



Secretariat of the  
Commission of the  
Bishops' Conferences of the  
European Community



## Joint response to the Social Services of General Interest Questionnaire

Churches, Caritas and Diaconal organisations in Europe welcome the European Commission's efforts to define the specific characteristics of social services of general interest offering the recognition of the specificities of these services and their importance in fostering social cohesion and inclusion in society. We also welcome the endeavor to safeguard and uphold the quality and accessibility of social services of general interest through a clarification of how Community law influences the provision of these services.

We welcome the Commission's involvement of church and civil society in this process as we, churches, Caritas and Diaconal organisations, find ourselves to be stakeholders in the joint effort to uphold the European social model as we engage over 1 million professionals and volunteers in the broad field of social services.

### Field 1 – Description of social services

1. Please indicate whether the description of the social services as provided by the Communication (see above under "scope") is appropriate and adequate, also with a view to social security schemes responding to the criteria deriving from the *Poucet and Pistre* case law.
  - *We welcome the Commission's work to define the scope and the special characteristics of social services as well as its reference to social cohesion, which we see as a key objective of social policy. We particularly appreciate the description of social services as being both preventive and curative and the importance given to both social security schemes and person-oriented services.*
  - *We think a clearer formulation should be adopted in order to avoid any misunderstanding: "statutory and complementary social security schemes" are not in themselves "social services" (as described in the communication). But social services act in the implementation of social security schemes and as such contribute to the common good, which is one of the reasons they must be treated differently from other services in the market.*

- *The recognition of social services as being rights-based and guaranteeing the fundamental rights of the individual is reflected in their person-oriented approach. Churches and diaconal organisations share this principle. In the Christian understanding, human dignity does not depend on productivity, economic contribution or life situation, but resides in people created in the image of God with equal worth.*
  - *We regret the decision not to address health services in the Communication contrary to the announcement in the White Paper on services of general interest of “a Communication on social services of general interest, **including health services**” (our emphasis). Social and health services share the same characteristics and on a practical level it is difficult to make a distinction between the two. Therefore we ask the Commission to pay special attention to the close links between health and social services.*
2. If you consider that the description could be improved or other (type of) services should be added, please provide for concrete drafting suggestions.
- *In line with the above considerations, the Communication should refer to “services **implementing** statutory and complementary social security schemes” instead of the current wording which defines “statutory and complementary social security schemes” as a category of social services.*

## Field 2 – Pertinence of the characteristics

3. Please indicate whether the characteristics identified by the Communication are pertinent to gauge the specific features of social services of general interest as compared to other services (of general interest)?
- *We believe the characteristics are generally sufficient to gauge the specific features of social services of general interest.*
  - *However, the characteristics of social services as operating on the principles of solidarity and social justice is pertinent to gauge two specificities of social services **if** by this we consider that risks are not individual but structural. This view necessitates public responsibility in ensuring provision of and in regulating social services. As such they are key elements in the operation of social security schemes.*
4. Please provide, if needed, for concrete drafting suggestions for the formulation of the characteristics as they are currently presented by the Communication.
5. Are there characteristics to be added? Please provide for concrete drafting suggestions and examples of services concerned by these characteristics.

- *When we define person-oriented social services we must realise that they often address not only the physical and mental needs but also the spiritual aspect of care for each human being. Being person-oriented and addressing individual needs also means recognising that the religious dimension of life is of importance to the majority of people. We would therefore appreciate a definition which also allows this aspect to be included.*

*A drafting suggestion could therefore be: “person-oriented social services often address not only the physical and mental needs but also the spiritual aspect of care for each human being.”*

*We also suggest adding “religious traditions” along with the “local cultural traditions” so that the text reads: “They are strongly rooted in (local) cultural **and religious traditions.**”*

- *A central characteristic of many social services is that they work with the capacity of the user and assist him/her to become independent – in this respect they are fundamentally different from other services provided against consideration.*
- *Social services of general interest often include an element of advocacy in order to defend the interests of the beneficiary and to work for social justice in society*

*A drafting suggestion would therefore be: “they often include an element of advocacy.”*

6. Please provide as a maximum 3 relevant examples of social services representing one or more of the (additional) characteristics which could be taken as good example for the special nature. Please indicate which concrete element of the characteristics is clearly deducible from the example chosen.

### ***Debt counselling***

*This service is provided by churches and diaconal organisations to prevent indebtedness of families and single persons and to help them to consolidate their debts. This is a relatively new social service of growing importance meeting the challenges of private insolvencies, which is of primarily preventive character, needs a very high level of personal trust and continued companionship over several years and includes an important advocacy function on behalf of debtors.*

### ***Rehabilitation measures and integration measures for disabled people***

*These services help disabled people to (re-) integrate into society, for example with special vocational training. They are often long-term measures, which need high investments, for example in specialised “sheltered workshops”. Such “sheltered workshops” can only be competitive on the market with additional financial support, because their workers are people with special needs. If they were primarily regarded as “economic activities”, they would not be able to fulfil their special task to integrate handicapped people into work, becoming more independent and participating in public life.*

***Hospice services***

*These services offer assistance to dying people in hospitals and specialised hospices, as well as in families and private environments. The professionals in the services most often work alongside volunteers offering attendance, practical help and very often pastoral care. For many recipients, a common value-base and/or religious background of the service provider is very important in this situation, as they want to be sure to be allowed to die according to their own convictions. This is an area where an integrated provision of health services and social services is an important quality factor and where values and religious traditions play a vital role.*

7. How could these characteristics relate to the exclusion of specific social services from the scope of the Services Directive (Art. 2(2)(j) read together with the relevant Recital 27) as politically agreed on 29 May 2006 (Doc. 100003/06)<sup>1</sup> ?

*Because of the characteristics and special nature of social services we need a legal environment where we can make sure that these services are safeguarded. The services directive goes some way to recognise that these characteristics justify a specific approach to social services.*

<b>Field 3 – Use of characteristics by Member States</b>
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8. Please give a definition of what the "general interest" is in your country, and specify in which way (at national, regional or local level) it is defined or is intended to be defined in the future.

*We believe that in the field of social services the definition of the General Interest must take into account the welfare state principle where it is based on constitutional rights.*

9. How can the characteristics be used by the Member States, at national, regional or local level, when defining the particular general interest mission of a social service and determining the arrangement for its performance and organisation?
10. Have there been problems in the past with giving a concrete mandate to fulfil the particular general interest mission of a social service?

<b>Field 4 – Use of characteristics at EU level</b>
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11. Please indicate how (e.g. in a binding way or not), in your view, the organisational characteristics could/should be used at EU level (e.g. agreed checklist) in order to verify whether for a specific social service the applicable Community rules are respected?

*As is recalled in the Communication it is the responsibility of the member states to define which services are of general interest.*

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<sup>1</sup> Text available at the following website: [http://ec.europa.eu/internal\\_market/services/services-dir/proposal\\_en.htm](http://ec.europa.eu/internal_market/services/services-dir/proposal_en.htm)

*We welcome the Commission's efforts to assist in clarifying the specificities of social services of general interest.*

*However, even if the characteristics given in the Communication are shared among member states the list cannot be legally binding or exclusive.*

### **Field 5 – Experiences with the application of Community law**

The Communication and its Annex provide for a further clarification on the conditions of application of Community rules and principles to social services in particular in the following fields:

- Public procurement
- Public-private partnerships
- Freedom to provide goods and services and freedom of establishment
- State Aid

12. Please indicate whether difficulties (may) still arise and if so in which legal areas and for which type of social services.

*In some member states regulations are applied unnecessarily in order to comply with Community rules even when this is not required. This is particularly the case when member states use tendering procedures to contract social service providers when this, in fact, is not required. We would therefore like to call for a clearer communication on the application of Community rules.*

*A difficulty that may arise in the future is the unintentional effects of applying Community law to the field of social service in a way that will impede on the ability of services to fulfil their mission of general interest. If using tendering procedures it is essential to have criteria of selection which do not only focus on price but which take into account other criteria that will enable the service providers to offer services that live up to the characteristics as defined in the Commission's communication.*

*It also has to be taken into account that continuity is an important characteristic and quality element of social services of general interest. Continuity also underpins the confidence in the social protection system of the Member States. This point should be taken into account when considering public tendering procedures.*

13. Please provide for concrete examples and experiences to illustrate these difficulties.

14. Please give an indication on the debate in your country/organisation on how these difficulties should be addressed (e.g. clarification of the non-applicability of state aid rules to different social services of general interest).

**Field 6 – Social security schemes responding to the criteria deriving from the *Poucet and Pistre* case law**

15. Please indicate whether the questions in the Fields 2, 3 and 4 could also have significance with regard to social security schemes responding to the criteria deriving from the *Poucet and Pistre* case law.
16. Please indicate whether there is a need for further and specific clarification on the application of Community rules as enumerated in Field 5 with regard to these social security schemes.

**Field 7 – Future steps at Community level**

17. Which expectations do you have concerning future steps at Community level?

*We expect that the area of social policy will continue to be a competence of the Member states.*

*However, if steps were to be taken towards a legislative initiative at EU level, the specificities of different sectors of services of general interest need to be taken into account whilst a piecemeal approach must be prevented to avoid developing conflicting approaches across different sectors of services of general interest.*

*We also expect more impact assessments of where current and future EU legislation affects policy areas outside the remit of its competence (such as social policy).*

18. In case further steps should be considered, what could be the content, but also the advantages or disadvantages of these, including in particular intensified exchange of information, open method of co-ordination, Commission's Communications but also a Framework Directive for social services?

*As Europe is widening its cooperation in the economic field we are concerned that the social dimension will suffer. However, we believe that subsidiarity must be the guiding principle for constructing social protection also in the future. **We do welcome a strengthening of the open method of coordination in the field and welcome any ways that it could be made to have greater impact through bench-marking and ways it could involve more stakeholders.***

*We would also welcome the Commission initiating a debate on minimum standards within the Member States.*

*We also encourage dialogue with civil society and churches (taking into account art. I-47 and art. I-52 of the Constitutional Treaty as well as declaration 11 of the treaty of Amsterdam) including the open method of coordination at the national level and the debate on the future of the social dimension of Europe at the EU level as these organisations have played and play a strong role in providing social services, in fostering social inclusion and in advocating for the weakest in society.*

19. Please indicate the expectations with regard to the monitoring and dialogue procedure in the form of biennial reports announced by the Communication.

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***Caritas Europa***

*Created in 1971, Caritas Europa is one of the seven regions of Caritas Internationalis, the worldwide confederation of 162 Catholic relief, development and social service organisations working to build a better world, especially for the poor and oppressed, in over 200 countries and territories. Caritas Europa is the umbrella organisation of the European network of 48 Caritas member organisations, working in 44 European countries. Caritas Europa focuses its activities on policy issues related to poverty and social inequality, migration and asylum within all countries of Europe, and issues of emergency humanitarian assistance, international development and peace throughout the world. With regard to all these issues, the organisation develops policies for political advocacy and lobbying at European level as well as at national level. The organisation is strongly involved in supporting the activities of its member organisations and those in the wider Caritas Internationalis confederation.*

***The Church and Society Commission (CSC)** is one of the commissions of the Conference of European Churches (CEC). The CSC links CEC's 126 member churches from all over Europe and its associated organisations with the European Union's institutions, the Council of Europe, the OSCE, NATO and the UN (on European matters).*

*Its task is to help the churches study church and society questions from a theological social-ethical perspective, especially those with a European dimension, and to represent common positions of CEC member churches in their relations with political institutions working in Europe.*

***The Commission of Bishops' Conferences of the European Community (COMECE)** has 24 member bishops who represent the Episcopates of the Member States. COMECE maintains a permanent secretariat in Brussels. The work of COMECE follows three main objectives: to monitor and analyse the political process of the European Union, to inform and raise awareness in both the church and society of the development of EU policy and legislation, and to promote reflection based on the Church's social teaching on the challenges facing a united Europe.*

***Eurodiaconia** is a federation of 34 members - churches, non-statutory welfare organisations and NGOs in Europe - operating at national and international level. Our members are rooted in Christian faith within the traditions of the Reformation as well as in the Anglican and Orthodox traditions. We network diaconal and social work of institutions and church communities and co-operate with civil society partners.*

*Our Mission: We link our members to serve for solidarity and justice. Our strategic aims are to ensure quality of life for all in a social Europe, to link institutions of diaconia, social initiatives and churches in Europe, to be and to enhance a network of competence.*