hôpitaux remplissent une mission d'intérêt général* ».

Article 2 of the Hospitals Act includes the basic characteristics necessary for a care institution to be classified as a 'hospital.' It also defines, in general terms, the public service for which the hospital receives funding. The service must be provided in a multidisciplinary context and

within a specialised framework. It must always be possible for patients to spend the night in the institution.

The required framework is defined in greater detail in the so-called accreditation standards. These standards guarantee a minimum level of quality which a hospital's public service must meet. If a care institution meets the accreditation standards, the institution can receive an 'accreditation' from the competent regional authority.

The accreditation standards determine the necessary medical, medical-technical and logistical framework and consist primarily of functional, architectural and staffing standards. L'agrément octroyé porte, à la fois, sur l'hôpital dans son ensemble, en vertu de l'arrêté royal du 23 octobre 1964 portant fixation des normes auxquelles les hôpitaux et leurs services doivent répondre, à la fois, sur chacun des services, fonctions et programmes de soins hospitaliers que l'hôpital exploite.
En d'autres termes, les normes assurent que les hôpitaux remplissent correctement leur mission d'intérêt général. À cet effet, les entités fédérées effectuent les inspections nécessaires et prennent des arrêtés individuels d'agrément si les services hospitaliers satisfont aux normes.

Specific standards apply to each hospital function, service or healthcare programme.

However, not every care institution can obtain funding. Supply planning is used in order to maintain the financial balance of the Belgian hospital system. In principle, only institutions which are included in 'programming' are eligible for funding for the services they provide.

In sum, hospital services are governed by three main principles from the Hospitals Act: programming, accreditation and funding. In the first place, care institutions are required to fit the definition of Article 2 in the Hospitals Act. A decision is then taken as to whether the services provided by a hospital fit within a programme, after which the hospital's services, functions, care programmes, etc. can be accredited by the competent authority, provided the accreditation standards have been satisfied. Only once these three conditions have been met, can the funding authority, which in the context of hospital funding is typically the federal government, effectively allocate the funding.

À cette mission unique s'ajoute, pour les hôpitaux die beschikken over een functie « Mobiele Urgentiegroep » en/of « spoedgevallenzorg », un SIEG complémentaire : l'aide médicale urgente, au sens de la loi du 8 juillet 1964 relative à l'aide médicale urgente.

II) SPECIFIC TO THE FLEMISH COMMUNITY

The 2014 State reforms transferred the financing of investments under section A1-A3 to the Flemish government. The financial impact of this change will only come in 2016, making it necessary to work out a number of concrete arrangements. During the period of 2014-15, a few financial commitments were made under the regulations as discussed in the previous report. As a result, with respect to the concrete entrustments in 2014-15, we must limit ourselves to the regulatory framework of the previous report.

In 2014-15 the Flemish Infrastructure Fund for Person-related Matters (hereinafter, 'VIPA') subsidised certain investments that are not covered by federal funding. In addition, the Flemish Region may provide security for loans for subsidised investments. Further details are laid down in the Flemish Government Decree of 16 July 2010 establishing the investment subsidy and the construction technology and building physics standards for care facilities (hereinafter 'sector Decree'), the Flemish Government Decree of 18 March 2011 laying down rules for the alternative investment subsidies granted by the VIPA and the Flemish Government Decree of 8 November 2013 facilitating infrastructure financing via the alternative investment guarantee granted by the VIPA.

III) REGION WALLONNE

Les hôpitaux sont entendus par la loi du 10 juillet 2008 relative aux hôpitaux (article 2) comme les établissements de soins de santé où des examens et/ou des traitements spécifiques de médecine spécialisée, relevant de la médecine, de la chirurgie et éventuellement de l'obstétrique, peuvent être effectués ou appliqués à tout moment dans un contexte pluridisciplinaire, dans les conditions de soins et le cadre médical, médico-technique, paramédical et logistique requis et appropriés, pour ou à des patients qui y sont admis et peuvent y séjourner, parce que leur état de santé exige cet ensemble de soins afin de traiter ou de soulager la maladie, de rétablir ou d'améliorer l'état de santé ou de stabiliser les lésions dans les plus brefs délais.

Ces hôpitaux remplissent une mission d'intérêt général.

Suite à la Sixième Réforme de l'Etat, la Région wallonne est devenue compétente en matière de politique hospitalière pour l'édiction des normes d'agrément auxquelles les hôpitaux, les services hospitaliers, les programmes de soins et les fonctions hospitalières doivent répondre.

La compétence relative au financement des infrastructures hospitalières (sous-parties A1 et A3 du budget des moyens financiers) lui a également été transférée.

De manière générale, l'Etat fédéral reste compétent pour la législation organique, les règles de base relatives à la programmation et le financement de l'exploitation lorsqu'il est organisé par la législation organique.

IV) COMMON COMMUNITY COMMISSION

The Common Community Commission (hereinafter, CCC) regulates and manages the community competences in the Brussels Region which are common to both communities (French-speaking and Dutch-speaking).

In the Brussels-Capital Region, institutions competent in so-called 'person-related matters'

(health and social welfare) choose which community they belong to, or may opt out of making that choice. If they choose not to identify with either community, these institutions fall under the CCC and are called 'bi-community institutions' or 'bi-person-related institutions.'

A hospital is an institution as defined by Articles 2, 3 and 7 of the Consolidated Act of 10 July 2008 on hospitals and other care institutions (hereinafter, the Hospitals Act). A psychiatric care home is a temporary residence for psychiatric patients in the meaning of Article 6 of the Hospitals Act.

These facilities fulfil a general interest mission.

Explanation of the (typical) forms of entrustment.

I) FEDERAL GOVERNMENT

As has already been explained above, the hospitals' entrustment consists of various decisions taken at various levels of authority: programming, accreditation and funding.

A hospital service, a hospital function or a care programme is included in a programme, if necessary. The federal government stipulates any programming and therefore decides **how many services, functions, care programmes, etc. may receive funding**.

Not every medical service, function, medico-technical service or care programme receives automatic funding. The competent regional authorities inspect the hospitals and, in the event of a positive assessment, issue accreditations to the programmed services, functions and care programmes. In other words, the competent regional authorities determine **which hospitals are eligible for funding**. The competent regional authority takes individual accreditation decisions to this end.

However, the final element is formed by the decision to award funding. The so-called '**financial resources budget**' is **fixed and granted by the Federal Minister for Public Health for each hospital separately**, within an annual (corresponding to a calendar year) overall budget, which is adopted in a royal decree submitted to the Council of Ministers. [1]

The minister informs the hospital manager of the individual decision together with the reasons for that decision. The decision is also reported to the financing unit of the Nationale Raad voor Ziekenhuisvoorzieningen (National Council for Hospital Facilities). [2] This Council is made up of experts, representatives of hospital managers, representatives of doctors and nurses and

[1] Article 95(1), Hospitals Act
[2] Article 108 Hospitals Act

representatives of the health insurance institutions. [3]

II) SPECIFIC TO THE FLEMISH COMMUNITY

The procedures for granting the subsidies in the current regulatory framework in 2014-15 are governed by the Flemish Government Decree of 18 March 2011 laying down rules for the alternative investment subsidies granted by the VIPA. The procedure consists of three steps:

- care strategy plan
- technical-financial plan and agreement in principle
- utilisation grant

In the care strategy plan, the hospital formulates its vision for the next 10 years regarding the planned care provision in the region and its planned role in this. After approval of the care strategy plan, the hospital can apply to the VIPA for approval of the technical-financial plan and to obtain the agreement in principle. Three recommendations (financial, functional and construction technology) are made, after which the file is submitted to the coordinating committee. Subject to a favourable recommendation by this committee, the minister can provide an agreement in principle according to the available financial resources. The institution must issue a commencement order within two years of that agreement in principle. An application can be made for a utilisation grant for the first time in the calendar year following that commencement order at the earliest.

In 2014, the INR determined that the credit balance of all utilisation grants need to be charged to the budget. This full budgetary attribution has given hospitals the opportunity to have the credit balance of the utilisation grants paid out to them in a lump sum.

Rules on the provision of a guarantee are laid down in the Flemish Government Decree of 8 November 2013 facilitating infrastructure financing via the alternative investment guarantee granted by the VIPA. Subject to a favourable financial recommendation, the VIPA can guarantee loans up to an upper limit. The institution pays a guarantee premium for this and must give consent to the VIPA to establish securities.

[3] Article 33 Hospitals Act

III) REGION WALLONNE

Les hôpitaux ressortissants des compétences de la Région wallonne doivent être agréés conformément à la loi sur les hôpitaux et à ses arrêtés d'exécution.

Cet agrément prend la forme d'un arrêté ministériel signé par le Ministre wallon qui a la Santé dans ses attributions et identifie l'ensemble des services, fonctions, sections, services médico-techniques et programmes de soins agréés dans l'établissement, ainsi que le nombre de lits.

IV) COMMON COMMUNITY COMMISSION

The CCC may provide financial compensation to cover the costs of new-build, expansion and reconditioning, equipment and appliances of hospitals or psychiatric care homes. The CCC may also issue a security for the balance of the eligible amount that is not covered by CCC financial compensation.

The coordinated application of the CCC's granting of financial compensation and the security may not lead to interventions that exceed the maximum cost price. The rules for financial compensation and the CCC guarantee are laid down in the decision of the United College of the CCC of 10 October 2013 stipulating the rules for CCC financial compensation for the construction, expansion, conversion, equipment and appliances of hospitals and psychiatric care homes.

V) COMMUNAUTE GERMANOPHONE

En ce qui concerne la **Communauté germanophone**, les règles d'attribution de subsides aux hôpitaux sont largement définies par la législation fédérale en la matière. Les procédures sont réglées par le décret du 18 mars 2002 relatif à l'infrastructure. Ce dernier a été précisé par plusieurs arrêtés d'exécution est d'application pour la Communauté germanophone.

- What is the (typical) duration of the entrustment?

I) FEDERAL GOVERNMENT

There is no time limit as far as the 'programming decision' is concerned. The programming is determined according to the requirements of the population and, as such, these

requirements dictate whether something fits into programming.

Accreditation is granted by the competent regional authority, which specifies the period for which the accreditation is given:

- ***Flemish Community***: indefinite period
- ***Walloon Region***: un agrément provisoire est octroyé pour une durée de 6 mois, avec une possiblité de renouveler cet agrément provisoire pour un terme identique. A la fin de la période d'agrément provisoire, l'hôpital peut âtre agréé pour 5 ans. Cet agrément est prorogé tous les 5 ans.
- ***CCC:*** 'Initial provisional accreditation' for six months which can be extended and/or an 'accreditation' for a period of a maximum of six years that can also be renewed.
- ***Communauté germanophone*** : Premier agrément provisoire pour 6 mois + prorogation de l'agrément provisoire + agrément définitif (souvent pour 5 ans) + prorogation de l'agrément définitif.

The funding is provided via the allocation of the financial resources budget to each hospital, which in each case runs from 1 July up to and including 30 June of the following year.

Thus, in the context of hospital funding, no entrustments are assigned to hospitals for a period longer than 10 years. This is also laid down in law in the Hospitals Act.[4]

II) SPECIFIC TO THE FLEMISH COMMUNITY

The utilisation grant is allocated for 20 consecutive years (Article 12 of the Flemish Government Decree of 18 March 2011 laying down rules for the alternative investment subsidies granted by the VIPA). In 2015, a number of facilities opted for the one-off payment of the credit balance (Flemish Government Decree of 11 September 2015 regulating one-off payments of alternative investment subsidies granted by the VIPA).

In both cases, the building must be used for a minimum of 25 years (Article 87 of the Flemish Government Decree of 18 March 2011).
The long subsidy duration can be justified by the special investments required by the hospitals, which have to be written off over a period longer than 10 years.

III) REGION WALLONNE

- Un agrément provisoire d'une durée de six mois est octroyé à l'hôpital qui introduit une demande d'agrément recevable ;
- Cet agrément provisoire peut être renouvelé pour un terme identique ;

[4] Article 105(1)(2)(a), Hospitals Act

- Au cours de la période de validité de l'agrément provisoire, une inspection est menée afin de vérifier que l'hôpital répond aux normes d'agrément en vigueur ;
- Suite à cette inspection, le Ministre peut accorder à l'hôpital un agrément d'une durée maximale de 5 ans ;
- A l'échéance des cinq ans, un questionnaire est adressé à l'hôpital en vue de la prorogation de son agrément.
- Des inspections peuvent être réalisées ponctuellement dans les hôpitaux agréés afin de s'assurer que les normes d'agrément sont respectées.

IV) COMMON COMMUNITY COMMISSION

The agencies of the United College of the CCC assess accreditation and ensure that the hospital or hospital service can be operational in circumstances compatible with the required standards.

If, at the end of the procedure, it is determined that the (accreditation) standards have not yet been satisfied and that programming is not being complied with, the institution shall receive:

- 'initial provisional accreditation' for six months which can be extended;
- 'accreditation' for a maximum of six years which can be extended;
- 'refusal of accreditation'

If it is established that, during the period in which the initial provisional accreditation or accreditation applies, the (accreditation) standards are no longer being met, then a procedure to 'remove accreditation' shall be initiated.

V) COMMUNAUTE GERMANOPHONE

En Communauté germanophone, c'est la loi coordonnée le 10 juillet 2008 qui est à la base des procédures. La Communauté germanophone dispose d'un arrêté de mise en application de ces dispositions fédérales via l'arrêté du 19 avril 1995 relatif à la procédure d'agrément et de fermeture des hôpitaux et des services hospitaliers. Cet arrêté prévoit un agrément provisoire d'une durée de 6 mois prolongeable d'une nouvelle période d'une durée de six mois. La durée d'agrément définitif est actuellement de cinq ans.

- Are exclusive or special rights assigned to hospitals?

I) FEDERAL GOVERNMENT

Article 81 of the Hospitals Act provides for the possibility of specifying certain medical treatments which must take place within a hospital framework. [5] To date, this provision has never been implemented. Therefore, no medical treatments are specified which have to be carried out exclusively by a hospital within the meaning of the Hospitals Act.

In addition, the list of heavy medical equipment must also be reported. [6] This list includes appliances or equipment for examinations and treatment, which are expensive either because of their purchase price or because they are operated by highly specialist staff.[7] Equipment on this list can be installed or run only after prior approval from the competent regional authority. This requirement also applies to equipment which is set up outside a hospital environment and equipment for which no contribution is made to the investment costs.

This restriction is imposed because of the objective of monitoring the quality of care, controlling the radiation load on the population, centralising expertise and maintaining the financial balance of the health care system.

The list of heavy medical equipment includes the following appliances or equipment:

- computed tomography (CT) scanner;
- single-photon emission computed tomography scanner in combination with computed tomography scanner (SPECT-CT);
- positron emission tomography (PET) scanner;
- positron emission tomography scanner in combination with computed tomography scanner (PET-CT);
- positron emission tomography scanner in combination with magnetic resonance tomography scanner (PET – NMR);
- magnetic resonance tomography scanner (NMR), including the 'extremity-only' magnetic resonance tomography scanner;
- radiotherapy equipment with photon, proton, electron or hadron ion emission, including carbon ion therapy.

In addition, there is programming criteria for the PET scanner and the NMR. Accordingly, the federal government has laid down the maximum number of appliances which may be installed and run. However, it is the competent regional authorities that decide which hospitals receive accreditation to run a service with a PET or NMR scanner. Furthermore, only hospitals are eligible to run such a service.

II) REGION WALLONNE

Droits exclusifs.

[5] However, the article also allows for medical treatments to be specified which must take place outside a hospital framework.
[6] Article 52 Hospitals Act
[7] Article 51 Hospitals Act

- What is the compensation mechanism for the respective services?

I) FEDERAL GOVERNMENT

As has already been explained, Article 95 of the Hospitals Act provides that the financial resources budget for each hospital is fixed separately by the Minister for Public Health within an overall budget for the country as a whole. En d'autres termes, un budget est dégagé annuellement pour les hôpitaux belges dans le budget national. Ce montant est ensuite réparti entre les hôpitaux selon les conditions et modalités de calcul prévues par la loi sur les hôpitaux et ses arrêtés d'exécution. Le montant alloué dépendra notamment de la taille et du niveau d'activité de l'hôpital, des éventuelles missions particulières confiées à l'hôpital (p. ex. hôpitaux universitaires chargés d'une mission d'enseignement et de recherche), du nombre de services agréés dans l'hôpital, …

La base de la répartition est définie à l'article 105 de la loi sur les hôpitaux. Cet article précise que les conditions et les modalités de calcul de la compensation doivent être fixées par arrêté royal. Les points suivants doivent notamment être déterminés dans l'arrêté royal:

> *"(…)*
> *a) la période d'octroi du budget lequel ne peut durer plus de 10 ans, hormis pour les composantes du budget des moyens financiers qui couvrent des coûts d'investissement nécessitant, conformément aux principes comptables généralement admis, un amortissement sur une plus longue période;*
> *b) la scission du budget en une partie fixe et une partie variable;*
> *c) les critères et les modalités de calcul, en ce compris la fixation des activités justifiées et les modalités d'indexation;*
> *d) en ce qui concerne la partie variable, l'indemnisation des activités par rapport à un nombre de référence qui sont réalisées en plus ou qui ne sont pas réalisées;*
> *e) la fixation du nombre de référence visé au point d), concernant les paramètres d'activités pris en considération;*
> *f) les conditions et les modalités de révision de certains éléments;*
> *g) le décompte sur la base des années antérieures. tel que visé à l'article 116 de la loi relative aux hôpitaux (…)"*[8]

Le détail de ces modalités est repris dans l'arrêté royal du 25 avril 2002 relatif à la fixation du budget des moyens financiers des hôpitaux.

Les paramètres de calcul et modalités du budget des moyens financiers sont destinés à couvrir, conformément à l'article 100 de la loi relative aux hôpitaux[9], les frais résultant de

[8] Article 105 loi sur les hôpitaux.

[9] L'art. 100 de la loi relative aux hôpitaux précise ce qui suit: "Sans préjudice de l'article 97, le budget des moyens financiers couvre de manière forfaitaire les frais résultant du séjour en chambre commune et de la dispensation des soins aux patients de l'hôpital, en ce compris les patients en hospitalisation de jour telle

l'hospitalisation, et conformément à l'article 101 de la loi relative aux hôpitaux les frais afférents à des services suite à des catastrophes ou des calamités (et conformément à l'article 102 de la loi relative aux hôpitaux à ne pas couvrir une série de frais précisés de manière légale). La loi susmentionnée précise en son article 95, que le budget des moyens financiers couvre ce qui concerne le financement des coûts d'exploitation. De plus, ces coûts, en vertu de la mission d'intérêt général confiée par la loi, tiennent, comme le précise cet article 95, "uniquement compte des soins hospitaliers".

En synthèse, tous les hôpitaux sont financés sur la base de règles identiques. Le financement ne concerne que la partie "hospitalisation".

The compensation mechanism consists of the allocation of a financial measure (the financial resources budget) in hospital costs, which is calculated a priori on the basis of the last known data at that time (accounting and financial data from previous years, data relating to charging for the activity in question). The compensation is subsequently revised on the basis of the actual figures, but this is examined in more detail in the next part.

La compensation est forfaitaire et ne concerne que l'hospitalisation, y compris l'hospitalisation de jour chirurgicale, pour:

- les frais d'investissement (immeuble, matériel médical et non médical) et frais financiers y afférents
  [A1 et A2]
- les frais d'investissement et de fonctionnement du matériel médical lourd (articles 37, 38 et 39 de la loi)
  [A3 et B3]
- les frais de fonctionnement des services hospitaliers et services "communs" et couvertures des coûts des obligations légales y afférentes
  [B1, B4, B6, B9]
- les frais de personnel infirmier et soignant
  [B2]
- les frais de fonctionnement de l'officine hospitalière
  [B5]

La "compensation" donnée par l'État est donc une intervention publique dans ces différents postes, directement liés à l'exercice des missions confiées.

II) SPECIFIC TO THE FLEMISH COMMUNITY

The basic amount of the subsidies for the investments covered by the VIPA is determined on the basis of a flat-rate amount per m² of the eligible area, which corresponds to a maximum 60% of the actual cost (exception: 10% of priority investments). This amount is paid in 20 annual utilisation grants, which also cover the cost of the pre-financing.

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que définie par le Roi."

The applicant can call on the financial resources budget for the additional part (40% or 90% in the case of priority investments) which is not subsidised by the VIPA and for certain types of investments which are subsidised at 100% only by the federal government (major maintenance, non-priority reconditioning works, investments in sustainable development, etc.).

The amount of the guarantee is limited to (10/6) x basic amount of the VIPA subsidies x 75%. The guarantee ensures lower funding costs, without the VIPA intervening expressly in the funding costs (in that respect, the guarantee cannot involve overcompensation of the funding costs either).

III) REGION WALLONNE

Subvention pour investissement + le gouvernement wallon peut octroyer sa garantie aux emprunts contractés pour le financement de ces opérations.

IV) COMMON COMMUNITY COMMISSION

The amount of the subsidies for the investments is determined on the basis of a flat-rate amount per m² of the eligible area, which corresponds to a maximum 60% of the actual cost (exception: 10% of priority investments).

This subsidy is usually paid in fixed increments spread over three years, namely: 40% - 40% - 20%. The scheduling usually occurs on the basis of increments spread over five years, namely: 10% - 45% - 25% - 10% - 10%.

The part (40% or 90% for priority investments) not covered by the CCC is subsidised by the federal government. However, certain types of investments are subsidised at 100% by the federal government.

The CCC may issue a guarantee on the balance of the eligible amount that is not covered by the subsidy.

All institutions are funded on the basis of the same rules.

- Typical arrangements for avoiding and repaying any overcompensation

I) FEDERAL GOVERNMENT

Comme précisé plus haut, le calcul des budgets est réalisé sur la base des données déjà

connues. Il s'agit ici des données comptables des hôpitaux concernés qui ont été collectées au cours des années précédentes. Grâce à ces données, on peut déjà se faire une bonne idée du montant auquel aura droit l'hôpital.

Ensuite, l'intervention publique dans le budget des moyens financiers est liquidée sous forme de "douzièmes", c'est-à-dire que chaque hôpital reçoit chaque mois, et ce à partir du 1er juillet de chaque année jusqu'au 30 juin de l'année suivante, un montant par mois qui correspond à l'intervention publique dans son budget individuel réparti sur 12 mois. Après avoir révisé les montants alloués à l'aide des données comptables collectées a posteriori, l'éventuel trop-perçu est imputé sur le budget de l'hôpital en question.

Le contrôle des hôpitaux qui reçoivent une compensation du budget des moyens financiers est effectué à différents niveaux. La loi prévoit tout d'abord un contrôle externe obligatoire par le réviseur d'entreprise. [10] Enfin, la loi sur les hôpitaux prévoit le contrôle par les inspecteurs désignés à cet effet, sans préjudice des attributions de police judicaire, en cas de fraude ou délit. [11]

Le contrôle effectué par les fonctionnaires se fait à deux niveaux. Ainsi, une inspection financière est organisée. D'une part, elle contrôle et valide un certain nombre de données avant l'octroi du subside et, d'autre part, elle contrôle les hôpitaux sur place afin de vérifier l'exactitude des données financières communiquées par la suite.
Par ailleurs, un contrôle des données médicales[12], qui servent en partie de base à la détermination du niveau d'activité de l'hôpital, et donc également au calcul de la compensation, est aussi effectué.

Le BMF est fixé "a priori" sur la base des données connues. Lors de la prise de connaissance des données réelles de l'exercice concerné, certains éléments du budget sont revus pour tenir compte des données réelles.
L'article 92 de l'arrêté "financement" du 25 avril 2002 fixe de manière transparente les éléments qui sont soumis à révision.

La loi sur les hôpitaux prévoit également un mécanisme permettant la transparence financière au sein de l'hôpital, en vertu de l'article 93 de la loi sur les hôpitaux pour ce qui concerne le Conseil d'Entreprise, et de l'article 143 de la loi sur les hôpitaux pour ce qui concerne la transparence vis-à-vis du Conseil médical.

II) SPECIFIC TO THE FLEMISH COMMUNITY

There has been no overcompensation of hospitals or hospital services. It can be said that, even

[10] Arttn. 86 à 91 loi sur les hôpitaux
[11] Article 127 loi sur les hôpitaux
[12] Il s'agit ici du Résumé clinique minimum (RCM) enregistré par patient et par admission dans l'hôpital. De la sorte, l'autorité peut notamment vérifier combien d'admissions et d'interventions effectue un hôpital par an.

with the VIPA subsidies included in the calculation, there is still undercompensation for hospital services.

The controls to ensure proper use of utilisation grants awarded are carried out by VIPA officials (building technology consultants and financial analysts) and by officials from the Agency for Care and Health (doctors/paramedics who are responsible for providing functional advice). In each case, following the application for payment of an utilisation grant, an on-site check is scheduled during construction of an infrastructure subsidised by the VIPA. The report on and conclusions from these checks form the basis for the final calculation of the amount of the utilisation grant, since the amount previously calculated and assumed for the annual utilisation grant to be received may still change as a result of infringements or deficiencies which come to light during these checks.

The VIPA Sector Decree provides that, in principle, for a period of 20 years after a subsidised project has come into operation, no investment subsidies can be obtained for the same project.

The VIPA rules lay down minimum periods during which the hospital should have a right in rem or a right of enjoyment over the subsidised project. During this minimum period, consent must be obtained from the VIPA or the Minister for any transfer, encumbrance with right in rem or right of enjoyment or change of use (Article 87(1) of the Flemish Government Decree of 18 March 2011 laying down rules for the alternative investment subsidies granted by the VIPA). The minimum period for works is 25 years (Article 12(1)(3) of the Decree of 23 February 1994 concerning the infrastructure for person-related matters).

In the event of infringement of the VIPA standards and conditions, the rules on public procurement or the standards for use, the VIPA subsidies granted are recovered in full (Article 88 of the Flemish Government Decree of 18 March 2011 laying down rules for the alternative investment subsidies granted by the VIPA) as stipulated in Article 13 of the Act of 16 May 2003 laying down the general conditions applicable to budgets, control of subsidies and to the accounting of communities and regions.

III) REGION WALLONNE

Pour les marchés de travaux, la subvention est mise à disposition par tranches :

- une première tranche de 30% du montant de la subvention dès qu'il a été passé commande des travaux et que ces derniers ont effectivement été entamés, ce qu'atteste le premier état d'avancement accompagné de la facture correspondante ;

- la seconde de 30% est mise à disposition dès que le total des états d'avancements et

factures présentés atteint le total de la première tranche ;

- la troisième tranche de 30% est mise à disposition dès que le total des états d'avancements et factures présentés atteint le total des 2 premières tranches ;

- le solde de la subvention est mise à la disposition du demandeur à l'approbation du compte final.

Pour les marchés d'équipement et mobilier, la subvention est payée sur présentation des factures. Référence légale : Arrêté du Gouvernement wallon du 15 mai 2008 fixant la procédure d'octroi des subventions destinées aux infrastructures et équipements des hôpitaux. En exécution de la Loi sur les hôpitaux, coordonnée le 10 juillet 2008.

IV) COMMON COMMUNITY COMMISSION

The competent CCC agencies supervise on-site checks or checks based on supporting documents of the correct compliance with the physical, engineering and qualitative standards, as well as the utilisation of the buildings.

The purpose and utilisation of the property that has received compensation may not change during a period that is at least equivalent to the duration of the financial write-off of the investment, except if and insofar as the property or the balance that still remains to be written off corresponding to the profits from its sale continue to be utilised for providing hospital services or for activities in the public interest, subject to express prior consent. In the case of infringements, the allocated compensation will be recovered proportionally.

Furthermore, allocated compensation will be recovered in the event that a project is not carried out or not put into operation within a reasonable implementation period.

V) COMMUNAUTE GERMANOPHONE

Les procédures d'attribution de subsides sont réglées par le décret du 18 mars 2002 relatif à l'infrastructure. Ce dernier a été précisé par plusieurs arrêtés d'exécution est d'application pour la Communauté germanophone. Pour les marchés d'équipement et mobilier, la subvention est payée sur présentation des factures. Pour les marchés de travaux, une trache de maximum 90% du subside peut être octroyé sur présentation des états d'avancement et factures. Le solde étant versé à la réception des travaux.

- Total amount of aid granted per calendar year

I) FEDERAL GOVERNMENT

Allocated budget of financial resources for the calendar years:

2014 : EUR 7,926,659,227.46

2015 : EUR 8,195,398,929.34

II) SPECIFIC TO THE FLEMISH COMMUNITY

2014: EUR 94,843,481.00

2015: EUR 337,096,776.55

III) REGION WALLONNE

Crédits engagements
Pour l'année 2014 :

=> Hôpitaux privés (ASBL) :4.375,00€ (1 bénéficiaires) ;

=> Hôpital psychiatriques : 1.248.000,00€ (1 bénéficiaire) ;

=> Hôpitaux publics : 202.500,00€ (2 bénéficiaires).

Emprunts CRAC pour l'année 2014 :

=> Hôpitaux publics : 2.752.775,00€ (6 bénéficiaires) ;

=> Hôpitaux privés : 2.998.700,00€ (7 bénéficiaires);

Pour l'année 2015:

=> Hôpitaux privés (ASBL) : 511.825,00 (3 bénéficiaires) ;

=> Hôpital psychiatriques : 0€ (0 bénéficiaires) ;

=> Hôpitaux publics : 0€ (0 bénéficiaires).

Emprunts CRAC pour l'année 2015 :

=> Hôpitaux publics : 11.017.550,00€ (11 bénéficiaires) ;

=> Hôpitaux privés : 15.083.575,00€ (13 bénéficiaires);

IV) COMMON COMMUNITY COMMISSION

2014:

Appropriations for care institutions in the sector of person-related matters:
EUR 15,237,000

Investments in hospitals – pre-financing: EUR 0

2015:

Appropriations for care institutions in the sector of person-related matters:
EUR 14,697,000

Investments in hospitals – pre-financing: EUR 6,353,000

V) COMMUNAUTÉ GERMANOPHONE

2014: EUR 295,901.32

2015: EUR 608,252.31

(Seulement equipement)

- Other quantitative information

I) FEDERAL GOVERNMENT

	2013	2014	2015
Nombre d'hôpitaux par agrément		182	178
Nombre de lits agrées		69.280	69.104
Budget total octroyé		8.052.587.152	8.244.695.787

Budget moyen au 1/7		44.244.984	46.318.516
Total compte 700	7.602.130.990		
Moyenne du compte 700	39.801.733		

Compte 700 = chiffre d'affaires

Sources:

http://www.health.belgium.be/nl/gezondheid/organisatie-van-de-gezondheidszorg/ziekenhuizen/cijfers-en-rapporten

II) SPECIFIC TO THE FLEMISH COMMUNITY

Sources: Flemish Infrastructure Fund for Person-related Matters (VIPA) annual reports, 2009-2015
(http://www4wvg.vlaanderen.be/wvg/vipa/paginas/Jaarverslagen.aspx).

III) REGION WALLONNE

Plus ou moins 40 hôpitaux généraux et 20 hôpitaux psychiatriques sont agréés en Région wallonne.

En outre, il y a 15219 lits agréés dans les hôpitaux généraux et 4015 lits dans les hôpitaux psychiatriques.

IV) COMMON COMMUNITY COMMISSION

14 hospitals, spread over 29 sites.

Total number of beds as at 1 January 2015 (*):

- general + psychiatry: 8,756 beds
- PVT: 257 beds

(*) Source: CCC Administration

V) COMMUNAUTE GERMANOPHONE

Deux hôpitaux sont agrées en Communauté germanophone

Taux d'intervention :

La totalité des investissements d'infrastructure subsidiés répondant aux critères de priorité, les subsides octroyés y-afférents sont calculés sur base de 10 % du coût des travaux TVA et frais généraux compris. Les subsides octroyés pour l'équipement sont calculés sur base d'un pourcentage de 60% du coût des investissements, TVA comprise.

En 2014 et 2015 aucun projet d'infrastructure n' a été subsidié, seulement des subsides pour l'équipement ont été octroyés.

- **DIFFICULTIES WITH THE APPLICATION OF THE SGEI DECISION OR SGEI FRAMEWORK**

- **COMPLAINTS BY THIRD PARTIES**

The only complaint connected with State aid within the hospital sector is the complaint under file number SA.19864 relating to aid measure NN54/2009. This file is currently being examined by the services of the European Commission and relates to a complaint about aid received by the public hospitals in the Brussels Capital Region. However, this complaint is not connected with the SGEI as described in the Hospitals Act but with a specific SGEI under the legislation on public social welfare centres. Consequently, the complaint is only indirectly concerned with the financial resources budget of Belgian hospitals, which is the subject of this part of the report.

- **MISCELLANEOUS**