



EASPD answer to the social services of general interest questionnaire of the SPC

EASPD

The European Association of Service Providers for Persons with Disabilities (EASPD) represents close to 8,000 social service provider organisations across Europe and across disability. The main objective of EASPD is to promote the equalisation of opportunities for people with disabilities through effective and high quality service systems. We believe in interdependence and partnership of user's organisations, providers and authorities at all levels to tackle the challenges ahead.

In 2005, several European networks of social service providers came together for the first time to better coordinate the future of social service provision in Europe. These umbrella structures represent many thousands of social service providers and have seen a significant increase of employment opportunities in their sector the past two decades. Together, the different networks realized that they all shared the same concerns and challenges with regard to the future and that the time had come to raise the profile of social service provision in Europe. The communication on social services of general interest was considered as a good first step in that direction.

In September 2006, a seminar was organized on the future challenges for social service provision in Europe and the role of social service providers as actors for social inclusion and social cohesion. In April 2007, a new seminar will be organized on the economic impact of the sector on the gross national product of the member states.

INTRODUCTORY REMARKS

Social service providers play an important role in fulfilling the goals of the Lisbon Strategy. The primary aim of social service providers is to offer their services to vulnerable groups in our society, to people with disabilities and their families, to homeless people, to refugees or to other people who are excluded of our society. Thus, the NGO social service providers' activities constitute a major contribution to social inclusion in Europe. Moreover, NGO social service providers also contribute to social cohesion. They manage to reach both people at the grass root level and marginalized or excluded groups in society. They prevent societal breakdown, encourage people to engage in volunteer activities and create and mobilize social capital. Since not-for-profit social service providers are deeply rooted in society, they often detect gaps in society as well as ideas and opinions among the general public. Therefore, they can be seen as bridge builder in an inclusive society.

Through the provision of services, social service providers create social inclusion. Through what they produce, through how they work and through who they are, they create social cohesion!

Social services in general and social services for people with a disability in particular are provided in the context of human rights and inclusion. This means that it must not be considered only as service provision but also as a tool for integration, human rights and inclusion. All this is written in the constitutions of several member states and provinces (for example in Austria and Germany).

Contrary to for profit service provision, social services constitute a long term commitment and contribute to the sustainability of service provision. In hospitals for example clients are more often subject to short term care, while at the same time in the disability sector, people are dependent from care for their whole life.

EASPD is very much committed to clarify the legal framework of the provision of social services. It is positive that social and health services of general interest are considered to have specific and special characteristics compared to other services and even to services of general interest as a whole. As regards this, it is needed to refer to the diversity of social and health service provision in the different member states. In some countries social services are considered to be health services which demonstrates the complexity of service delivery (e.g. Germany considers labor market services for people with disability to be in the long term care provision). On the other hand, in many member states, the first challenge is the existence and availability of the services (see COM (2006) 604: only 17 % of people with long standing health problems or disabilities get the services they need to find and keep a job).

In the white paper on services of general interest, the publication of a communication on social and health services of general interest was announced. However, in the run up to the publication of this communication, it was decided to go for two separate initiatives: one on social services and one on health services. The paragraph above is a clear example why this separation between social and health services is artificial. Both areas are very closely interlinked and are both key pillars of all social protection systems in the different member states. EASPD therefore calls on a greater level of coherence in the EU set of instruments.

EASPD believes that a sector-specific legal instrument offers the best opportunity to take the specificities of the sector into account and to ensure legal certainty for high-quality social, educational and health care services of general interest supplied by a variety of providers. At the same time, EASPD supports the current initiatives calling for a framework directive on services of general interest (SGIs). The idea of a framework directive on SGIs is based on the understanding that all SGIs are an important element of our societies. The general interest nature should be protected and prevail over competition law. For reasons like political history, cultural backgrounds and differences, member states should be given the freedom to define what they understand by SGIs and decide how to organise the provision of SGIs according to the principles of accessibility, universality, affordability, solidarity and democratic control. EASPD believes that a sector specific directive and a framework directive are not mutually exclusive.

QUESTIONNAIRE

Field 1 – Description of social services

EASPD in general agrees with the description of social services as provided by the Communication. Nevertheless, we want to emphasize the complexity (in organizing, design, structure and financing) of social service provision for people with disabilities. Crucial are for example availability, accessibility and affordability, the gender aspect, institutions or community based settings, service delivery in urban or rural regions, choice of providers, modernization and quality assurance aspects, etc.

Nevertheless the need of a clarification about social services is obvious. EASPD wants to underline the following quality aspects: empowerment (the goal of every service is independent living), prevention (detection of potential risk situations - people shouldn't fall into situation of external support), solidarity (networks and promoting of social capital through volunteer work and mobilization of the civil society), social cohesion, a holistic approach, and sustainable financial support of the user and the services needed.

Probably the first challenge is to provide services for all people with disabilities: the choice for users to choose a certain service is only possible when there is an overcapacity and that is clearly not the case in Europe today.

As there are clear indicators that social services under free market mechanisms loose quality, EASPD urges the Commission to consider all the aspects of service provision, such as quality aspects and fundamental rights and not only the price and or competition.

Field 2 – Pertinence of characteristics

Social services are often provided by NGOs that build their services on the commitment to certain values and particular approaches.

Most social service providers are not for profit; either NGO, either GO. This means that all profits, all surplus or all clear profit on exploitation have to be reinvested in research, improvement of quality,... Besides that, a watertight right to care or support on a juridical or financial basis is not existing in Europe. There is no single European country that finances the provision of services for the full 100 %. Sponsoring, gifts and other ways of funding... are always needed to reach a well balanced budget.

As it was mentioned in the introductory remarks, service providers for people with disabilities usually are part of an organic tissue, being a neighborhood, a village or a community. This trend will only reinforce in the future. Service providers are actors who are deeply rooted in society. For that reason, service providers contribute to social cohesion of local communities (for example in the composition of management committees, but also in daily life).

Not for profit actors (mainly NGO's) are laboratories for social development and renewal. They detect specific critical points in society and they develop remedial strategies; most of the time even before authorities recognise or finance those problems.

Unlike many other public services, most social services are either purchased or arranged on behalf of the service user – the user does not purchase the services directly. This has significant consequences for the way in which a social services 'market' will behave, because market choice does not necessarily reside with the user.

The asymmetric relationship between user/beneficiaries and providers is important and is rightly highlighted in the Communication's list of characteristics. This special relationship however needs to be taken into account whether or not a financing third party is involved.

It should be clearly stated that the involvement of volunteers is a benefit for both the volunteer and the user of the service. In addition to citizenship capacity, volunteering fosters social inclusion and cohesion, as well as it creates social capital. The issue of volunteering needs to be given special attention when discussing tendering procedures in the social services sector. Volunteering is an investment in the future rather than a replacement of paid labour and a cost saving measure!

Field 3 – Use of characteristics by member states

It is needed to recall that although the term social services of general interest is differently defined and interpreted in the different member states, a general framework for (S)SGI is needed in the future.

The introduction of tendering procedures in most of the member states puts pressure on the quality of service provision. Therefore we would like to bring in the European Quality Principles Framework EASPD is currently working on as the basis for service delivery in Europe. EASPD believes the best way for the EU to ensure high quality service provision in

Europe is to establish consensus on European quality principles instead of quality standards. Quality standards could be implemented on the national or regional level, but quality principles are setting the scene on the EU level.

Field 4 – Use of characteristics at EU level

In December 2006, the European Parliament agreed on the new directive on services in the internal market. Social services related to social housing, childcare and support of families and persons permanently or temporarily in need which are provided by the State, by providers mandated by the State or by charities recognised as such by the State were exempted from the scope of the directive. Clearly, EASPD would have preferred encompass the whole social services sector from the exemption and not only the services mentioned by the Council's common position. Any enumerative list of social services excluded from the directive or any too restrictive definition might result in the fact that not the whole social services sector will be exempted from the scope of the "services directive". All this means that a big part of social service provision still is operating in a grey zone: more clarification is needed. Clearly distinguished criteria of SSGIs can help member states in identifying which services are excluded, as well as regarding specific regulations taking the specificities of SSGIs into consideration in for example state aid rules, concerning sector specific exemptions and higher thresholds, as well as sector specific criteria in public procurement.

Field 5 – Experiences with the application of Community Law

As mentioned above, the grey zone in which lots of social services are today causes a lot of problems. Case law only is not enough to regulate the sector in the best possible way. EASPD therefore calls for more coherence in the EU set of instruments.

Currently, there is a trend towards tendering of social services. Tendering is supposed to create more competition, and as a consequence raise the quality and the choice for users, while at the same time lowering prices. Whether tendering procedures in the social sector have these positive effects is yet to be seen. Public procurement procedures risk focusing solely on reducing costs and neglecting criteria such as sustainability and quality. To reduce social services purely to their economic aspects neglects and endangers the important role these services play for our societies. Last but not least, EASPD would emphasize that tendering procedures have a negative impact on the long term sustainability of a service. It is part of the identity of the not for profit social service provision sector to provide sustainable services.

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

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Field 7 – Future steps at community level

As it was mentioned in the text above, a higher degree of coherence is needed in the EU set of instruments. Currently there seems to be an incoherence not only between the processes on SSGIs and HSGIs, but for example also regarding the consultation process on SSGIs specifically. The fact that two questionnaires (one for the study and one by the SPC) were published around the same time, both aiming at a better understanding of the social service

sector, is confusing and timeconsuming for stakeholders. In order to ensure involvement of a variety of experts and actors from local, regional and national level, targeted consultation and cooperation is needed. NGO social service providers are ready to play an active role in the discussions about the future of social services in the EU internal market.

Summarized, EASPD sees the following steps for action at EU level:

- **Sector specific legal instrument for SSGI**
- **Framework directive on SGI**
- **No artificial separation between health and social services**
- **European Quality Principles Framework**
- **SSGI outside the EU market mechanisms**
- **Subsidiarity: SSGIs are responsibility of the member states**