

Social Services of General Interest - Questionnaire

At the beginning of this questionnaire we would like to give precise definition of the social services that is used in the Czech Republic so far (it is presented in the proposal of the Social Services Bill).

A social service is understood as an activity or set of activities providing assistance to persons in reduced social circumstances, i.e. assistance to persons who have lost their sustainability and protection against social exclusion, with an aim to enable them, to the maximum possible extent, to gear into the normal life of the community and to make normal use of other systems (such as housing, education, health care, employment services etc.).

Using other systems in social services means that the social services are the independent area; they are not viewed as a part of the overall complex together with health or other services.

Field 1 – Overview of the national SGI

1. What are the general characteristics of the national social SGI¹ with regard to e.g. the following points.

- **Organisation, design and structure (geographical, market structure, administrative level);**
- **financing (e.g. contributions, direct funding via government budget, payment of remuneration for the service, charity donations, mutualisation);**
- **service provider (e.g. state and local authorities, public enterprises, public-private partnership, voluntary non-profit organisations, role of volunteers, private enterprises);**
- **definition of tasks/obligations (what are these tasks/obligations and how are these laid down, i.e. contract, law or other);**
- **quality standards**

According to current definitions and specifications used at the EU level there are discussions in the Czech Republic in the field of the social services and it is not fully clear what should be understood by the term “services of general interest “. Several definitions exist (e.g. a definition in the White Paper, while a different one can be found on the website of the EC representation in the Czech Republic and yet another one in the EC Draft Directive on general interest services). Annex 1 of the White Paper on Services of General Interest notes itself that the term “general interest services” or “services of general interest” has not been contained in the Treaty and has been vaguely derived in practice from a more specifically defined term of

¹ This is the field where it is impossible to give an overview covering all different aspects. So it might be useful to place the services in comparable groups and treat these groups together. Member States are invited to concentrate on those services which seem most important or where the biggest uncertainty is noticeable.

“general economic interest services”, while, obviously, also services of “non-economic interest” exist that have not been established for the profit generation ends.

Existing ambiguities about the very term that is seen as a cornerstone and that should also be a focus of the discussion make an in-depth treatment of the topic impossible, in our view, while further steps should be considered. For that reason, we would suggest that perceptions of general interest services be consolidated in stage one and contents of the term specified in the best possible detail. Only then an actual discussion should be started on the range of services truly qualifying as the general interest services and whether or not, subject to their features, they can be further steered from the EU level.

Social services in the Czech Republic are currently provided predominantly through public entities (regions and municipalities) and non-governmental entities (non-governmental not-for-profit entities and private sector entities). Following the public administration reform, most of governmental entities providing social services were transferred into the jurisdiction of municipalities and regions. Municipalities and regions decide on enlarging social services in terms of the territory, demand, as well as the methods of management and organisation.

Primarily the National Action Plan of Social Inclusion (NAPSI) defines intents in the social services area. The most important tasks of social services include enabling the persons in the worst danger of social exclusion to remain within their natural environment, participate in the life of the community and to protect rights of such people.

National Quality Standards exist in the Czech Republic, issued by Ministry of Labour and Social Affairs (MoLSA) in 2002, which currently have the form of recommendations. Written as a result of several years of a structured consultation process with involvement by all stakeholder parties, including also users, the Standards are in fact widespread in practice. This has been aided both by the MoLSA activities (pilot inspections, support with subsidy titles) and by their use of certain regions, towns and provider organisations. Within the National Action Plan of Social Inclusion, the National Quality Standards serve one of the key tools of social inclusion and protection of vulnerable population groups. Their introduction will be, in conformity with NAPSI, supported both from MoLSA subsidy programmes and ESF. MoLSA has undertaken, under the relevant National Action Plan, to ensure equal access to the social services:

- promote increased quality of social services at the national, regional and local levels by introduction of the National Quality Standards (the goal: protection of human dignity and inclusion), promote development of services enabling to remain within the natural environment; and*
- provide equal access to the public resources for the social service providers who meet the quality standards.*

Types of services provided by the public authorities have been partly laid down by the Czech legislation. Objectives or their provision, definitions of their applicability and activities have been stipulated by the same legislation, too. Such specification, however, is no longer up-to-date and complete, as it has been limited practically only to certain types of services, while remaining larger part of services

lack such legislative stipulation. The latter applies predominantly to the services provided by non-governmental organisations, where a systematic solution has been missing even of their long-term financing, definition of objective, contents of the services and assurance of their quality. All efforts aimed at improved stipulation of the above areas have taken place outside legislation so far and the manner of provision of the said services is very much dependant on the responsible persons. Coverage by the service may develop without a system, and quality assurance is tied to provision of finance and responsibility of municipalities and regions.

In the volunteer work area, requirements are laid down by the Volunteer Service Act. All the same, the issues have been developing continuously and sundry activities are in progress that respond to problem situations arising from practical application of the above act.

Social services obtain multi-resource funding. Multi-source funding is one of the key principles of providing for social services. "A resource" in this case is understood to denote financial means allocated for social services funding. They include primarily public resources, matching/participation provided by the user (payments by the social service users), own funds of the provider and miscellaneous (gifts, in-kind settlements etc.). Public resources are categorised as specified purpose means from the State Budget and own receipts of regional and municipal budgets.

For operation of the social services facilities incorporated by them, regions receive financial means from the State Budget, earmarked for discharge of incorporator functions relating to social services facilities. In this case, financial means are transferred to regions from the Ministry of Finance level as part of a summary financial relationship, under the chapter State Budget General Treasury Administration. Allocation of the means to separate social service facilities is at the deliberation of the incorporator regions within their independent jurisdiction, i.e. the ways of distributing the above funds are reserved to sole powers of the regions.

A subsidy is furnished from the State Budget for operation of social care institutions and homes for the elderly incorporated and operated by municipalities; the subsidy amount is specified by the State Budget Act on the annual basis. For the period of 2004, the subsidy amounts to CZK 77 484 per bed per year for social care institutions with the year-round and weekly client stays, to CZK 41 690 per bed per year for social care institutions with day stays and to CZK 63 608 per bed per year for senior homes.

MoLSA has been administering a subsidy system for non-governmental not-for-profit organisations that provide social services. The subsidy system is based on evaluation of project proposals submitted to MoLSA by non-governmental not-for-profit organisations. The funding is provided for a year and reserved for specified purposes. The not-for-profit sector organisations, in addition to Government subsidies and subsidies by municipalities and regions can draw financial means from the European and other funds, foundation resources, collections and gifts.

In addition, MoLSA ensures overall financing from the State Budget of five institutional care facilities directly managed by MoLSA.

Regions and municipalities, using their own income, participate in social services financing. However, social services financing from the local and regional budgets represents a minority portion.

In 2004, users of separate social services shared by about 30% in covering the costs of provided services (the figure has been but an estimate).

On the overall, social services in the Czech Republic have not been sufficiently defined by the legislation. In view of the fact and its consequences, the Czech Ministry of Labour and Social Affairs has submitted a draft new legislation to stipulate provision of social services in both the government and non-governmental sectors – the substance of the Bill on Social Services (passed by the Government in November 2004). The draft legislation should ensure a uniform and transparent system of the social services financing, provide for the availability and quality of the services etc.

2. Please indicate whether and if so how these characteristics are likely to develop and change in the coming years. This with a view of the modernisation of these services (taking into account developing users' needs, quality standards and (financial) efficiency).

Features of provided social services could be unified prior to passing the draft Social Services Bill. Currently, the Government has already adopted the substance solution, while an articulated bill will be submitted by the end of 2005, to become effective as of 1 January 2007.

Contents of the services themselves may change over the years in response to the needs of users in separate locations or regions. The point will be to balance the proportion of public and non-governmental services, of residential and field services. A current trend in the social services is focus on the field services and increased amount of non-governmental providers.

The information on the scope and features of the social service network will be enhanced by the Social Service Provider Register that has been included in the Social Services Bill. The Ministry of Labour and Social Affairs will maintain the national Register of the social services providers that will be based on the above regional registers. Inclusion in the Register will be a precondition for the providers to be allowed to provide social services and also a prerequisite of drawing financial means from public budgets. The registration is a process concluded with issuance of an authorisation for social services provision. One of the key objectives of the registration is to set the quality levels, in order to guarantee them subsequently and protect the users.

It may be forecasted in view of the current development in the social services area that an emphasis will continue to be put on the services enabling their users to stay within their natural environment as much as possible and providing them with options of services and/or their providers.

Social services should be importantly considered also in the context of the population ageing, information technologies development and hence also with respect of available information channels.

Greater “emancipation” may be considered of the service users who will more actively require the quality and accessible services in accordance with their needs.

Based on the envisaged changes, MoLSA has set down the following objectives relating to the development of social services in the Czech Republic, contained in the NAPSJ:

- *finalize the social services transformation and decentralisation process, including the methods of their funding a legislative coverage;*
- *promote the improved quality of social services on the national, regional and local levels (making use of the social services quality inspection system), by introducing the National Quality Standards for Social Services, the key role of which is to create conditions for protection of human dignity of a social service user and support her/his social inclusion;*
- *support development of the services that enable a user to remain within her/his natural environment (a household, family, local community); and*
- *ensure sufficient supply of all social services types, relating to the identified needs, or, to demand for services.*

In the area of social services worker training:

- *support the lifelong vocational learning system of social services workers.*

In the area of support to non-governmental no-for-profit organisations and participation:

- *promote development and availability of social services provided by non-governmental not-for-profit organisations (NNOs) in relation to the population groups at risk of social exclusion; decentralise and stabilise methods of financing social services provided by NNOs;*
- *support and develop partnerships of regions, municipalities, non-governmental not-for-profit organisations in planning and implementation of regional (local) social policies; and*
- *ensure equal access to public resources for the social service providers that meet the quality standards of social services.*

3. Are there examples of social SGI which use market mechanisms to fulfil their tasks; what could be learnt from these experiences?

It is very difficult in our opinion to determine precisely, which of the social services should be categorised under the services of general economic interest. The Czech Republic has not so far gathered extensive experience of the social services that utilise market mechanisms. Services are funded directly (i.e. those established by the state or self-governments), while the not-for-profit sector depends on subsidies. This inequality between the provider types makes business competition impossible in this area. At the same time, services emerge that make use of the market elements, such the price or marketing.

As noted above, in view of an unclear definition of the notion of services of general (economic) interest and resulting vacillations as to whether or not social services (as a category) may be deemed services of general (economic) interest, we are able to address this question more or less intuitively only and therefore limit ourselves to that perspective in wording out our response.

If, for the purposes of the question, a definition of the services of general economic interest is accepted describing them as commercial services relating to an economically publicly useful area, the current situation in social services may be summarised by saying that none of the social services primarily operates as a service of economic interest. Features decisive for inclusion of any service type in the said group get revealed in its operation only when a facility e.g. offers products originated from the working habits development programmes, during operation of sheltered workshops, or from subsidised work etc. A user pays financial means for social services also based on the provider's intent to generate additional motivation and responsibility on the client's part in relation to the consumed services, or, client's participation in funding of the financial services provision. Services that furnish certain above-the-standard value come closer to the description of services of general economic interest, while market mechanisms get more visibly revealed in them. It follows from the above, that an amount of certain types of services covers the core indispensable supply of services, the provision and availability of which should be ensured by the state, municipalities or regions. Services utilising predominantly market mechanisms offer options that improve the supply, already in line with specific needs of users.

Another perspective, enabling viewing of social services as services of general economic interest, is that of an increased employment rate within the sector. The social services sector has been developing dynamically in the Czech Republic over the last 15 years, employing an ever growing number of people, and it therefore ranks among comparatively significant employers. The relevant percentage may increase also relating to adoption of the Social Services Bill, which has proposed introduction of an allowance for care; the allowance could be spent by the services users at "purchasing social services". The prerequisite will enable an accelerated development of market mechanisms within the sector. Such environment, form of use and provision of social services will lead to approaching social services as services of general economic interest.

It should be emphasised however that, if we accept the above definition of services of general economic interest, we may currently consider social services, given their features, a non-economic type of services to a larger degree.

Field 2 – Definitions of social SGI

4. Is there at national level a notion or definition of social SGI or social services generally?

Currently, neither a definition of social services of general interest exists in any legislation, nor there is any existent definition of social services of general interest at the national level. Inexistence of such definition reflects also the fact that the definition of services of general economic/non-economic interest is fairly vague in our opinion as we therefore do not see it useful to create any national approach or definition.

Likewise, neither a definition exists of a precise list of services that could be included, nor descriptions of all sectors to be included under the services of general interest.

A definition of social services is currently available (see below) that has been included in the Social Services Bill (the substance of the Bill has been adopted by the Czech Government).

The social services definition according to the substance of the Social Services Bill describes a social service as “an activity or set of activities providing assistance to persons in reduced social circumstances, i.e. assistance to persons who have lost their sustainability and protection against social exclusion, with an aim to enable them, to the maximum possible extent, to gear into the normal life of the community and to make normal use of other systems (such as housing, education, health care, employment services etc.)” and we deem this definition matching the contemporary trend in the social inclusion area and the concept of services of general interest.

5. It has been argued that social SGI are different to other SGI – Do you agree with this? Is a more detailed analysis of these possible differences –especially in relation to networks industries² – a way forward to gain more certainty?

Social services differ from the other general interest services in that they are often intimate by nature, provided in a close personal contact. Also, they are intertwined with both formal and informal networks existent within the respective local community, while an important role is played at their provision by families, friends, neighbours and other communities. The services are used by the most vulnerable and disadvantaged people, i.e. those more easily vulnerable and requiring adequate defence mechanisms. Such services often represent a tool of maintaining dignity for their users; they are manifestation of solidarity, execution of rights and a bond of social cohesion. Their another specificity is that social services must be capable of responding continuously and very sensitively to the individual and changing needs of each user, adapt to her/his current condition and keep her/him a company over a certain period or even throughout her/his whole life. For these reasons, we consider a more detailed analysis desirable, specifically in relation to network industries.

Social services, as part of the social protection system, contribute to social inclusion and, in terms of their longer-term conceptions, strategies and methodological steering, they are administrated by the Czech Ministry of Labour and Social Affairs. An overall responsibility for all sectors of services rests with the Czech Ministry of Interior. A fact became obvious already during preparation of the services analysis that any shared guidance tools, indicators or uniform framework applicable to the complete field of services would be difficult to conceive and hence accomplish, given considerable differences between separate types of services. On these grounds, we would clearly favour the option of special treatment of each sector of services, while we deem writing of a special directive or other legislation at the

² In this context reference has to be made to the Commission Staff Working Paper “Horizontal Evaluation of the Performance of Network Industries providing Services of General Economic Interest” (SEC(2004) 866), which gives a good overview of the different aims and the performance of these services.

European level suitable only to the extent of defining common principles, such as the quality of social services, user participation, equal access for providers (including NNO) etc.

6. In case you feel that social SGI are different to other SGI please indicate what could then be the elements for a description at European level of these specificities of social SGI's, taking into account the diversity of general interest missions related to social services in the Member States and the general principles³?

Could the elements worked out in the “Key issues” of the Conference “Social Services of General Interest in the EU” (28 and 29 June 2004) be a good base for this description⁴ in the European context? Which elements have to be added; which have to be amended?

We consider quality, continuity, availability and user protection a unifying framework that may be used for all types of public services. Social services must, in addition to that, pursue their central mission consisting in providing assistance to persons in reduced social circumstances in ensuring their necessities of life, ensuring social inclusion and involvement of users into provision and evaluation of services.

The specificity of social services as compared to the other services could be defined by specifying their differentiating features – in contrast to the other services (kindly cf. e.g. also notions in Question 5). Social services should be a matter of a separate discussion and, in case an agreement is reached that it makes sense to establish a higher level of their regulation, precise specification should be drawn if (and in what cases) social services get included within the services of general interest and within the group of services of general economic interest. Descriptions of social services in this field are highly specific compared to other services.

7. Which of the different sectors outlined under Field 1 should have priority for the examination at European level?

From our perspective, we currently perceive the following themes as suitable for discussion:

- *definition of social services of general interest, specification of their specificity relating to the other services of general interest;*
- *specific definition of general principles of services of general interest: quality (such as quality standards, evaluation of effects of services), availability (e.g. methods of ensuring availability), equal access for users, universality, affordability, continuity, participation and transparency;*
- *financing - affordability and related continuity of services (i.e. allowances, subsidies from the State Budget, payment to compensate for services, gifts);*
- *service providers (state and local authorities, public-private, private, multinational, not-for-profit organisations and volunteer organisations - and their contribution to establishment of mixed market for social services); and*

³ These principles are *inter alia* quality, availability, equal access, universality, affordability, continuity, participation, transparency).

⁴ Document in Annex

- *definitions of tasks, commitments at both the European and national levels.*

Field 3 – Experience with EC internal market or competition rules

8. Please indicate for the services identified under question 7 with regard to the EC rules listed below (see also background document) whether:

- a. it is established (in case-law or by way of Community law) that these services fall outside the scope of these rules**
- b. it is established (in case-law or by way of Community law) that these services are falling within the scope of these rules**
- c. it is unclear if these rules apply to these services, there is a need for clarification ("grey zone")**
 - **Internal market rules;**
 - **Art. 81 and/or Art. 82 EC;**
 - **Art. 86 EC;**
 - **Art 87;**
 - **Public procurement rules;**
 - **External trade negotiations**

No experiences of this field are so far available in the Czech Republic.

9. Please describe experiences concerning the influence of these EC rules on social SGI (may be “good” or “bad” examples; e.g. have these rules enabled the efficient provision of certain services or have they limited the freedom to realise national social policy goals)?

We are so far unaware of the EC rules to have significantly promoted or enabled more efficient provision of certain services or vice versa.

10. Are there examples where the mentioned EC rules were taken into account in advance when planning or reforming national social policy?

We are not aware of that.

Field 4 – Further steps at European level

11. Are there specific fields of European law and activities which necessitate further clarification with regard to their impact on social SGI (see also question 8), like e.g.:

- **Internal market rules;**
- **Art. 81 and/or Art. 82 EC;**
- **Art. 86 EC;**
- **Art 87;**
- **Public procurement rules;**
- **External trade negotiations**

Most certainly yes. A concise summary document should be prepared to elucidate on specific fields of European law, in relation both to the services of general interest and social services themselves.

12. Should the work to be carried on only concern social services of general economic interest and concentrate on e.g. competition rules and certain internal market rules or should social SGI both of an economic or non-economic nature be subject for further work?

Assuming that uniform definitions of social services of general economic/non-economic interest are going to be employed, we would support the opinion favouring focusing of further works on social services of both economic and non-economic interest.

13. What should be the concrete aim (especially concerning further steps) of the Communication of the Commission on social SGI including health services?

- ensure an adequate information system on the activities in progress and under way;*
- define notions/terms that will be used throughout the work;*
- discuss specific objectives in the social services sector;*
- select tools for their achievement;*
- clarify the issue if and how much social services may be taken as a single whole (numerous similar but also differing descriptions exist of the above services; what should be therefore the way of ensuring a quality cooperation of entities from both sectors?); and*
- discuss the necessity, or, form of the legislation stipulating social services at the EU level.*

14. Do you consider the use of the open method of co-ordination (existing or new) an appropriate means for further steps? If so, what should be the concrete task of this method? (e.g. common objectives, exchange of good practices, evaluation etc.)

More detailed specification of the open coordination method utilisation in the social services sector would be worthwhile. Such specification and joint consultations should then reveal what concrete effects and requirements should be required of separate Member States and how the open coordination method should be implemented in practice.

The EU approach should sufficiently take account of the ways in which systems of provision for social services function in the Member States, while a sufficient degree of responsibility should be left to the Member States. Separate states are better equipped to respond flexibly to the situation based on its continuous monitoring and to choose means of its solution that are adequate, appropriate, sufficient, in correspondence with the situation and regardful of all its subtleties.

15. Could at some stage and without prejudging the right of initiative of the Commission, legislative acts be considered as an appropriate means for further steps (under the assumption that a valid legal base can be found), and

if so what should be the concrete task of these instruments (Directives, Regulations, Recommendations)?

Legislative acts could be considered in case the discussion concludes that such basis will be useful and helpful in ensuring the quality and availability of services at national levels. Legislation in this area could aim at stipulating general conclusions that will support processes at the national level and that pursue creation of the system of services quality and availability. The form of recommendations may be used to stipulate good practice examples, implementation forms with proven evaluation outputs. In such case also conditions should be set out under which such outputs have been accomplished. Respect of national and regional specificities and non-diminution of national powers are necessary.

The following additional questions seem to be possible:

- Should these legal acts limit the scope of EU rules and their application to social services?

YES

- Should these legal acts establish common standards for social services, allowing EU rules, like the Internal Market rules, to be applied while taking into account fully the social policy goals?

YES, however only at a fairly general level, as an output from a detailed consultation process.

- Should there be legally defined criteria, e.g. criteria concerning quality, affordability, accessibility or solidarity at European level?

YES, however only at a fairly general level, as an output from a detailed consultation process. Freedom should be left to each State of choosing the ways and means serving to provide for meeting the jointly adopted criteria and principles (it is e.g. possible to proceed with identification of various good practice examples that would be available as the source of inspiration, without being obligatory and limiting in development of optional approaches at the national level).