

Berlin, 23 June 2016

**Communication
from the Federal Government
of the Federal Republic of Germany
to the European Commission**

Subject: HT.2807 - Services of General Economic Interest: Report to be submitted on the basis of the 2012 SGEI Decision and the 2012 SGEI Framework

Reference: Letter from the European Commission dated 16 March 2016

On the basis of the information made available to it by the German authorities, the Federal Government hereby submits a report pursuant to Article 9 of the 2012 SGEI Decision and paragraph 62 of the 2012 SGEI Framework for 2014 and 2015.

One federal state has only submitted information on social housing to the Federal Government. The remaining information will be forwarded as soon as possible.

Although this report does not contain any confidential information, the annexes are not intended for publication.

1. Expenditure overview

According to the information made available to the Federal Government by the German authorities, aid granted on the basis of the SGEI Decision amounted to approximately EUR 3 109 million in 2014 and EUR 3 013 million in 2015. A gross subsidy equivalent was not available for individual sureties, which have therefore been omitted (see further details below).

Aid granted on the basis of the SGEI Framework amounted to approximately EUR 15.27 million in 2014 and EUR 17.14 million in 2015.

2. Description of the application of the 2012 SGEI Decision

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

Explanation of 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.

Please refer to the 2011 report for details of Germany's hospital financing system and the specific details of university hospital financing.

Entrustments were used in the following areas in particular:

- Medical care services (e.g. medical care for inpatients treated at the relevant hospital with all associated individual services; medical investigations and treatment for outpatients treated at the relevant hospital with all associated individual services).
- Emergency services.
- Ancillary services directly associated with the principal activities (e.g. basic and advanced training in hospital professions; training of medical students; operation of laboratories, hospital pharmacies and blood banks; catering services for patients; operation of canteens for employees; rental and leasing of housing and parking spaces for employees, visitors and patients).
- Telemedicine projects.
- Establishment and expansion of a cord blood bank.
- Poisons information centre/poisons hotline.

Explanation of the (typical) forms of entrustment. If standardized templates for entrustments are used for a certain sector, please attach them.

There is no typical form of entrustment: entrustments are made by a variety of means including administrative acts, (shareholder) agreements, legislation, by-laws and decisions by the relevant municipal decision makers.

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

SGEI are frequently entrusted for a period of 10 years, but in some cases, e.g. as a result of substantial investment or the terms of sureties, for longer. Entrustments are typically made for an indefinite period in the case of university hospitals.

Explanation of whether (typically) exclusive or special rights are assigned to the undertakings.

Undertakings are not generally granted exclusive or special rights.

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

Subsidies, loans and sureties are frequently used, but a large number of other aid instruments are also used.

Typical compensation mechanism as regards the respective services and whether a methodology based on cost allocation or the net avoided cost methodology is used.

Compensation mechanisms are based mainly on budgets, mostly on the basis of the cost allocation methodology.

Typical arrangements for avoiding and repaying any overcompensation.

Checks are typically carried out using statements of expenditure, which form part of audited annual financial statements.

A short explanation of how the transparency requirements (see Article 7 of the 2012 SGEI Decision) for the aid above 15 million euro 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).

In the event that aid of more than EUR 15 million is granted, the transparency requirements are met in particular through publication on the Internet of budget legislation and budget plans adopted by the federal states and decisions adopted by the relevant municipal decision makers.

Amount of aid granted

According to the information made available to the Federal Government by the German authorities, aid granted by the federal states and the municipalities amounted to approximately EUR 1 439 million in 2014 and EUR 1 170 million in 2015. Sureties and letters of comfort amounting to approximately EUR 228 million (2014) and EUR 180 million (2015) were also granted in the reporting period, although no information is available on the gross subsidy equivalent.

(2) Social services (Article 2(1)(c))

(a) Health and long-term care

Explanation of 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.

Entrustments were made in the following areas:

- Full-time inpatient care of elderly people, younger patients suffering from neurological disorders and patients requiring mechanical ventilation; part-time inpatient care of elderly people; inpatient treatment of persons with multiple severe disabilities; inpatient treatment of mentally disabled persons; full-time inpatient treatment of women suffering from mental illness; full-time inpatient

- treatment and care of elderly people with chronic mental health conditions; workshops for disabled persons.
- Nursing services and provision and operation of retirement and care homes; emergency response service.
 - Nursing care; full-time and part-time catering and accommodation for persons requiring care; other services in the field of elderly care and nursing.
 - Provision of inpatient care services for long-term and short-term care and part-time inpatient care services in the form of daycare; social services and medical treatment, accommodation and catering; operation of part-time inpatient, outpatient and inpatient rehabilitation and nursing facilities.
 - Provision and operation of care institutions for elderly persons and persons requiring care, in particular retirement homes and elderly care homes including short-term care and daycare; services in the field of elderly care.
 - Professional development in palliative care; measures and projects for addiction prevention and addiction counselling; measures and projects for HIV/AIDS prevention; telemedicine projects and centres; establishment and operation of health regions; establishment and expansion of a cord blood bank; construction of a retirement home.
 - Training of paramedics.

Explanation of the (typical) forms of entrustment. If standardized templates for entrustments are used for a certain sector, please attach them.

Entrustments are made in particular by means of administrative acts, agreements and (municipal) decisions.

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

There is no typical duration for entrustments. A duration of 30 years was agreed in one case due to the high level of investment involved. Entrustments are also made for indefinite periods.

Explanation whether (typically) exclusive or special rights are assigned to the undertakings.

The undertakings are not generally granted exclusive or special rights.

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

The main compensation mechanisms used were subsidies, loans, sureties and capital contributions.

Typical compensation mechanism as regards the respective services and whether a methodology based on cost allocation or the net avoided cost methodology is used.

Particular use is made of annual loss compensation mechanisms or the compensation of specific expenditure. Cost allocation methodology is used in the majority of cases.

Typical arrangements for avoiding and repaying any overcompensation.

Checks are typically carried out using the statements of expenditure which form part of audited annual financial statements, with separate accounts being kept if necessary.

A short explanation of how the transparency requirements (see Article 7 of the 2012 SGEI Decision) for the aid above 15 million euro 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 aid of more than EUR 15 million was granted.

Amount of aid granted

According to the information made available to the Federal Government by the German authorities, aid granted by the federal states and the municipalities amounted to approximately EUR 79.95 million in 2014 and EUR 83.70 million in 2015.

(b) Childcare

Explanation of 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.

Entrustments are made primarily in childcare in kindergartens, daycare facilities and educational and childcare services in primary schools providing wrap-around care.

Explanation of the (typical) forms of entrustment. If standardized templates for entrustments are used for a certain sector, please attach them.

Entrustments are made by means of administrative acts, agreements, by-laws and (municipal) decisions.

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

A duration of 10 years is frequently used for entrustments. In some cases, entrustments are made for a duration of up to 25 years or an indefinite period.

Explanation whether (typically) exclusive or special rights are assigned to the undertakings.

Undertakings are not generally granted exclusive or special rights.

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

Particular use has been made of subsidies and sureties.

Typical compensation mechanism as regards the respective services and whether a methodology based on cost allocation or the net avoided cost methodology is used.

According to the information provided to the Federal Government by the German authorities, a non-cost-covering allocation is made for each child in childcare programmes. A cost allocation methodology is generally used as a basis.

Typical arrangements for avoiding and repaying any overcompensation.

Checks are typically carried out using statements of expenditure, in some cases in conjunction with annual financial statements.

A short explanation of how the transparency requirements (see Article 7 of the 2012 SGEI Decision) for the aid above 15 million euro 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 aid of more than EUR 15 million was granted.

Amount of aid granted

According to the information made available to the Federal Government by the German authorities, the aid granted amounted to approximately in EUR 349.50 million in 2014 and EUR 380.11 million in 2015. Sureties amounting to approximately EUR 1.2 million (2014) and EUR 1.99 million were also granted, although no information is available on the gross subsidy equivalent.

(c) Access to and reintegration into the labour market

Explanation of 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.

Entrustments were made in the following areas:

- Operation of a non-public-sector institution providing further education and skills development for disadvantaged persons.
- Social-pedagogical counselling and care; general education and job readiness skills; training; funding for persons undergoing training; further and continuing training; social and debt counselling.
- Skills development and projects for helping people to enter or re-enter the labour market; support and care for young people transitioning from school to work; public service employment offers for asylum seekers; employment and skills development programmes for job seekers from a migrant background; employment and skills development programmes for job seekers with physical and/or mental disabilities.
- Partial payment of wages for long-term unemployed persons for whom it is particularly hard to find a job and who are not expected to enter the general labour market within the allocation period (public-service outside the primary labour market); supplementary wage cost subsidies for elderly employees and supplementary material cost subsidies for employment institutions (provided the employment institution abides by not-for-profit principles).
- Helping women from a migrant background to enter the labour market; low-threshold participation for (long-term) unemployed persons; advice and assistance with job search measures, increasing societal participation; grassroots education offers targeted at specific groups; assistance with job applications and the search for suitable employers; entry into the labour market; expert discussions with multipliers at local level.
- Measures to improve employment conditions for women and to mitigate the impacts of demographic change for medium-sized enterprises by encouraging SMEs to employ women; work/life balance advisory services and support; measures for lasting integration into the workforce, adaptability to change and equal access to lifelong learning.
- Projects to support individual integration; vocational skills development projects to boost employability and increase adaptability to social, technical and economic change; vocational integration projects to improve equal opportunities, projects to improve work/life balance and projects to investigate or support social and vocational integration measures.

Explanation of the (typical) forms of entrustment. If standardized templates for entrustments are used for a certain sector, please attach them.

Entrustments are made mainly by means of administrative acts, agreements and (municipal) decisions.

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

There is no typical duration for entrustments. No entrustments were made for a duration exceeding 10 years.

Explanation whether (typically) exclusive or special rights are assigned to the undertakings.

The undertakings are not generally granted exclusive or special rights.

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

Subsidies and in some cases loans are used, as well as the transfer without consideration of staff, materials and services.

Typical compensation mechanism as regards the respective services and whether a methodology based on cost allocation or the net avoided cost methodology is used.

Particular use is made of annual loss compensation mechanisms. Cost allocation and net avoided cost methodologies are used.

Typical arrangements for avoiding and repaying any overcompensation.

Checks are typically carried out using statements of expenditure, for example as part of audited annual financial statements.

A short explanation of how the transparency requirements (see Article 7 of the 2012 SGEI Decision) for the aid above 15 million euro 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 aid of more than EUR 15 million was granted.

Amount of aid granted

According to the information made available to the Federal Government by the German authorities, the aid granted amounted to approximately EUR 1.99 million in 2014 and EUR 59.02 million in 2015. In addition, an overdraft facility for a nominal amount of EUR 1.3 million (2014 and 2015) was made available.

(d) Social housing

Explanation of 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.

Entrustments were carried out in relation to measures aimed at safeguarding and improving the supply of housing for population groups whose income prevents them from finding appropriate accommodation on the open housing market (in particular low-income households, families with children, single parents, pregnant women and elderly and disabled persons). Target groups are defined on the basis of income thresholds in the vast majority of cases, with proof of compliance requested on a case-by-case basis. The service is aimed at increasing the supply of social housing through building new stock or purchasing and modernising existing rental stock, resulting in a lasting increase in the practical value of rented apartments or buildings, long-term improvements in general living conditions and reduced consumption of energy and water, which also reduces the amount paid for utilities. In view of the ageing structure of society, the promotion of social housing also covers support for accessible buildings and living environments appropriate for the elderly, such as housing for groups with particular care needs or sheltered housing. In order to further benefit the groups targeted by measures to promote social housing, agreements can also be reached to take over responsibility for other commercial housing, construction and social measures, in particular those aimed at improving living environments, eliminating social problems and developing neighbourhoods. The service provider (commercial housing company/lessor) makes available housing which is rented out at a discount to the aforementioned target group.

Explanation of the (typical) forms of entrustment. If standardized templates for entrustments are used for a certain sector, please attach them.

Entrustments are generally made by means of administrative acts.

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

The duration of entrustments is generally between 10 and 30 years due to the high investment sums involved and the long refinancing term. Loans for the construction of rental properties are not granted for terms of less than 10 years as a general principle, so the proportion of entrustments with a duration exceeding 10 years is very high.

Explanation whether (typically) exclusive or special rights are assigned to the undertakings.

Undertakings are not generally granted exclusive or special rights.

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

The promotion of social housing is structured by individual properties. Funding is granted on the basis of low-interest loans, partial construction subsidies, the underwriting of sureties and other guarantees, the provision of low-cost land for building or a combination of these funding methods. The most frequently used funding instruments are long-term low-interest loans or subsidies.

Typical compensation mechanism as regards the respective services and whether a methodology based on cost allocation or the net avoided cost methodology is used.

A net avoided cost methodology is generally followed. Compensation payment levels are based on an objective and transparent ex ante procedure as follows; when funding programmes are adopted, the conditions which are put in place in order to calculate the level of net compensation costs in each individual case are designed in such a way that the economic disadvantages incurred as a result of the public service obligation associated with the funding are compensated for throughout the term of the rent and occupancy commitment. Compensation is provided for the revenue losses caused by the difference between capped rent levels and market rates, the increased costs associated with tenant services, maintenance and administration as result of the occupancy commitment and any increased costs due to special design requirements at the construction stage (e.g. accessible housing). The level of aid is determined on the basis of the conditions in the relevant housing market (using all available data and research reports on land prices, construction costs and market rents).

Typical arrangements for avoiding and repaying any overcompensation.

The funding programmes stipulate the general requirements to be met as regards both public service obligations and the calculation of compensation payments. Within this framework, the awarding authority calculates the specific compensation payments for each property on the basis of the relevant circumstances, ensuring that the recipient has not been overcompensated for the public service obligations described. Typical precautionary measures include not only the imposition of particular public service obligations on the undertaking, but also the establishment of a legal basis on an ex ante basis, either in legislation or in the funding notice, with a view to ensuring that the undertaking has strictly complied with its obligations towards other undertakings and social tenants and taking action in the event of a failure to do so (including obligations to provide information, to allow the inspection of documents and to grant access to land, buildings and apartments). It is also possible to initiate administrative proceedings in the event of infringements and to impose penalties on the grounds that an undertaking has thereby failed in part to realise the intended purpose of the subsidy. Furthermore, it is also possible to revoke (in part) the funding and to claim back funding which has already been approved. Statutory time periods for the rent and occupancy commitments are specified in advance to cover instances where loans are repaid prematurely or an undertaking becomes bankrupt.

A short explanation of how the transparency requirements (see Article 7 of the 2012 SGEI Decision) for the aid above 15 million euro 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).

The level of aid is generally well below EUR 15 million. In the exceptional cases where aid exceeding EUR 15 million is granted to undertakings engaged in other activities outside the area of SGEI, transparency requirements are met (e.g. by maintaining a transparency database).

Amount of aid granted

According to the information made available to the Federal Government by the German authorities, the aid granted by the federal states and municipalities amounted to approximately EUR 608.55 million in 2014 and EUR 628.61 million in 2015.

(e) Care and social inclusion of vulnerable groups

Explanation of 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.

According to the information made available to the Federal Government by the German authorities, entrustments were made in the following areas in particular:

- Inclusion-related projects.
- Promotion of social infrastructure; promotion of elderly and youth welfare services; projects to support vulnerable persons; social inclusion, anti-poverty and anti-discrimination measures.
- Institutions providing care, support and education for various socially disadvantaged groups.
- Establishment, operation and maintenance of decentralised urban services and facilities for the provision of youth welfare services; basic and advanced training, skills development, counselling and advisory services, care and employment support, in particular for disadvantaged persons.

Explanation of the (typical) forms of entrustment. If standardized templates for entrustments are used for a certain sector, please attach them.

The entrustments are made in particular by means of (shareholder) agreements, administrative acts and/or (municipal) decisions.

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

There is no typical duration for entrustments. Only one entrustment (for 23 years) exceeded a duration of 10 years, due to the fact that the lease contract between the entrustee and the landowner still had a term of 23 years at the time of the entrustment.

Explanation whether (typically) exclusive or special rights are assigned to the undertakings.

Undertakings are not granted exclusive or special rights.

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

Undertakings are generally granted subsidies.

Typical compensation mechanism as regards the respective services and whether a methodology based on cost allocation or the net avoided cost methodology is used.

According to the information made available to the Federal Government by the German authorities, use is made of annual loss compensation mechanisms or subsidies up to the level of individual eligible items. A cost allocation methodology is used as a basis.

Typical arrangements for avoiding and repaying any overcompensation.

Checks are typically carried out on the basis of statements of expenditure, frequently within the framework of audited annual financial statements.

A short explanation of how the transparency requirements (see Article 7 of the 2012 SGEI Decision) for the aid above 15 million euro 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 aid exceeding EUR 15 million was granted.

Amount of aid granted

According to the information made available to the Federal Government by the German authorities, the aid granted amounted to approximately EUR 22.29 million in 2014 and EUR 30.02 million in 2015. Around EUR 5.87 million was paid for by the Federal Government (2015).

(3) Air or maritime links to islands with average annual traffic below the limits set in Article 2(1)(d)

According to the information made available to the Federal Government by the German authorities, no aid is granted in this sector on the basis of the SGEI Decision.

(4) Airports and ports with average annual traffic below the limit set in Article 2(1)(e)

Explanation of 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.

According to the information made available to the Federal Government by the German authorities, entrustments are made in relation to the following services:

- Promotion and improvement of traffic conditions for civil aviation and aviation/gliding sports.
- Promotion of the aviation sector, in particular air transport and sports aviation and ensuring the accessibility by air of a region by operating an airfield.
- Planning, construction, maintenance and operation of a port approved for heavy loads, including the port superstructure.

Explanation of the (typical) forms of entrustment. If standardized templates for entrustments are used for a certain sector, please attach them.

According to the information made available to the Federal Government by the German authorities, entrustments are made by means of administrative acts or (municipal) decisions in conjunction with administrative acts.

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

Entrustments are made on an annual basis, for 10 years (airports) or for 20 years (ports).

Explanation whether (typically) exclusive or special rights are assigned to the undertakings.

Undertakings are not granted exclusive or special rights.

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

Subsidies, 'loss coverage payments' and 'credit guarantees' are used.

Typical compensation mechanism as regards the respective services and whether a methodology based on cost allocation or the net avoided cost methodology is used.

Particular use is made of annual loss compensation mechanisms or a reference in the budget.

Typical arrangements for avoiding and repaying any overcompensation.

According to the information provided to the Federal Government by the German authorities, checks are carried out on the basis of the annual financial statements submitted by the undertakings.

A short explanation of how the transparency requirements (see Article 7 of the 2012 SGEI Decision) for the aid above 15 million euro 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 aid of more than EUR 15 million was granted.

Amount of aid granted

According to the information made available to the Federal Government by the German authorities, the aid granted amount to approximately EUR 0.62 million (airports) or EUR 1.06 million (port) in 2014 and EUR 0.61 million (airports) and EUR 0.87 million (port) in 2015.

(5) SGEI compensation not exceeding EUR 15 million per year (Article 2(1)(a))

(i) Postal services

According to the information made available to the Federal Government by the German authorities, no aid is granted in this sector on the basis of the SGEI Decision.

(ii) – (iv) Energy, waste collection, water supply

Please note that there is an overlap here with the services referred to under ‘vii) Other sectors’.

Explanation of 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.

According to the information made available to the Federal Government by the German authorities, entrustments are made in the following areas:

- Safeguarding the supply of (district) heat and the generation of electricity; planning, constructing and operating power generation facilities; environmental protection

- projects, e.g. in the field of energy conservation, and Agenda 21 projects, e.g. activities aimed at increasing resource efficiency.
- Safeguarding the supply of energy from renewable sources and energy advice, including events and collaborative projects.
 - Supply of energy, heat and water and provision of energy, heat, supply and disposal services, operation of public swimming pools, provision of parking spaces/operation of parking facilities.
 - Supply of water and energy, waste disposal.
 - Waste disposal and recycling.
 - Supply of drinking and extinguishing water.

Explanation of the (typical) forms of entrustment. If standardized templates for entrustments are used for a certain sector, please attach them.

According to the information made available to the Federal Government by the German authorities, entrustments are made by means of administrative acts, (shareholder) agreements or (municipal) decisions.

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

Entrustments are frequently made for a period of 10 years, or for 20 years in one case (on the basis of the term of a guaranteed loan) and 25 years in another case (amortisation period for significant investments).

Explanation whether (typically) exclusive or special rights are assigned to the undertakings.

Undertakings are not granted exclusive or special rights.

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

Use is made of sureties, subsidies and the transfer without consideration of land.

Typical compensation mechanism as regards the respective services and whether a methodology based on cost allocation or the net avoided cost methodology is used.

According to the information made available to the Federal Government by the German authorities, use is made of 'calculations to identify the level of compensation', 'exclusively shortfall financing' and the 'compensation of losses on the basis of consolidated taxation through the offsetting of deficits against profits from the trustee's supply operations'. Both net avoided cost methodologies and cost allocation methodologies are used.

Typical arrangements for avoiding and repaying any overcompensation.

Checks are frequently carried out on the basis of statements of expenditure, often as included in audited annual financial statements.

A short explanation of how the transparency requirements (see Article 7 of the 2012 SGEI Decision) for the aid above 15 million euro 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, since Article 7 of the SGEI Decision applies only if the compensation for an individual SGEI exceeds EUR 15 million, which is not the case for 'other' compensated services (Article 2(1)(a)).

Amount of aid granted

According to the information made available to the Federal Government by the German authorities, the aid granted at federal state and/or municipal level amounted to approximately EUR 27.96 million in 2014 and EUR 17.37 million in 2015, although figures were not yet available for 2015 in some cases.

(v) Culture

Please note that there is an overlap here with the services referred to under 'vii) Other sectors'.

Explanation of 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.

According to the information made available to the Federal Government by the German authorities, entrustments were made in the following areas in particular:

- Promotion of art and culture, in particular by operating or promoting institutions and organising or promoting events, in particular in the fields of theatre, music, dance, plastic arts, literature, film making, adult education, museums and exhibitions, cultural, conference, congress and event centres, libraries, sociocultural measures, cultural education, promotion of urban tourism, zoological gardens.
- Operation of a cultural and communications centre; promotion of art and culture by operating various types of theatre; promotion of affordable cultural education and culture; provision of premises for commercial events as part of public infrastructure.
- Operation of festival halls, concert halls, theatres, culture and communications centres, etc.

- Operation of cultural facilities, organisation and management of cultural events; collaboration with or positioning within tourism-related committees, establishment of networks and links to partners and multipliers; development and marketing of themed events; provision of general information and advice on tourist services; operation and maintenance of a website and event calendar; PR work as part of tourism marketing; preparation of or involvement in the organisation of markets.
- Provision of premises for holding cultural events, planning, support and setting up of cultural events and care and preservation of regional cultural assets by establishing and operating appropriate facilities (including providing and operating cultural and congress centres).
- Funding of theatres and orchestras; purchase, restoration, modernisation and repair, as well as rental, leasing and management of real estate in order to provide cultural services and tourist information services to the public; establishment, maintenance and operation of a museum.
- Provision and operation of public facilities for cultural and sporting activities.
- Provision and operation of cultural, social and commercial public facilities; promotion of musical education; operation of an exhibition space for energy-related topics; promotion of an undertaking engaged in cultural and socio-political measures and the area of structural and economic policy.

Explanation of the (typical) forms of entrustment. If standardized templates for entrustments are used for a certain sector, please attach them.

According to the information made available to the Federal Government by the German authorities, entrustments are made in particular by means of administrative acts, (shareholder) agreements or (municipal) decisions.

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

According to the information made available to the Federal Government by the German authorities, there is no typical average duration of entrustment. No entrustments were made for a duration of more than 10 years.

Explanation whether (typically) exclusive or special rights are assigned to the undertakings.

Undertakings are not granted exclusive or special rights.

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

Particular use is made of subsidies, sureties, loans, capital contributions, membership fees, letters of comfort and the transfer of staff and premises.

Typical compensation mechanism as regards the respective services and whether a methodology based on cost allocation or the net avoided cost methodology is used.

There is no typical compensation mechanism. Frequent use is made of (annual) loss compensation mechanisms or the compensation of specific expenditure. Both net avoided cost methodologies and cost allocation methodologies are used.

Typical arrangements for avoiding and repaying any overcompensation.

Checks are frequently carried out using statements of expenditure, often as part of audited annual financial statements.

A short explanation of how the transparency requirements (see Article 7 of the 2012 SGEI Decision) for the aid above 15 million euro 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, since Article 7 of the SGEI Decision applies only if the compensation for the same SGEI exceeds EUR 15 million, which is not the case if there are other compensation services (Article 2(1)(a)).

Amount of aid granted

According to the information made available to the Federal Government by the German authorities, the aid granted (mainly by municipalities) amounted to approximately EUR 150 million in 2014 and EUR 171 million in 2015.

(vi) Financial services

Explanation of 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.

One entrustment was made through funding an SGEI task by taking on debt on the capital market and channelling the relevant funds to infrastructure projects or to municipal companies carrying out public tasks such as the supply of electricity, heat and gas.

Explanation of the (typical) forms of entrustment. If standardized templates for entrustments are used for a certain sector, please attach them.

Entrustments were carried out by means of municipal council resolutions.

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

The duration of entrustment is 10 years.

Explanation whether (typically) exclusive or special rights are assigned to the undertakings.

Undertakings are not granted exclusive or special rights.

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

A capital contribution is used as an aid instrument.

Typical compensation mechanism as regards the respective services and whether a methodology based on cost allocation or the net avoided cost methodology is used.

Compensation payments are calculated on the basis of annual budgets. A cost allocation methodology is used.

Typical arrangements for avoiding and repaying any overcompensation.

The avoidance and repayment of overcompensation is ensured by the submission of annual financial statements and auditing by the municipal auditing association.

A short explanation of how the transparency requirements (see Article 7 of the 2012 SGEI Decision) for the aid above 15 million euro 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, since Article 7 of the SGEI Decision applies only if the compensation for the same SGEI exceeds EUR 15 million, which is not the case if there are other compensation services (Article 2(1)(a)).

Amount of aid granted

A capital contribution of EUR 0.02 million was made in 2014.

(vii) Other sectors

Explanation of 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.

According to the information made available to the Federal Government by the German authorities, entrustments are made in the following areas:

- Promotion of economic development (including location marketing; market research; advice and support for companies; establishment and operation of centres for commerce, technology, business start-ups and science; development and marketing of commercial property; measures to support inner-city development, in particular in the retail sector; activities aimed at business start-ups; holding of exhibitions, conferences and trade fairs and the establishment and operation of buildings and spaces suitable for such events; further training and skills development for experts and managers from countries relevant in terms of foreign trade).
- Promotion of tourism (including marketing; market research; operation of tourist facilities; running tourist activities, events, conferences and congresses; cultural attractions, provision of tourism agency services; operation of spa resorts).
- Management of parking spaces (including providing and operating non-profitable parking facilities such as car parks, multi-storey car parks and underground car parking).
- Establishment and operation of traffic infrastructure (bicycle rental system, park & ride systems, multi-storey car parks).
- Trade fairs and congresses (holding trade fairs, city and public festivals, event management, providing and renting premises).
- Provision and operation of meeting and event premises.
- Promotion of commercial districts (planning, purchase, development, maintenance and marketing).
- Support services for start-up biotech companies.
- Establishment of a collaboration platform for companies, universities and other institutions aimed at projects, research and basic and advanced training in the field of logistics and mobility (providing real estate and funding for research projects).
- Implementation of an urban mobility plan (including maintenance of infrastructure for public urban transport, provision of transport services in the form of 'dial-a-ride' taxis, public urban transport advice).
- Implementation of transport operations (providing transport services, procurement and repairs); transport management (timetabling, operational transport organisation, consultancy on mobility matters, marketing, sales); planning and provision of fixed infrastructure.
- Provision of public transport services.
- Operation of ports/dock railways and management of real estate; commercial shipping operations and tourist excursions by sea.

- Inland ports (provision and operation of public infrastructure).
- Care and maintenance of a harbour facility including bodies of water, footbridges and other installations for the operation of recreational craft.
- Promotion of sports (including promoting mass and elite sport, providing sports facilities and stadiums, sports marketing, operating a residential sports academy, developing projects aimed at creating structures for the use of 'new media' and establishing their application).
- Swimming pools (e.g. operating indoor swimming pools, leisure pools and outdoor swimming pools with affordable entrance charges; providing facilities for school and club swimming sessions).
- Operation of music schools.
- Operation of adult education centres.
- Management of an accommodation, conference and further training facility and an adult education centre.
- Funding of a student support service.
- Student care and support (inter alia by means of social and financial advice, canteen-based catering, subsidised halls of residence).
- Operation of a canteen kitchen, meal delivery service, operation of sales outlets for pupils, care workers and teachers to buy healthy snacks at break time.
- Youth hostels (investment incentives).
- Education (ensuring that young unemployed people with no vocational qualifications are able to learn and employable).
- Further training after completion of an initial period of education at school, a vocational training institution or university.
- Operation of zoos and wildlife parks.
- Railway infrastructure (taking on a duty to ensure public safety, guaranteeing that a section of track is usable, providing infrastructure for railway transport at a museum, pedal trolley trips and other historical forms of rail transport).
- Urban redevelopment and regeneration (including restoration of part of an historic town centre destroyed in the war).
- Operation of festival halls, culture and leisure parks (e.g. for concerts, carnival events, exhibitions, shows, conferences, markets and trade fairs).
- High-quality television programmes by local and regional broadcasters.
- Consumer protection (including energy consulting; promoting consumer advice centres).
- Nature and landscape conservation.
- Operation of a treetop path (forest recreation and forest school).
- Climate protection (including providing information, developing educational programmes, PR activities and networking).
- Care and upkeep of beaches and adjacent green spaces.
- Land bank activities (settlement measures, agrarian structure improvements and land development measures).
- Emergency services (operation of an emergency call centre).
- Expansion of broadband services.

- Activities linked to applications by one or more hospitals to join European reference networks.

Explanation of the (typical) forms of entrustment. If standardized templates for entrustments are used for a certain sector, please attach them.

Entrustments are typically made in the form of administrative acts, agreements, by-laws and (municipal) decisions.

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

There is no typical average duration for which entrustments are made, but a duration of 10 years is relatively common. Entrustments lasting more than 10 years or which are made for an indefinite period represent the exception.

Explanation whether (typically) exclusive or special rights are assigned to the undertakings.

Undertakings are not generally granted exclusive or special rights.

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

Particular use is made of subsidies, guarantees, loans, capital contributions, membership fees, letters of comfort and the provision of staff and premises.

Typical compensation mechanism as regards the respective services and whether a methodology based on cost allocation or the net avoided cost methodology is used.

There is no typical compensation mechanism. In many cases, an (annual) loss is compensated on the basis of separate accounting, or specific expenses are compensated. The cost allocation methodology is followed in the vast majority of cases.

Typical arrangements for avoiding and repaying any overcompensation.

Checks are typically carried out on the basis of statements of expenditure, frequently within the framework of audited annual financial statements.

A short explanation of how the transparency requirements (see Article 7 of the 2012 SGEI Decision) for the aid above 15 million euro 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, since Article 7 of the SGEI Decision applies only if compensation for a single SGEI exceeds EUR 15 million, which is not the case for other compensation (Article 2(1)(a)).

Amount of aid granted

According to the information made available to the Federal Government by the German authorities, the aid granted amounted to approximately EUR 428.12 million in 2014 and EUR 471.41 million in 2015; in certain cases, figures are still not available for 2015.

3. Description of the application of the 2012 SGEI Framework

Please refer to the annexes relating to Commission Decision NN 8/2009 of 2 July 2009.

4. Complaints by third parties

The Federal Court of Justice handed down its ruling in the proceedings brought by private hospital operators against the District of Calw (see 2014 report for further details of the case) on 24 March 2016, but has not yet published the grounds for the decision. In response to the appeal by the BDPK [Bundesverband Deutscher Privatkliniken e.V., National Association of Private Hospitals in Germany], the Federal Court of Justice has referred the case back to the Court of Appeal for a new trial and decision insofar as the plaintiff appeals against the compensation of losses by district hospitals in 2012 and 2013, but for the remainder rejects the appeal:

<http://juris.bundesgerichtshof.de/cgi-bin/rechtsprechung/document.py?Gericht=bgh&Art=pm&sid=d30b0931ee7c9ac8db2d1cbf26727946&nr=74137&pos=0&anz=2>.

5. Miscellaneous questions

(1) Paragraph 68 of the SGEI Communication

According to paragraph 68 of the SGEI Communication, 'Finally, there can be circumstances where a procurement procedure cannot allow for the least cost to the community as it does not give rise to a sufficient open and genuine competition ... Similarly, in the case of procedures where only one bid is submitted, the tender cannot be deemed sufficient to ensure that the procedure leads to the least cost for the community.'

According to paragraph 93 of the Commission Notice on the notion of State aid, *'If only one bid is submitted, the procedure would not normally be sufficient to ensure a market price, unless either (i) there are particularly strong safeguards in the design of the procedure ensuring genuine and effective competition and it is not apparent that only one operator is realistically able to submit a credible bid or (ii) the public authorities verify through additional means that the outcome corresponds to the market price.'* In this connection, the Federal Government wishes firstly to ask for confirmation that the stricter interpretation in paragraph 68 of the SGEI Communication (as per paragraph 230 of the Commission Notice on the notion of State aid) no longer applies pursuant to paragraph 93 of the Commission Notice on the notion of State aid. It secondly wishes to ask for specific details of ways in which compliance can be achieved with the requirements set out in (i) and (ii) of paragraph 93 of the Commission Notice on the notion of State aid.

(2) Planned cost approach also permitted under SGEI Decision

In the past, the Commission has taken the view that ex post checks of actual costs can be dispensed with for entrustments which meet the Altmark Trans criteria if it can be ensured that the price tendered is firstly a realistic cost forecast (the contracting body must check the cost forecast for plausibility, for example by comparing the planned cost estimates with proven past actual costs), and secondly does not include profits beyond a reasonable level.

As regards entrustments pursuant to the SGEI Decision, however, the Commission has argued to the effect that checks must be carried out at regular intervals (at least every three years) to ensure that undertakings which have been awarded tenders have not received payments exceeding real costs and appropriate profits (Article 6(1) of the SGEI Decision). Ex post checks of actual costs and profits generated are therefore necessary in order to detect cases of overcompensation.

In contrast, the General Block Exemption Regulation allows a choice between 'reasonable projections' or a claw-back mechanism. There is no apparent reason why it should only be necessary to carry out checks of actual costs in order to exclude cases of overcompensation under the SGEI Decision, and the provisions of the SGEI Decision should have a similar wording to those of the General Block Exemption Regulation (reasonable forecast or checks of actual costs).