



1. IDENTIFICATION

The Spanish National Organization of the Blind (ONCE) is a non-profit making organization formed by all blind and severely partially sighted people in Spain. ONCE's mission is to provide services to people with special needs stemming from blindness, whether this occurs from birth or through vision loss later in life, promoting their full social integration in society.

This is possible thanks to its participation in the Public Game Sector through the granting of a state concession to manage a lottery called the "Cupón" and, more recently, other types of lotteries. The income derived from these lotteries allows ONCE to provide social services in education, rehabilitation, vocational training, employment, accessibility, culture, new technologies, sport and other fields to its 66,000 plus members.

Moreover, through its Foundation, ONCE also contributes to the integration of people with other disabilities (approximately 4 million Spanish citizens).

This way, ONCE and its Foundation secure employment for more than 100,000 people, 78% of them being workers with some type of disabilities.

Abroad, and mainly through the ONCE Foundation for Solidarity with Blind People in Latin America (FOAL), ONCE also carries out important cooperation programmes aimed at improving the quality of life of other blind people from different parts of the World.

Finally, in the field of the European Union, ONCE has been one of the most active social organizations in promoting policies and programmes that have had positive consequences for the disability sector, a task it carries out in cooperation with Public Institutions and, above all, with European organizations from the social sector to which it belongs.

Social Services of General Interest Questionnaire

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.***

In general terms the definition potentially covers all social services of general interest as it is a general and wide one and leaves aside Member States who should take the final decision on what constitutes a social service of general interest or not.

The great challenge is to have the same philosophy and approach reflected suitably in future Community legislative initiatives, should the Commission ultimately decide to go down this path.

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 the case of social services aimed at people with disabilities, it would be best to explicitly mention that these services include activities designed to achieve the mainstreaming of people with disabilities and may involve social services as varied as the following:

- 1 Education
- 2 Employment
- 3 Rehabilitation
- 4 Access to leisure activities, culture, etc.

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)

Obviously it is always going to be difficult to draw a clear line that defines and separates one from the other; however, we believe that decision lies with Member States. Whatever the case may be, we believe that for social services for people with disabilities (as with all services provided to disadvantaged groups), all services mentioned in the Communication, plus those we have added in our response to question 2, are of “general interest”.

We should also add the concepts of “non discrimination” and “equal treatment”, already included in the Spanish government’s response to the questionnaire on social services of general interest distributed to Member States by the Commission at the end of 2005.

We particularly welcome the list of organizational characteristics included at the end of point 1.1.

4. Please provide, if needed, for concrete drafting suggestions for the formulation of the characteristics as they are currently presented by the Communication.

Perhaps in the third bullet point at the end of point 1.1 the meaning of the expression “profit-making” should be revisited, as in some cases those providing social services may legitimately seek to make profits; however, these profits are not paid out to shareholders but are rather reinvested for the benefit of those receiving services. This is a defining characteristic of some companies operating in the Social Economy, such as for example co-operatives and mutual societies.

In other cases, such as the Spanish National Organization of the Blind, we can say there is no “profit-making” in the strict sense of the term since the ultimate purpose of the organisation is the full integration of blind and severely partially sighted people in society through the provision of social services (as we outlined in the short introduction to the organisation at the beginning of this questionnaire).

5. Are there characteristics to be added? Please provide for concrete drafting suggestions and examples of services concerned by these characteristics.

-

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.

-

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) ?

This is a difficult question and the ultimate solution obviously lies in the hands of the Court of Justice. It is evident that the wording of Article 2(2)j raises several questions that must be clarified in future specific legislation in the field of social services of general interest.

Firstly, no definition of social services is provided, leaving it open to wide interpretation. Secondly, there is mention of providers “**commissioned**” by the state; does this mean there must be a clear mandate from the public authorities? Does

this also cover tacit mandates, that is to say where service providers, with the acquiescence of the State, have taken over provision for social needs in certain areas in which public authorities were unable to operate?

In our opinion it should be the latter of the two options as otherwise a large part of social services would remain outside the scope of the aforesaid exclusion and the European social model would be placed at risk.

Finally, it remains unclear what the directive is referring to when it speaks of “charity organisations recognised as such by the State”. Does this mean non profit-making organisations? We believe it should.

Field 3 – Use of characteristics by Member States

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.

-

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?

Field 4 – Use of characteristics at EU level

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?

We believe the “faisceau d’indices” model put forward by CEP-CMAF is a good solution offering the required flexibility and given the wide range of services we are addressing.

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:

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

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

Insofar as there is no clear legal framework at European level to regulate both services of general interest and social services of general interest, we remain in a situation where there is uncertainty in legal terms. We believe this is not welcome as it exposes us to the whims of Court of Justice case law. While obviously its verdicts are based on law, the lack of clarity in the field of social services of general interest makes it possible for contradictory or at minimum inconsistent verdicts to be passed.

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).

We believe the non-application of state aid rules is an option to be considered. Similarly, the establishment of a special regime that takes into account the specificity of social services of general interest and the key role they play in creating a true Social Europe and a truly citizen-driven Europe.

At the same time, the possibility of restricting to a certain extent the freedom to provide services, or at least requiring that certain special requirements are met, should be looked into. We mustn't forget that many beneficiaries of social services of general interest can not be considered in the same way as a normal consumer who is in a position to choose the provider. On the contrary and as the Communication itself recognises, such people find themselves in an asymmetrical situation with regard to the provider.

**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 would hope for a thorough analysis and impact assessment study of any initiative undertaken in this field, not only from an economic and single market perspective but also, and as a priority, from the point of view of determining the impact future European regulations in the field of social services of general interest may have on disadvantaged groups such as people with disabilities and on the European social model.

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?



In principle, a social services framework directive must be viewed as a positive step insofar as it may resolve the current legal uncertainty in the field and also provide “protection” for social services of general interest from further future initiatives of a more general nature (as has been the case with the new services directive) that may, albeit unwittingly, have a negative effect on the provision of basic social services to so many European citizens.

Nevertheless, and as we mentioned previously, the directive must be the outcome of a robust and thorough process of reflection, analysis and impact assessment. We welcome, therefore, this consultation and other consultations undertaken by the Employment Directorate General recently. We hope this work method and willingness to seek dialogue with different stakeholders continues during the coming stages.

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

-

For more information, please contact with:
Technical Office of European Affairs
ONCE general Council
e-mail: otae@once.es
Telef: +34 91 436 53 00