

Social Services of General Interest
Questionnaire

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This questionnaire does not engage the Commission or any of its services

Field 1 – Description of social services

- 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.**

Firstly SKTF would like to point out that we do not see the value in making a distinction between social services of general interest and other services of general interest (SGI). Even that social services of general interest plays a special role “in achieving a high level of employment and social protection, a high level of human health protection, equality between men and women, and economic, social and territorial cohesion”¹ they do not in principal differ in objectives and characteristics from other services of general interest. In our opinion there is no need of a separately definition of social services of general interest. The description of services of general interest in the Commissions green and white paper on SGI and the attempt to distinguish between SGI and SGEI is not without problems. The question is if it at all is possible to separate social services of general interest from services of general interest and make it own category detached from the general and broad concept of SGI.

Secondly it is the position of SKTF that social services because of their specific and essential nature and characteristics should not be deemed to be classified as services of general economic interest (SGEI).

Thirdly it is difficult for SKTF to assess whether the given description is appropriate and adequate, since it is not clear in which manner and for which purpose the description exactly will be used. If the purpose is to part social services into services of general interest and service of general economic interest and exclude /or include specific social services in the scope of the Service Directive we would like to stress that as most activities undertaken within the social services are delivered by the public sector and provided at no, or limited cost for the individuals, it is not evident that they fall under the concept of service as defined by Article 50 in the Treaty.

It is up to the Member States to decide which social services serve a general interest and also how they plan, organise and finance these services in order to uphold the principles of equality, solidarity and universality.

¹ Com (2006) 177 final page 4

2. **If you consider that the description could be improved or other (type of) services should be added, please provide for concrete drafting suggestions.**

SKTF is of the opinion that this description does not take into account all the specificities of social services. We miss for instance eldercare, child care and protection measures for children and young people who's "moving in a bad way". We are also wondering why the Commission only focused on social services which fulfil individual needs and which are applied directly to the person and not include other social services which fulfil societal or community needs like health promotion services, anti-obesity and anti smoking initiatives, initiatives against ghettoization (also social ghettoization) and youth centres. These kinds of social services are also important to promote social cohesion, prevent social exclusion.

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)?**

SKTF find that the choice for and wording of these characteristics does not take into account the diversity of the social services sectors and the different ways in which they are organised across the EU.

We also find the characteristics identified by the Commission too limited (see answer under 5 to illustrate this point). In our opinion the main characteristic of social services of general interest is that they meet the social needs of societies, groups or individuals and which national, regional and/or local authorities consider to be essential in the light of the general interest. Social services seeks to provide security and equal opportunities for all and social policy is also about redistribution between rich and poor, between those who are employed and those who are not, between young and old, between families with children and families/persons without etc. It is the responsibility for the Member States to set and to decide the targets and how to meet the targets at the local level.

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

SKTF find it important, that the discussion on social services of general interest (and services of general interest in general) should focus on the nature of the activity and not how it is organised, as organisational structures could and often will change over time as part of an innovative process.

Social services in Sweden, as services of general interest in general, are public funded by tax revenues, primarily though local taxes or central government funding (national tax rates, duties, fees). Social services do not only operate, but also being governed and financed on the basis of the principle of solidarity. This guarantee equal access on equal terms for all to social and other services of general interest of high quality.

The social services are, as mentioned funded by tax revenues and in that way also by the "beneficiaries" or "consumers" of the social services and not only by a "third

party”². The third party is actually the taxpayers, the inhabitants. SKTF find that this point is very important and essential.

Many social services are not part of a historical legacy or local traditions, but have often been set up in reaction to the changes in society. Many are relatively new and seen as modern and dynamic services that not only address personal needs but also the needs of the society. And a lot of the services are not addressing difficult situation or personal challenges or crises.

One example is child care. The services in this field are recently developed (the past decades) and closely connected to the changes in the working patterns of women and they do not address a special difficult situation. Another example is elderly care, which also has changed significantly recently for several reasons, for instance the changes in the working patterns of women, the ageing population, increasing number of single elderly persons and changes in family patterns.

In both examples the services are serving large groups in the society and not only the most vulnerable or disadvantaged³. Both services do not necessarily include participation of voluntary workers. The element of voluntary work in Sweden is not very extensive actually in many services none existence.

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

See answer under question 4.

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.

See answer under question 4.

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)⁴ ?

As explained above under field 1, SKTF finds these characteristics too limited and not appropriate to be used to exclude /or include specific social services in the scope of the Service Directive.

² The organisational characteristics – number 5 page 5 in COM (2006) 177 final

³ From COM (2006) 177 final page 4 under “other essential services..” and the organisational characteristics – number 2 page 4

⁴ Text available at the following website: http://ec.europa.eu/internal_market/services/services-dir/proposal_en.htm

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.**

There is no common definition of what is “general interest”, although the following elements are central in the debate – the nature of the services, the political responsibilities, the public funding, solidarity, accessibility, availability, equal access and equal terms, democratic control.

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?**

It is up to the Member States to define “general interest” and also how they plan, organise and finance these services in order to uphold the principles of equality, solidarity and universality. The concept of social services of general interest (SSGI) does not historically exist in Swedish terminology or public debate on SGI.

Social services do not in principal differ in objectives and characteristics from other services of general interest. In our opinion there is no need of a separately definition of social services of general interest

10. **Have there been problems in the past with giving a concrete mandate to fulfil the particular general interest mission of a social service?**

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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?**

SKTF finds these characteristics too limited and not appropriate to be used in a legal context, and certainly not as an agreed checklist. As mentioned above we don't want to or see the value in making a distinction between social services of general interest and other services of general interest. SKTF finds it important that the Member States must be able to take full responsibilities for the fields of social services and other services of general interest. Member states organise and finance their social services according to national needs and priorities. They must therefore have control of existing policy instruments themselves and be able to organise and fund these services. Priorities must be set by politically elected representatives, who can be held accountable for their actions and decisions.

There are great variations between Member States in these areas. It is important to take into account and consideration the different services, characteristics, definitions of social services, way of organisation and funding in the different Member States.

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.

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

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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).

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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.

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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.

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Field 7 – Future steps at Community level

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

SKTF do not have any special expectations. We find it important in the framework of a Social Europe, that the Community bodies stop defining the different categories of services with a general interest. Further work on social services can be done in the context of the Open Method of Coordination.

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?

SKTF do not ask for a specific EU regulation, either in a Directive for social services or in a Framework Directive for services of general interest (SGI) or for services of general economic interest (SGEI). In case of a Framework directive on services of general interest, we would like to refer to the draft developed by the Socialist Group of the European Parliament.

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

SKTF consider the social dialogue as important for the development and organisation of social services at national and EU level.