

## SPC Questionnaire on Social Services of General Interest

The Netherlands, January 2005

Below please find the Netherlands' replies on the SPC questionnaire on social Services of General Interest.

For answering the questionnaire, we chose not to mention all SGIs concerning social and health services, but to concentrate on those services for which we feel more clarity in the EU competition and state aid rules could be important. Below you will find answers to the questions for the following services that were selected:

- The re-integration market, a sector which falls under responsibility of the Netherlands Ministry of Social Affairs and Employment.
- Social housing, a sector which falls under responsibility of The Netherlands Ministry of Spatial Planning, Housing and The Environment
- Health care and welfare & youth care, sectors which fall under responsibility of The Netherlands Ministry of Health, Welfare and Sports;

## **The Dutch re-integration market,**

(Ministry of Social Affairs and Employment)

### **Field 1 - Overview**

#### **1. General characteristics of the national social SGI – organisation, design, structure, definition of tasks and financing**

##### *Introduction*

In January 2002, the former public employment service (PES) in the Netherlands has been split into several divisions: the most important ones are for basic services, vocational training and reintegration services. The first, the Central Organisation for Work and Income has been turned into an independent administrative body ('zelfstandig bestuursorgaan'). It administers the network of Centres for Work and Income. The latter two, the Foundation Centre for Vocational Training (Stichting Centrum Vakopleiding) and Kliq NV, have been privatised. At the same time (January 2002) a new implementation structure for work and income was legislated (the SUWI Act) and a private market for re-integration services was established. In this market, public institutions commission or contract-out services to providers. Some of these providers have financial or administrative affiliations with some of these public institutions. And, whereas most providers are to be considered as undertakings in the sense of the EC competition and State Aid rules, some may not. Therefore this area is interesting from a social SGI perspective as it is not in all cases clear whether, and to what extent, Community Law (competition, State Aid and procurement rules) applies.

First (under 1) a general description of the institutional framework and the responsibilities of the public institutions and the market for re-integration services in general will be provided. Subsequently (under 3) the focus will be on those providers in the market that are considered to be SGI.

##### ***General institutional framework in the field of work and income: Public institutions and their tasks within the SUWI-framework<sup>1</sup>***

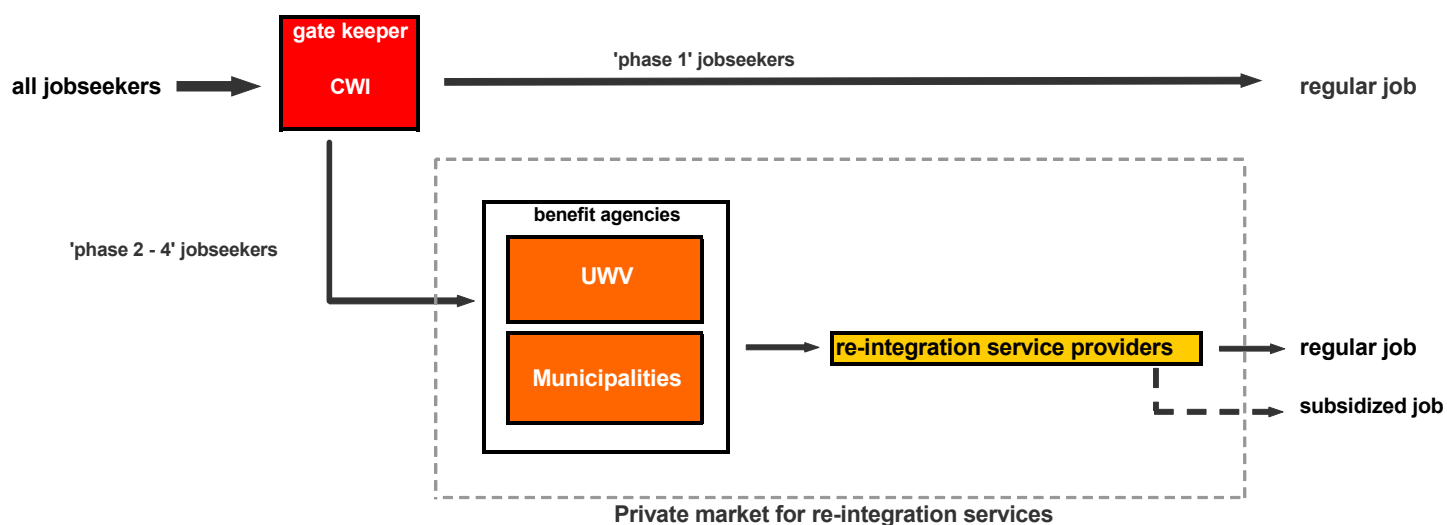
- The re-integration market is embedded in a more general governance framework (delineated in the SUWI Act) with several public institutions performing tasks.
- A nationwide network of Centres for Work and Income (CWI) exists, providing the gateway for all job seekers (with and without benefit entitlements). The CWIs perform basic employment services and deal with the (administrative) intake of new benefit claimants. For this purpose the CWIs use a job-seekers classification instrument (in Dutch "fasering") to assess job seekers. Four categories are distinguished. For 'phase 1 customers' the CWIs provide the basic services of the former PES (e.g. direct job matching and the maintenance of the National Vacancies data base). The customers who are more difficult to place (phases 2 up to 4) are referred to the social security agencies: UWV and municipalities (see the figure below).
- The Institute for Employee Benefit Schemes (UWV – also an independent administrative body) and the municipalities are responsible for claim assessment, contributions collection, and benefit provision – the UWV with respect to the Unemployment Insurance and Disability Insurance schemes and the municipalities with respect to social assistance beneficiaries and the group of job-seekers who are not eligible for a benefit.
- CWI and UWV receive a budget from the Minister. The Minister sets annual performance targets for both organisations.

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<sup>1</sup> SUWI = the implementation structure for work and income in the Netherlands

The figure below illustrates the process: how job seekers are assisted in finding employment.

**Figure: the flow of job seekers and the roles of the public agencies and the re-integration market**



### ***Municipalities: the Work and Social Assistance Act (WWB)***

- Under the new Work and Social Assistance Act ("WWB", implemented on 1 January 2004) municipalities assume full responsibility for activating and re-integrating beneficiaries<sup>2</sup> and non-benefit receiving job seekers into the labour market.
- Municipalities will be 100 percent financially responsible for their budget for social assistance benefits<sup>3</sup>. The budget will be distributed towards municipalities according to a formula with a number of parameters that take into account the demographic and regional labour market situation. Deficits are not funded from central government revenues (neither do surpluses flow back to central government revenues).
- The full financial responsibility for benefit expenditure is expected to stimulate municipalities to tailor services to the needs of the individual benefit recipients.

### ***The private market for re-integration services***

- UWV and municipalities are compelled to provide all applicants a job or training offer (comprehensive approach). Both the UWV and municipalities command budgets to purchase reintegration services on the private market. The UWV has the obligation to contract-out all its services (this is laid down in the SUWI Act). Municipalities are obliged to contract-out the reintegration services 'as much as possible' – the WWB stipulates that at least 70 percent of the budget for re-integration purposes is contracted-out in the private market. Within the remaining 30 percent of their budget, municipalities have an option to re-integrate customers themselves – for instance, place them in subsidized jobs or in some 'social inclusion programme'.
- There are over 230 re-integration service providers in the market – a further 370 providers operate in the market as medical service suppliers and some 60 as providers of training services. Since the late-1990s the market has grown significantly. Two-thirds of the present providers have entered the market in the previous six years.

<sup>2</sup> More specific: those who are eligible for social assistance and those who are eligible for the Anw-scheme (the widowers' and orphans' benefits scheme)

<sup>3</sup> The budget consists of two separate components: a component for benefit disbursements and another component for activating and reintegration purposes. The budget is financed out of general government revenues.

The following tables provide some key statistics on service providers.

**Categories of providers in February 2004**

	number	percentage
reintegration service providers	232	35%
medical intervention providers	373	56%
training institutions	58	9%
total	663	100%

source: Regioplan, based on RWI-Reintegration service monitor

**Size of providers in February 2004**

number of staff	2002	2004
1 - 10	60%	61%
11 - 100	23%	26%
> 100	17%	13%

source: Regioplan, based on RWI-Reintegration service monitor

**Scope of operation: regional or national, Feb. 2004**

regional	73%
national	27%

source: Regioplan, based on RWI-Reintegration service monitor

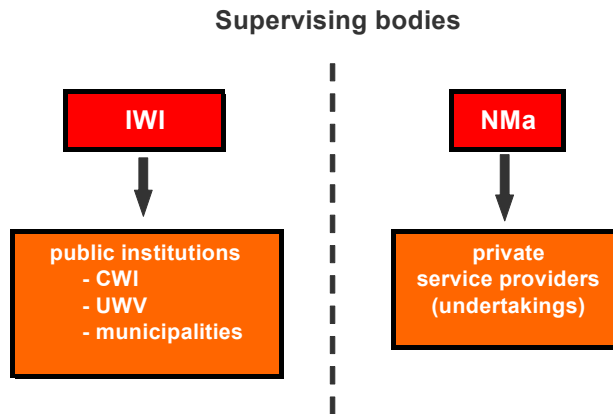
**Transparency and quality**

- The improvement of transparency – for both sides of the market – is an ongoing process. A milestone has been the publication, by the tri-partite Council for Work and Income (RWI), of purchaser satisfaction rates for the 17 largest providers in the spring of this year. The aim is to have a performance benchmark operational in 2006.
- The SUWI Act stipulates that public institutions need to contract service providers that operate according to certain basic quality standards<sup>4</sup>. The association of providers (Borea) has developed an sophisticated quality certificate. Providers have to meet 13 criteria to obtain and maintain the certificate. Audits are on a semi-annual basis. Currently 72 providers, representing over 60 percent of the market volume, have been granted the quality certificate. The government favours the quality certificate and stimulates its implementation – the government has not made (and does not plan to make) the quality certificate compulsory for service providers.

**Supervision**

- The Inspectorate for Work and Income (IWI) supervises the effective, efficient, and lawful, usage of public resources by the UWV and municipalities. The Netherlands' Competition authority (NMa) monitors and enforces the compliance of re-integration service providers with the Competition Act.

<sup>4</sup> Service providers need to have a complaint procedure and a client privacy register.



## 2. Developments in the future

### *Evaluation in 2006*

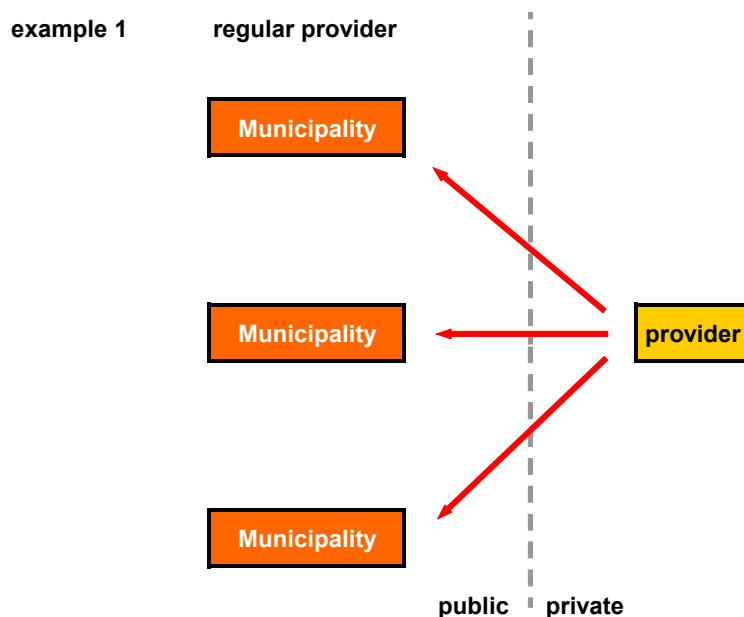
In 2006 an evaluation of the SUWI Act is planned, as well as a separate evaluation of the functioning of the market for re-integration services. The evaluation of the functioning of the market for re-integration services will focus in particular on two aspects:

1. the transparency of the market
2. competition (is there a 'level playing field' between the various service providers?).

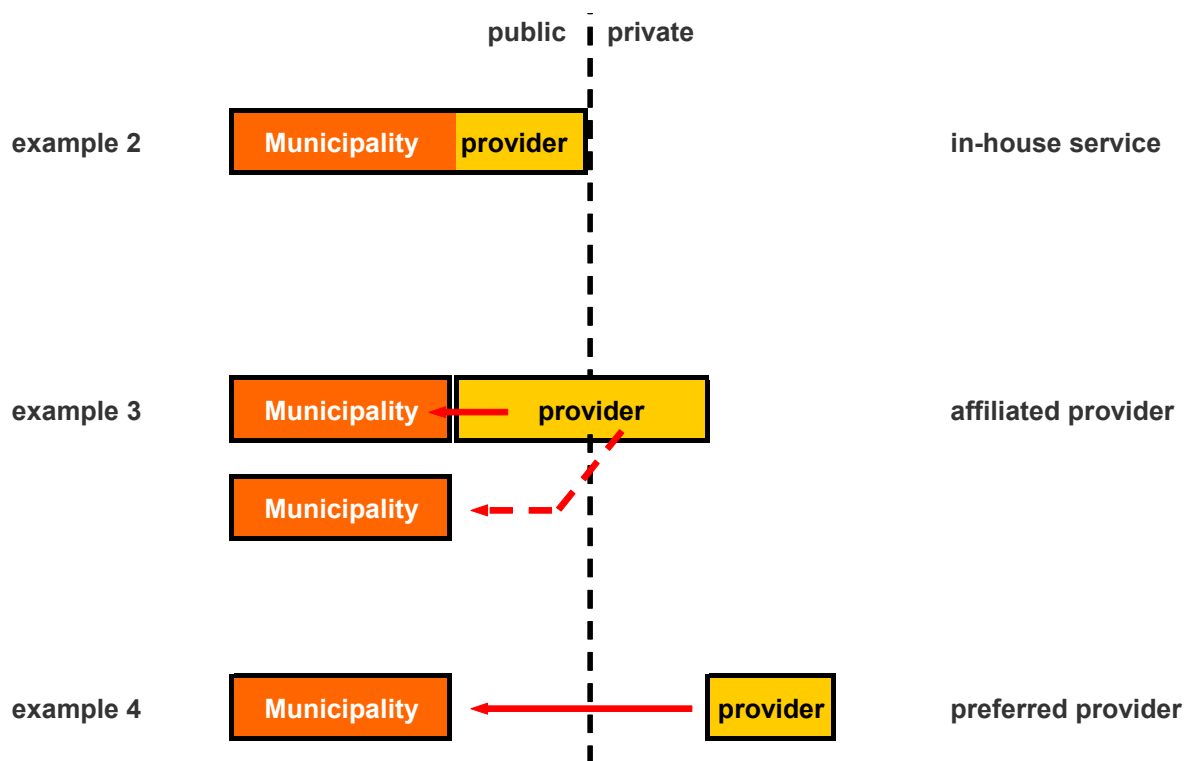
## 3. Examples of social SGI which use the market mechanism

### *Municipalities, regular versus affiliated providers, and social services of general interest*

- Re-integration services may consist of a variety of activities, such as skill enhancement (e.g. training) and placement services. It may include the organising or even providing of subsidised work places. Some 150 organisers/providers of subsidised employment operate, in particular in the municipalities' segment of the re-integration services market. Some of these providers are departments of the municipalities themselves. Others are legal entities – corporations – that are in governance or financial terms affiliated to one or several municipalities. Whereas still others may be classified as regular providers competing for assignments in the open market.



- Example 1 illustrates the regular situation. Most service providers in the market are undertakings that compete for contracts. The contracts are granted as a result of a procurement procedure (taking into account the European procurement rules) and the financing mechanism is laid down in the contract.
- The examples 2 up to 4 illustrate the various legal/financial entities that may prevail in the segment of the market that provides re-integration services to municipalities. Some municipalities operate an in-house service (example 2) that takes care of the re-integration of job seekers. This in-house service typically will not provide services to other municipalities – hence, this will not be considered as an undertaking. Other municipalities either subsidise or contract-out services to an affiliated provider (example 3). These affiliated providers are legal entities. Some will provide services to one municipality, and may be controlled administratively (albeit in a less tight sense than in example 2) by the municipal government. However, others will provide services to other municipalities as well. For example, a service provider that was originally established by a large municipality and that has been privatised several years ago may now also provide services to smaller municipalities in the region. Hence, this provider may be a public undertaking in the sense of the EC-Transparency directive. And some providers may perform public tasks and at the same time perform market activities (these may also be public undertakings in the sense of the EC-Transparency Directive). Usually these organisations will have established separate branches for the public and market activities. Finally, municipalities may contract-out to preferred providers: that is, providers that have been selected on the basis of their previous service record (example 4).



- The examples 1, 2 and 4 do not raise questions as to whether or not the internal market and competition rules apply. In the situation listed in the examples 1 and 4 this is the case and in the situation in example 2, the in-house services, this is not the case. The situation, of the affiliated providers listed in example 3, may be considered as a 'grey zone' that would require further clarification.

## **Field 2 – Definitions of social SGI**

### **4. National definition of social SGI**

There is no national definition of social SGI.

### **5. Difference between social SGI and SGI in general.**

From a Dutch perspective there is no difference between social SGI and other SGI that is relevant in this respect. When a SGI is of economic interest, the EU competition and state aid rules are applicable, no matter whether it's a SGI or a social SGI.

### **6. Elements for a description of social SGI's**

n.a.

## **Field 3 – Experience with EC internal market or competition rules**

### **8. The scope of the EC-rules**

With respect to re-integration service providers it is clear that the EC rules, listed in the questionnaire, are applicable.

With respect to the providers, that operate in the municipalities' segment of the re-integration services market (as listed in example 3 above), there is a need for further clarification.

Municipalities and providers turn to the Ministry of Social Affairs and Employment with questions concerning:

- procurement (in particular with respect to the Teckal and Telaustria judgements of the European Court);
- state support (in particular with respect to the Follow-up Altmark (Article 87) and the application of the Regulation (EC) 2204/2004).

### **9. Experiences**

At the present time, there is no sufficient information as to the effectiveness and efficiency of the service provision (either public or through the market).

### **10. Examples where EC rules were taken into account in advance**

Community Law is always taken into account when planning and implementing national policy and legislation.

## **Field 4 – Further steps at the European level**

### **11. Fields which necessitate further clarification**

- The EC procurement and competition rules provide a safeguard for transparency and open competition on the market for re-integration services. However, in order to step-up the process towards an open market for re-integration services the legislative framework needs to be clear and univocal.
- An issue that would require further clarification from the Dutch perspective is the scope of the principles of freedom to define and proportionality. Does the latter set any limitations to the former? Translated to the case of the municipalities' segment of the market for re-integration services, the question reads: are municipalities allowed to assign a public service task to undertakings (in the sense of article 86 paragraph 2) in a situation where there may be providers in the open market that could provide these services as well? If so, what would be the conditions? And if not, how would this relate to other municipalities that operate an in-house service that performs essentially the same tasks? What are the differences between on the one hand public service obligations assigned to an undertaking by way of an official act that takes the form of a contract and on the other hand civil law obligations resulting from a "normal" civil law contract?
- From a Dutch perspective, to some extent the rules need to be responsive to transition issues. In the example of the Dutch re-integration market, this applies in particular to the former public providers of subsidized employment (as listed in example 3 under question 3). Municipalities need to be allowed some time to place these organisations at arm's length and the providers likewise need some time to prepare for their new role in the open market. This may require, for example, that municipalities may have preferred provider relationships for a certain time period with the providers to allow these providers to make the transition from a shielded status to a status of regular provider. The introduction of the market mechanism in the field of re-integration is not an overnight process – therefore it is crucial to know whether EC legislative framework provides these organisations with the required room for manoeuvre to make the transition towards an open market.

### **12. Focus on social services of general *economic* interest or on social services of general interest?**

- The focus should be on social services of general *economic* interest. Non-economic social services of general interest are not under the scope of the EC. With respect to social services of general economic interest there are several issues that call for clarification. These issues in particular pertain to cases where the distinction between economic and non-economic is not so clear cut, as may become clear from the examples that have been listed under point 3. These issues should provide the focus for further work on the EC-level.

### **13. Concrete aim of the Communication of the Commission**

- From a Dutch perspective the further clarification and enhancement of the predictability of the EC competition, State Aid and procurement rules with respect to the area of work and income would be an important aim of the Communication.

### **14. Open method of co-ordination**

- The open method of co-ordination would be an appropriate means to exchange good practices.

## **15. Further legislative acts**

Clarification and exchange of best practices is sufficient. Further legislation is not considered appropriate.

## Social Housing and Urban Regeneration

(Ministry of Spatial Planning, Housing and The Environment)

### **1. General characteristics of the national social SGI – organisation, design, structure, definition of tasks and financing**

*SGI: Social housing*

*Organisation/design/structure*

In Article 22, second paragraph, of the Dutch Constitution, the promotion of sufficient housing is deemed to be a matter of concern for the government. The provision of social housing is therefore a public duty. The scope and substance of this duty is laid down in regulations. The Housing Act, the Social Rental Sector Management Decree (BBSH), the Central Fund for Housing Decree and various Circulars (Publications of policy).

*Financing*

Dutch housing associations receive the following main financial compensations for the exercise of the tasks imposed on them:

- The Central Fund for Housing can grant subsidies to housing associations to promote the restructuring of housing associations that do not have the necessary financial resources ('restructuring aid'), or, as a contribution towards the costs of the activities of authorised institutions ('aid for projects').
- Exemption for corporation tax
- The Social Housing Guarantee Fund, a foundation only charged with the social housing obligation. Through this guarantee and safety net construction, housing associations can obtain loans at a lower interest rate than without this construction.

When carrying out this duty (as detailed in the BBSH, ) a housing association is bound to pursue such a financial policy and manage its affairs in such a way that its continuity in a financial sense is secured. Housing associations are therefore required to pursue a commercial responsible policy or, in other words, 'keep their head above water'. They must carry out the business in a manner that ensures that the housing association does not become 'bankrupt'. The primary responsibility for the debts of a housing association therefore lies with association itself. Surplus resources must be used for the benefit of social housing.

*Service providers*

Organisations without profit motive can, on grounds of the Housing Act, be recognised by the minister ('authorised') as an authorised institution, also known as housing associations, if they have the sole aim of working in the area of social housing. There are currently 500 housing associations operating in the Netherlands. Acquiring the status of an authorised institution within the meaning of the Housing Act is, if certain conditions are satisfied, open to any organisation. The Housing Act and the BBSH do restrict the territory of housing associations to local authorities in the Netherlands.

*Definitions of tasks/obligations/quality standards*

The activities and duties of housing associations are described in Chapter 3 of the BBSH. Activities in the area of social housing comprise in particular: the building, acquisition, encumbering, demolition and maintenance of residential accommodation and appurtenances, as well as the management, allocation, letting and disposing of this residential accommodation and appurtenances.

These activities must contribute to the execution of the following tasks ('performance fields') of housing associations:

- Housing associations must ensure that sufficient residential accommodation is available to house persons with low incomes and seeking housing;
- When letting housing, the housing associations must charge reasonable rents and must give as much priority as possible to persons with low incomes;
- Housing associations must deploy resources to ensure that the residential accommodation managed by them is of a quality that can reasonably be demanded in the interests of social housing in that location;
- The housing association contributes to the quality of life in the neighbourhoods and districts where its residential accommodation is located;
- The housing associations must involve the residents in the association's policy development;
- In response to reasonable demands, housing associations contribute to the realisation of housing for the elderly, handicapped persons and persons who need care or supervision.

In their activities, housing associations must observe the social housing policy prevailing in the local authorities involved.

In summary, therefore, the public duty of housing associations comprises the provision of accommodation for those households who, by virtue of their financial situation or other circumstances, have no or insufficient access to housing on the free market. The Dutch authorities would also like to refer to the broad definition of housing that should be incorporated in the draft Decision concerning State Aid and SGEI, set out in a letter sent in answer to letter of 27 February, 2004 (Ref. D/51513) as a follow-up to the multilateral meeting on 20 April 2004.

#### *SGI: Urban Regeneration*

- A new tax proposal ('exemption from transfer tax') will be introduced for a special authorised institution, to be established on grounds of the Housing Act. This institution is granted the task of acquiring houses from housing associations in order to sell these houses at a later date. For housing associations that own houses in deprived urban areas this is the only way they can obtain liquid assets (within a short time) to invest in urban regeneration projects. Since this special authorised institution is only an intermediary (for the acquiring and selling of houses) and because housing associations have a counter-obligation (investment in urban regeneration projects; f.e. the improving of the quality of housing) taxing the transfer twice in stead of once would not be an incentive.
- In urban (deprived) areas special organisations operate, called "Wijkontwikkelingsmaatschappijen" (here-after: WOM's). These bodies are appointed by the minister for housing as (public/private/ partnership, f.e. local governments, social housing associations and commercial landlords/parties) organisations with the aim to promote urban regeneration/development by way of implementing a regeneration(restructuring)plan. Such a plan can contain an activity as regulated in Article 7, paragraph 4 of the Urban Regeneration Act, or the plan implements a so-called development programme as regulated in Article 7, paragraph 1, of the Urban Regeneration Act. These WOM's profit from an exemption from transfer tax when acquiring property within the scope of the regeneration/restructuring plan. If the property in question is after inspection not 'used' for regeneration purposes, the tax will be levied afterwards. If a regeneration/restructuring plan is not (any more) implemented, the minister for housing withdraws his appointment.
- Furthermore WOM's can receive funds/subsidies from local governments when they participate in regeneration/restructuring project in accordance with

the Urban Regeneration Act. Local and provincial governments receive special Regeneration budgets that may be spent in accordance with the urban regeneration/restructuring goal of the Urban Regeneration Act (Wet stedelijke vernieuwing, Stb.2000, 504)<sup>5</sup>.

- Other (more commercially operating) undertakings can also participate in regeneration/restructuring projects. Since there are no EC Frameworks (guidelines) on state aid for purposes, such as urban regeneration, urban environment, sustainable urban developments, urban soil remediation (not falling under the scope of the Guidelines on State Aid for environmental protection), legal advice on state aid issues when (commercial) undertakings are involved can only be given on the basis of the Commission's decision practice. Relevant in this field are f.e.: Cases: N 656/99, N 747/A/99, N 82/01, N 497/01, N 239/02, N 766/2002, N 211/2003 and N 385/2002  
These decisions are very much tailored to the situation at hand in a particular member state. Even though the aim/purpose 'urban regeneration/ sustainable development/soil remediation/rehabilitation ' could be defined as a Social Service of General Interest the other Altmark criteria are so stringent that only in some cases the conditions (i.p. the second and fourth) can be fulfilled. The Dutch authorities suggest to bring Urban regeneration as a SGI under the scope of the proposed Decision of the Commission concerning the application of the measures in article 86 of the treaty on State aid in the form of compensation for public service granted to certain undertakings responsible for managing services of general economic interest.  
In order to advise local governments how to deal with state aid cases on this subject (urban regeneration) a brochure has been made to facilitate local authorities in using state aid instruments in deprived urban areas. In the near future the Dutch authorities would like to discuss the conclusions of this brochure with DG Competition officials.  
A number of countries (France, UK, Ireland and the Netherlands) have indicated the wish to have more clarity and flexibility in the use of financial/fiscal instruments in deprived urban areas. Their aim is to develop with the Commission's authorities a framework that reviews a range of financial and fiscal measures that can be applied in deprived areas.

## **2. Developments in the future**

On the subject of possible changes of the Social Rental Sector Management Decree (BBSH) the Dutch authorities would like to refer to the ongoing discussions with the division H2. State Aid Services 1 of DG Competition.

## **3. Examples of social SGI which use the market mechanism**

### *Social housing*

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<sup>5</sup> Definition in this Act of urban regeneration: "op stedelijk gebied gerichte fysieke inspanningen die strekken tot verbetering van de leefbaarheid en veiligheid, bevordering van een duurzame ontwikkeling en verbetering van de woon- en milieukwaliteit, versterking van de culturele kwaliteiten, bevordering van de sociale samenhang, verbetering van de bereikbaarheid, verhoging van de kwaliteit van de openbare ruimte of anderszins tot structurele kwaliteitsverhoging van dat stedelijk gebied".

As already mentioned a housing association is bound to pursue such a financial policy and manage its affairs in such a way that its continuity in a financial sense is secured. Housing associations are therefore required to pursue a commercial responsible policy or, in other words, 'keep their head above water'. They must carry out the business in a manner that ensures that the housing association does not become 'bankrupt'. The primary responsibility for the debts of a housing association therefore lies with the association itself. Surplus resources must be used for the benefit of social housing.

#### *Urban regeneration*

Tax exemptions and other tax instruments can be strong objectives in deprived urban areas to overcome market failure and can stimulate economic activity.

Therefore for both SGIs market mechanisms are vital elements to fulfil their tasks.

#### **4. National definition of social SGI**

For the answer to this question we refer to page 6.

#### **5. Difference between social SGI and SGI in general.**

From a Dutch perspective there is no difference between social SGI and other SGI that is relevant in this respect. When a SGI is of economic interest, the EU competition and state aid rules are applicable, no matter whether it's a SGI or a social SGI.

For social housing and urban regeneration the following counts:

They are different to other SGI because they do not unfavourably influence the market. In most of the cases the social SGI are loss-making. In general no other enterprises are interested in performing these activities (social housing/urban regeneration).

#### **6. Elements for a description of social SGI's**

For the field of social housing counts the following:

Each Member State has its own housing policy /urban regeneration policy and recognises many institutions (without profit motive) that carry out local tasks in the area of social housing and/or urban regeneration/restructuring with the aid of subsidies/tax exemptions. The subject of 'social housing' does not fall within the authority of the Community. Or, in other words: the EC Treaty grants the European Commission no basis in law for proposing EC-directives/regulations on this subject.

There have been, in the context of Book XVII of the Treaty "economic and social coherence", Community initiatives that have (indirectly) impact on the subject 'social housing' and 'urban regeneration'.

For example: Action framework for sustainable urban development in the European Union, Green Paper on the Urban Environment Reference can also be made tot the Commission's announcement of 28 April 2000 on determining the guidelines for a Community initiative "Urban II" and to the Green and White Paper on services of General Interest.

Both policy areas are therefore not easy to compare with sectors such as, telecommunications, transport and energy, which have now largely been liberalised.

One therefore cannot say that increased competition has led to an increasing demand for a level playing field, such as f.e. in the area of public broadcasting.

The Dutch authorities are of the opinion that services (activities) of housing associations and/or bodies with special tasks related to urban regeneration do not unfavourably influence trade.

Up till now, no foreign undertakings have been interested in these kind of activities.

The elements worked out in the “Key issues” of the Conference “Social Services of General Interest in the EU” could be a starting point for *descriptions* of *several* social SGI’s in a European context. We fail to see how one description for all social SGI’s could be established.

### **8. The scope of the EC-rules**

As regards Social housing:

Internal market rules: c. As mentioned, the territory of Dutch housing associations is limited to (the territory) of local authorities in the Netherlands. All aspects of these activities remain in principle within the borders of the member state, the Netherlands. Acquiring the status of an authorised institution within the meaning of the Housing Act is, if certain objective conditions are satisfied, open to any organisation.

Article 81 and/or Art.82: b

Article 86: b

Article 87: c

Public procurement rules: a

External trade negotiations: a

### **10. Examples where EC rules were taken into account in advance**

For the subject social housing we refer to the ongoing discussion with the Commission’s services.

### **11. Fields which necessitate further clarification**

As regards the impact on social housing the internal market rules ( state aid in relation to free movement of capital and services) need further clarification.

The Dutch government can only assign public tasks (as mentioned under question 1) to Dutch housing associations in the Netherlands. For those tasks the associations receive state aid as mentioned under question 1. How do the fact of assigning a public task and giving state aid for that task relate to the freedom of capital and services? Can the Dutch government forbid Dutch housing associations to operate abroad?

For the answers to questions 12-15 we refer to pages 7-8.

(Ministry of Health, Welfare and Sports)

**Introduction:**

In reply to the SPC questionnaire on Social Services of General Interest (sSGI) the Dutch department of Health, Welfare and Sport restricted its response on three areas where sSGI play an important role.

These three areas are:

- Health Care;
- Welfare;
- Youth Care.

The answers to the questionnaire will be dealt with according to this dichotomy.

## Health Care

### **2. General characteristics of the national social SGI – organisation, design, structure, definition of tasks and financing**

The Dutch system of health care is organised and financed via a system of health insurance. The Exceptional Medical Expenses Act (AWBZ) for long-term care and a mix of social and private insurance for acute medical care. Insured persons pay contributions as does the government. Health care services are provided by private health care providers. Health insurance is provided partly by private insurance companies and partly by health insurance funds. The tasks and obligations of the different participants are laid down in laws.

Hospital care is provided by private organisations. The government regulates the planning and funding of hospitals and to a certain extent the quality of care.

Primary Health care is provided by private, mostly self-employed, health professionals. The government regulates the funding and to a certain extent the quality of care.

Emergency Care is provided by privately organised hospitals, ambulances and primary health professionals. The government regulates dispersion and preparedness of ambulances and the funding and to a certain extent the quality of care.

There is a special Act for planning hospitals and other health care facilities and an Act that regulates the tariffs, fees and budgets of health care providers.

There is an Act that regulates the recognition of basic and specialised health care professions and the pursuit of these professions including disciplinary measures. Registration Commissions in this field could possibly be considered to be SGIs.

There is an Act that regulates the quality of service provided by health care institutions. This legislation is based on the principle that health care providers themselves bear primary responsibility for the quality of their service. There are several Acts on certain medical ethical aspects of practising health professions. There is an Act regulating research on human subjects. The Competent Authority and the medical ethical review boards, including the Central Committee on Research involving Human Subjects could possibly be considered to be SGIs.

### **2. Developments in the future**

The Dutch government is planning a reform of the current health insurance system (which doesn't include long term care) which will enter into force on 1 January 2006, the Health Insurance Act. Every citizen will be obliged to conclude a contract for a statutory health care package with a private health insurance company. A regulated free market system will be introduced in which health insurance companies are allowed to make a profit. The Dutch government is exploring the possibility to restructure the insurance system for long term care.

Besides a reform of the insurance system the Dutch government also envisages a reform on the health care supply side. The organisation of the health insurance system is inseparably linked to the issue of who is responsible for what in the health care sector. The most important changes proposed in this area involve the removal of the obligation to enter into a contract, the definition of insurance entitlements in functional terms, and the scrapping or loosening of the rules on planning and pricing in the care sector. Several laws are currently under debate in Parliament or Senate (December 2004). All the measures are expected to give insurers and care providers greater scope to negotiate freely. The WTG ExPres Bill for example seeks to establish or promote a more liberal approach to price formulation within the sector. There

are also plans to replace the Hospital Provision Act (WZV) with a more demand-driven statute, the Health Care Establishments (Licensing) Act (WTZi)

The services in the field of Registration of health care professionals as well as the bodies in the field of research involving human subjects are part of the regulatory mechanism. As some of these services are fairly recent, we do not foresee changes in the immediate future.

## *Field 2 – Definitions of social SGI:*

For the answers to questions 4-7 we refer to page 6.

### **8. The scope of the EC-rules**

Internal market rules: It is established in case-law that health care services fall within the scope of the internal market rules. Art 81/82 EC: Health care services fall within the scope of the competition rules. Art 87 EC: Health care providers fall - in principle - within the scope of state aid rules. Public procurement rules: Health care services are – at least in part – subject to public procurement rules. Health insurance funds are subject to the latter rules as are hospitals.

### **9. Experiences**

In the Müller-Fauré case (C-385/99), Dutch arguments in favour of certain restrictions on cross border health care were considered in violation of internal market rules (free movement of services) by the European Court of Justice. A case such as Altmark (280/00), on the other hand, has had the advantage of clarifying the conditions under which state aid can be compatible with the internal market.

Very important are the EEC directives (sectoral and general) concerning the recognition of professional qualifications in the field of health care. They guarantee a certain quality level of the health care services provisions.

### **10. Examples where EC rules were taken into account in advance**

Community law is always taken into account when planning and executing national policy. In particular, the new Dutch Health Insurance Act – which features a social health insurance system operated by private insurance companies - was designed after consultation of the European Commission.

### **11. Fields which necessitate further clarification**

Currently, there are already initiatives in specific fields of internal market regulation at different levels. The impact of these initiatives on social SGI can best be assessed in the competent bodies.

For the answers to questions 12-15 we refer to pages 7-8.

## **Welfare and Youth Care**

### **1. General characteristics of the national social SGI – organisation, design, structure, definition of tasks and financing**

The structure for sSGI (social SGI's) in The Netherlands is complex. Some services are reserved for target groups only; others are admissible to all people. The specific domains (like the care for the elderly, for the disabled, for those who need psychiatric care, youth (health) care etc.) sometimes are accessible for clients outside the target group.

The following parties are involved in the field of welfare:

- the governments (national, local and/or provincial): they pursue the policy;
- private organisations (mostly non-profit ) provide the services;
- interest organisations (self-advocacy groups) try to influence the developments to the benefit of their rank and file.

The system is mainly financed by two sources: special taxes and health insurances. In addition, users pay an income-related contribution for most services.

To illustrate this:

The “Services for the Disabled Act” (Wet voorziening gehandicapten).

This Act is executed by all municipalities and is financed by the Municipalities Fund, which generates its means from the national budget. The Services for the Disabled Act obliges municipalities to provide a cohesive system of support for residents who are not sufficiently able to implement other solutions in certain situations, either on their own or together with others. Especially where it concerns housekeeping, offering social support, adapting the home, transportation.

Municipal authorities are also obliged to ensure that disabled or elderly citizens have an adequate mobility. This can be achieved by supplying the citizen with an amount of money. By doing so, he/she can arrange their own transportation. Furthermore about 75% of municipalities set up a special transport service (STS) within the borders of their municipality. This STS must also be accessible and safe for wheelchairs. The Act obliges that fares must be the same as the public transport-fares for the not-disabled.

The central government has concluded a contract with a private operator. This operator is entrusted with the Upperregional Transport system in order to enable disabled or elderly persons to travel outside the borders of their municipality. This Upperregional Transport system is financed by the central government.

The municipalities are obliged to deliver reliable care. The Health Care Inspectorate is entrusted with the task of guarding the accessibility and quality of this care.

### **2. Developments in the future**

Regarding welfare, the local municipality is the most important party within sSGI<sup>6</sup>. The municipality plays the role of director (stage-manager). The municipality is the most suited party to channel developments at local level and pursue an integrated policy that takes proper account of local conditions and the wishes of the public. The municipality is, because of its

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<sup>6</sup> With the exception of certain facilities for (semi-)residential youth care, which are, for reasons of scale, decentralized to the Dutch provincial authorities. Provinces and local municipalities are expected to co-ordinate their youth policies (Youth Care Act 2005).

public responsibility, better suited than any other party to promote cohesion between the services. Services are tailored to clients/patients and fits their needs. Furthermore municipalities are in the position to address parties on their responsibilities. They provide a good cohesive system of support for their residents who are not sufficiently able to implement other solutions in certain situations, either on their own or together with others.

Bearing this in mind the Dutch government is going to introduce the so called Social Support Act (WMO). This Act will encompass the Services for the Disabled Act (WVG), the Social Welfare Act (Welzijnswet 1994) and parts of the Exceptional Medical Expenses Act (AWBZ). This new Act will also be executed by the municipalities.

Municipalities will have to decide for themselves how they will be providing this support.

This Act will probably come into force in 2006.

The WMO will be financed through the general payments from the Municipalities Fund.

As of 1 January 2005 the Youth Care Act (Wet op de jeugdzorg) will come into force. The Act introduces a right to youth care for minors and there parents. The right mainly concerns children with severe problems growing up and parents with severe problems raising there children. The Act also combines several government tasks regarding youth into one non profit organisation per province, which is financed by the provinces. The provinces also finance the youth care providers.

### **3. Examples of social SGI which use the market mechanism**

From the point of view of empowering the patient, the personal budget system which is part of the long term care scheme, might be a good example. Personal budgets were first introduced in the Netherlands in 1996, the basic idea being was 'to change the focus from supply to demand; to give the clients/patient the lead in organizing his/her own care'. Following initial assessment the amount of the personal budget is agreed for the individual who requires long-term care. He/she can then buy the services on a personal or individual basis. The client always has the initial choice between benefits in kind or a personal budget. The latter is not suitable for all users due to administrative burden. There have been improvements to the system since 1996. Previously users could not pay their service providers directly but payments had to be made by the Dutch Social Insurance Bank. Now users can opt for that system or act as normal employers and make the payments themselves.

In 2003, € 750 million was spent on personal care budgets.

### **4. National definition of social SGI**

There is no general definition of sSGI's. Nevertheless, different definitions are used in the field of welfare. A more common one is mentioned below.

- A (social) service is a result-directed activity (or sequence of activities) to realize one or more functions<sup>7</sup> of a provision<sup>8</sup> in the interest of one of more clients; a service often has a systematic procedure.

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<sup>7</sup> A function is the scale on which the intervention is (sufficiently, partly, not at all) dealing with the possibilities of the client to help himself. A function is (within this context) a term that belongs to the world of scales or degrees. Interventions should be in accordance with qualitative and quantitative standards to make the connection between the demand (request) of a client and the offer of the provider.

<sup>8</sup> A provision is a coherent complex of services, that as such contributes to the realization of one or more functions. Examples are: social case work, a community hall, a bureau for pedagogical support for parents.

## **5. Difference between social SGI and SGI in general.**

From a Dutch perspective there is no difference between social SGI and other SGI that is relevant in this respect. When a SGI is of economic interest, the EU competition and state aid rules are applicable, no matter whether it's a SGI or a social SGI.

In the field of welfare the word 'social' focuses on persons or groups with specific problems, problems which they cannot solve on their own. SGI without the adjective 'social' on the other hand have a much broader target.

A complicating factor in this discussion is the nature of social SGI. Some social SGI are well-established within and –defended by large (corporate) institutions: universities, hospitals, housing corporations and the like. Other social SGI are not. Personal social SGI (psSGI) are sometimes incorporated within well-established bodies as mentioned above. More often however, psSGI are organized in small separate foundations.

At a relatively early stage in the development of the post-1945 welfare state, the psSGI were referred to as 'the fifth social service' - the other four being social security/protection, health, education and housing. The newer and less known psSGI were associated with the work of the growing numbers of social workers and emerging personal services for vulnerable children, elderly and disabled people. These services have for good reason been referred to as 'the Cinderella' of the welfare state. Where Cinderellas need public protection, large and well-established institutions may not need (as much) protection.

For the answers to questions 12-15 we refer to pages 7-8.