

Services of General Economic Interest: Report submitted following the 2012 SGEI Decision and the 2012 SGEI Framework

1. EXPENDITURE OVERVIEW

Please complete the following table:

| Total SGEI government expenditure by legal basis (millions EUR) | | |
|---|--------|--------|
| | 2016 | 2017 |
| <i>Compensation for Services of General Economic Interest (1+2)</i> | 49 668 | 45 097 |
| 1) Compensation granted on the basis of the SGEI Decision | 0.75 | 4.53 |
| 2) Compensation granted on the basis of the SGEI Framework | 48 918 | 40 567 |
| Non-compulsory: If your Member State has not granted State aid for the provision of SGEI in certain sectors on the basis of the SGEI Decision or the SGEI Framework, information regarding other instruments to ensure the provision of those services would be very useful. If available, please provide a brief description of these instruments (e.g. direct aid to users, compensation complying with all four Altmark criteria, SGEI <i>de minimis</i> aid ...) and the sectors in which they are used. | | |
| | | |

2. DESCRIPTION OF THE APPLICATION OF THE 2012 SGEI DECISION

Please structure this part of your report by the following sections:

- 1) Hospitals (Art. 2(1)(b))
- 2) Social services (Art. 2(1)(c))
 - a) Health and long term care
 - b) Childcare
 - c) Access to and reintegration into the labour market
 - d) Social housing
 - e) Care and social inclusion of vulnerable groups
- 3) Air or maritime links to islands with average annual traffic not exceeding the limit set in Art. 2(1)(d)
- 4) Airports and ports with average annual traffic not exceeding the limit set in Art. 2(1)(e)

- 5) SGEI compensation not exceeding an annual amount EUR 15 million (Art. 2(1)(a))
 - i. Postal services
 - ii. Energy
 - iii. Waste collection
 - iv. Water supply
 - v. Culture

**5. SGEI compensation not exceeding an annual amount EUR 15 million
(Art. 2(1)(a)) — iii, Waste collection**

PO SEUR Waste

| |
|---|
| Clear and comprehensive description of how the respective services are organized in your Member State |
| Explanation of what kind of services in the respective sector have been defined as SGEI in your Member State. Please list the contents of the services entrusted as SGEI as clearly as possible. |
| <p>PO SEUR supports investments relating to public urban-waste recovery services, i.e. services to recover household waste and waste from small-scale producers producing less than 1 100 litres per day (for example, cafés, shops and catering establishments), focusing on activities to prevent the production of waste or activities relating to material and/or organic recycling with a view to recovering the waste.</p> <p>In order to be eligible, the investments must fit within the current national and EU strategy for the urban-waste sector, as defined in the Framework Directive on Waste (FDW) and in Portugal’s Strategic Plan for Urban Waste (PERSU 2020), approved by means of Ministerial Implementing Order No 187-A/2014 of 17 September 2014, so that they help to meet the demanding national and EU targets in terms of preparing biodegradable urban waste for reuse and recycling and diverting it away from landfills.</p> <p>The only potential beneficiaries of the ‘Urban waste recovery’ part of PO SEUR are urban-waste management bodies that provide public urban-waste recovery services and operate on the market regulated by the Regulatory Body for Water and Waste Services (ERSAR).</p> <p>All public funding from the Cohesion Fund allocated through PO SEUR is channelled into the tariffs charged by the beneficiary to end-users, irrespective of whether the urban waste-management system in question is municipal or cross-municipal, publicly, privately or jointly run, and irrespective of the management model used.</p> |

The Programme beneficiaries must at all times act merely as intermediaries for the funding in question, given that, as laid down in ERSAR's Tariff Regulation, they are required to include in the tariff calculation for the waste-management service any subsidies that they have been allocated by PO SEUR, with the financial benefit associated with the public funding in question being passed on to end-users.

PO SEUR finances projects focusing on the recovery of urban waste. Below are some examples of the types of project it finances:

- Activities to prevent the production of waste and make it safe, including educational and awareness-raising activities, as well as any studies that may be required, focusing on the first levels of the waste-management pyramid;
- Investments designed to improve the quantity and quality of multi-material recycling by improving and bolstering the existing selective collection networks, optimising infrastructure for multi-material sorting, the system of door-to-door selective collection and Pay-As-You-Throw systems (PAYT);
- Investments designed to increase the recovery of organic waste, by boosting the mechanical and/or biological treatment of waste, selective collective systems for biodegradable urban waste, systems for household composting of biodegradable urban waste and compost recovery systems.

Explanation of the (typical) forms of entrustment. If standardized templates for entrustments are used for a certain sector, please attach them.

The typical form of award of the funding is via competitive calls, with indicative maximum funding allocations from the Cohesion Fund. The merits of the applications are assessed with reference to the selection criteria set out in the calls; the selection criteria comply with the Operational Programme and have been approved in advance by the PO SEUR Monitoring Committee.

Please find enclosed an example of a Funding Award Decision issued by PO SEUR.

Average duration of the entrustment (in years) and the proportion of entrustments that are longer than 10 years (in %) per sector. Specify in which sectors SGEI were entrusted with a duration exceeding 10 years and explain how this duration is justified?

The average duration of the funding allocated by PO SEUR is three years, and, in the area of urban waste recovery, the maximum duration of funding is ten years.

Explanation whether (typically) exclusive or special rights are assigned to the undertakings.

Under PO SEUR, no exclusive or special rights are conferred on the undertakings.

Which aid instruments have been used (direct subsidies, guarantees, etc.)?

The aid is granted by means of non-refundable grants, and the maximum rate of Cohesion Fund co-financing is 85 % of the total amount of eligible expenditure.

As regards revenue-generating projects, the eligible investment is the eligible expenditure minus the net revenue that is expected to be generated during the operational phase and which was taken into account in the financial viability studies for each project.

Typical compensation mechanism as regards the respective services and whether a methodology based on cost allocation or the net avoided cost methodology is used.

Without prejudice to the rules and ceilings on eligible expenditure set out in Article 15 of Decree-Law No 159/2014 of 27 October 2014, the only eligible expenditure is that which is strictly necessary in order to carry out the approved activities and which results from the real costs incurred when carrying out those activities as set out in Articles 7 and 92 of the Specific Regulation on the Sustainable and Efficient Use of Resources (RE SEUR), adopted by means of Ministerial Implementing Order No 57 - B/2015 of 27 February, as currently worded.

Typical arrangements for avoiding and repaying any overcompensation.

As explained above, all public funding from the Cohesion Fund relating to PO SEUR is channelled into the tariffs charged by the beneficiary to end-users, irrespective of whether the urban-waste management system in question is municipal or cross-municipal, or publicly, privately or jointly run, and irrespective of the management model used.

The Programme beneficiaries must at all times act merely as intermediaries for the funding in question, given that, as laid down in ERSAR's Tariff Regulation, they are required to include in the tariff calculation for the waste-management service any subsidies that they have been allocated by PO SEUR, with the financial benefit associated with the public funding in question being passed on to end-users.

Without prejudice to the powers conferred upon other bodies, and in the exercise of its statutory regulatory duties and powers in the area of urban-waste management in respect of any financial support granted to urban-waste management bodies and communicated by POSEUR to ERSAR, ERSAR informs the POSEUR Management Authority in a timely and complete manner of any measures taken by a beneficiary which jeopardise, either in terms of form or content, and directly or indirectly, the provisions above, so that the Management Body is able, where necessary, to correct funding for investments made as part of the Programme; this could include, but is not restricted to, full repayment of the approved or

allocated funding, plus interest.

A short explanation of how the transparency requirements (see Article 7 of the 2012 SGEI Decision) for the aid above 15 million euro to undertakings that also have activities outside the scope of the SGEI are being complied with. In your answer please also include some relevant examples of information published for this purpose (e.g. some links to websites or other references), indicate whether you have a central website on which you publish this information for all aid measures concerned in your Member State (and if so provide the link to this website), or alternatively explain if and how the publication takes place at the level granting the aid (e.g. central, regional or local level).

Not applicable.

Amount of aid granted

Total amount of aid granted (in millions EUR)⁶. This includes all aid granted in your territory, including aid granted by regional and local authorities. **(A+B+C)**

| 2016 | 2017 |
|------|------|
| 0.00 | 3.78 |

A: Total amount of aid granted (in millions EUR) paid by national central authorities⁷

| 2016 | 2017 |
|------|------|
| 0.00 | 3.78 |

B: Total amount of aid granted (in millions EUR) paid by regional authorities⁸

| 2016 | 2017 |
|------|------|
| - | - |

C: Total amount of aid granted (in millions EUR) paid by local authorities⁹

| 2016 | 2017 |
|------|------|
| - | - |

Share of expenditure per aid instrument (direct subsidy, guarantees etc.) (if available)

| 2016 | 2017 |
|------|------|
|------|------|

| | |
|---|---|
| 0.00 | 3.78 (non-repayable) |
| Additional quantitative information (e.g. number of beneficiaries per sector, average aid amount, size of the undertakings)¹⁰ | |
| 2016 | 2017 |
| <ul style="list-style-type: none"> • Number of approved transactions: 36 • Cohesion Fund - amount approved € 50.3 million • Number of beneficiaries: 27 • Type of beneficiaries: Municipalities and associations of municipalities (21); Municipal or inter-municipal undertakings (6) • Average amount from Cohesion Fund approved per transaction: € 1.4 million/transaction | <ul style="list-style-type: none"> • Number of approved transactions: 58 • Cohesion Fund - amount approved € 126.7 million • Number of beneficiaries: 40 • Type of beneficiaries: Municipalities and associations of municipalities (20); Municipal or inter-municipal undertakings (8); Multi-municipal concession holders (12) • Average amount from Cohesion Fund approved per transaction: € 2.185 million/transaction |

5. SGEI compensation not exceeding an annual total of EUR 15 million (Art. 2(1)(a)) — V. Culture

Teatro Micaelense – Centro Cultural e de Congressos, SA (Cultural and Congress Centre)

| | |
|---|---|
| Clear and comprehensive description of how the respective services are organized in your Member State | |
| Explanation of what kind of services in the respective sector have been defined as SGEI in your Member State. Please list the contents of the services entrusted as SGEI as clearly as possible. | Public investment contract between the Autonomous Region of the Azores and the Teatro Micaelense – Centro Cultural e de Congressos, SA. |

| | |
|--|---|
| <p>Explanation of the (typical) forms of entrustment. If standardized templates for entrustments are used for a certain sector, please attach them.</p> | <p>On 13 April 2018, the Autonomous Region of the Azores and the TEATRO MICAELENSE - CENTRO CULTURAL E DE CONGRESSOS, SA, signed a public investment contract with the aim of setting out the terms of the cooperation between the Autonomous Region and the undertaking with a view to implementing the annual action plan to develop and diversify the cultural activities on offer and promote the region.</p> |
| <p>Explanation of the (typical) duration of the entrustment and the range of durations of the entrustments. Please also specify the proportion of entrustments that are longer than 10 years.</p> | <p>Each year, the region sets the amount of funding to be transferred to the concessionaire by means of a Joint Order of the Regional Ministers responsible for finance and culture. For 2018, the public investment contract was for € 825 000.00.</p> |
| <p>Explanation whether (typically) exclusive or special rights are assigned to the undertakings.</p> | <p>No.</p> |
| <p>Typical compensation mechanism as regards the respective services, including the aid instrument (direct subsidy, guarantees, etc.) and whether a methodology based on cost allocation or the net avoided cost methodology is used.</p> | <p>Under the Public Investment Contract, financial compensation is based on cost allocation.</p> |
| <p>Typical arrangements for avoiding and repaying any overcompensation.</p> | <p>Teatro Micaelense (TM SA) is contractually obliged to fulfil specific reporting requirements and must draw up half-yearly reports and send them to the Region, as well as a final report on the implementation of the contract.</p> |
| <p>Amount of aid granted</p> | |
| <p>Total amount of aid granted. <u>This includes all aid granted in your territory, including aid granted by regional and local authorities.</u></p> | <p>2016 € 750 000.00; 2017 € 750 000.00</p> |

| | |
|--|--|
| Additional quantitative information | |
|--|--|

- vi. Financial services
- vii. Other sectors (please specify)

3. D DESCRIPTION OF THE APPLICATION OF THE 2012 SGEI

FRAMEWORK - Please structure this part of your report using the

following sections:

- 1) SGEI compensation exceeding EUR 15 million, falling outside the SGEI Decision (please specify the Commission decision approving each measure if applicable):
 - i. Postal services
 - ii. Energy
 - iii. Waste collection
 - iv. Water supply
 - v. Air or maritime links to islands with average annual traffic above the limits set in Art. 2(1)(d)
 - vi. Airports and ports with average annual traffic above the limit set in Art. 2(1)(e)
 - vii. Culture
 - viii. Financial services
 - ix. Other sectors (please specify)

For each of the items outlined above please provide information in the form of the following table:

v. Air or maritime links to islands with average annual traffic above the limit set in Art. 2(1)(d)

Air transport and maritime transport of passengers and vehicles between the islands of the Autonomous Region of the Azores

| |
|--|
| Clear and comprehensive description of how the respective services are organized in your Member State⁷ |
|--|

| |
|---|
| Explanation of what kind of services in the respective sector have been defined as SGEI in your Member State. Please list the contents of the services entrusted as SGEI as clearly as possible. |
|---|

The following services have been defined as SGEI:

- a) air transport service between the islands of the Autonomous Region of the Azores, with the aim of ensuring a minimum service for users. A number of obligations were put in place relating, for example, to flight frequency, capacity, category of aircraft used, fares, continuity, punctuality, timetables, marketing of flights and postal services;
- b) public maritime transport service for passengers and vehicles between the islands of the Autonomous Region of the Azores, with the aim of ensuring it is possible to travel by boat between all the islands in the archipelago. Obligations were put in place relating to frequency, category of ships used, fares and continuity and punctuality of the service.

⁷ If in a certain sector only a small number of individual SGEIs exist in your Member State, we appreciate a detailed description of those services. If a large number of services are entrusted in a specific sector in your Member State (for example because the competence lies with regional or local authorities), individual details of the entrustments would be disproportionate, but a clear and concise general description of the way the sector is organised including the common features of the individual entrustments remains crucial. Since cases falling under the SGEI Framework will be limited in number, the Commission expects a detailed description of each concrete measure.

Explanation of the (typical) **forms of entrustment**. If standardized templates for entrustments are used for a certain sector, please attach them.

AIR TRANSPORT - SATA AIR AÇORES, SA

Following the adoption of Resolution No 29/2015 of 12 February 2015, a new competitive call was launched, which was published in the Official Journal of the European Union No 2015/C 98/06 of 25 March 2015; only SATA Air Açores, SA responded to the call, and it was awarded the concession for scheduled internal air transport services in the Autonomous Region of the Azores for five years; a contract to that effect was signed on 4 September 2015.

MARITIME TRANSPORT - ATLÂNTICOLINE, SA

On 25 September 2015, a contract was signed with Atlânticoline to provide the maritime public transport service for passengers and vehicles in the Azores, which includes scheduled maritime transport services for passengers and vehicles between the islands of Faial, Pico and São Jorge and the passenger service between the islands of Flores and Corvo, as well as the seasonal maritime transport service for passengers and vehicles running from May to September between all the islands of the Azores, with the exception of Corvo. The call for these public service obligations was published in the Official Journal of the European Union No 2015/S 136-250930 of 17 July 2015. Only Atlânticoline, SA. responded to the call, with a proposal that fulfilled all the public service obligations laid down; it was awarded the concession for this service by means of a contract, dated 25 September 2015, starting on 1 November 2015 and ending on 31 December 2016.

On 27 December 2016, a new call was launched for the provision of the maritime public transport service for passengers and vehicles in the Azores; this was published in the Official Journal of the European Union No 2016/S 251-462872 of 29 December 2016. Once again, only Atlânticoline, SA. responded to the call, with a proposal that fulfilled all the public service obligations laid down; it was awarded the concession for this service by means of a contract, dated 23 February 2017, for a period of 32 months, with the possibility of an extension for up to 12 months, starting on 1 May 2017.

Average duration of the entrustment (in years) and the proportion of entrustments that are **longer than 10 years** (in %) per sector. Specify in which sectors SGEI were entrusted with a duration exceeding 10 years and explain how this duration is justified?

Please find below details of the contract durations:

- a) air transport service between the islands of the Autonomous Region of the Azores: five years;
- b) maritime public transport service for passengers and vehicles between the islands of the Autonomous Region of the Azores: 32 months, with the possibility of an extension for up to 12 months.

Explanation whether (typically) **exclusive or special rights** are assigned to the undertakings.

As regards the air transport service between the islands of the Autonomous Region of the Azores, the concessionaire has the exclusive right to operate the routes covered by the contract signed on 4 September 2015 (as allowed under Article 16(9) and (10) of Regulation (EC) No 1008/2008). As regards the maritime public transport service for passengers and vehicles between the islands

of the Autonomous Region of the Azores, no exclusive or special rights are conferred upon the undertaking operating this service.

Which aid instruments have been used (direct subsidies, guarantees, etc.)?

Direct grant.

Typical compensation mechanism as regards the respective services and whether a methodology based on cost allocation or the net avoided cost methodology is used.

The contracts signed with the undertakings providing the air and maritime inter-island public transport services include clauses to prevent cross-subsidising, enable correct cost allocation and prevent overcompensation.

The cost allocation method is used, and the financial compensation is calculated as follows:

- a) for the inter-island air transport service contract, based on the operating deficit calculated 'ex-post' each year using the costs and revenue that are duly justified and effectively incurred;
- b) for the contract for the inter-island maritime transport service, based on a price per passenger transported.

Typical arrangements for avoiding and repaying any overcompensation.

The Autonomous Region of the Azores ensures that regular checks are carried out to guarantee that the undertakings are not receiving more compensation than is necessary to cover the costs incurred in fulfilling the public service obligations.

The Region considers this monitoring to be perfectly adequate and welcomes the close relationship it has with these public-sector undertakings in the region for the purposes of supervision and oversight and close monitoring of their activities.

SATA AIR AÇORES, SA

The rules for allocating the amount of financial compensation to SATA Air Açores are clearly stipulated in the contract. For the purposes of certifying the amount to be paid, the concessionaire sends the Region an annual implementation report for the concession, with detailed information on the requisite aspects, as well as the accounting procedures and criteria used. The awarding authority makes the payment at the end of each quarter, and the payment for the final quarter of each year is made available only once the exact amount of compensation due has been established; the payment will be for the difference between this amount and the total of the payments already made. If in the final quarter of each year the balance is in favour of the awarding authority, the amount will be offset in the next quarter, with the exception of the final quarter of the concession, when the amount will be repaid.

For the purpose of restoring the financial equilibrium of the concession in the event of excess losses being suffered, the contract allows account to be taken of abnormal and unforeseen changes in the conditions on which the proposal was based that result in a substantial increase in costs, specifically and only in the event of excess losses suffered as a result of a variation of more than 17 % compared with the average fuel price for the 24 months prior to the signing of the contract, of more than 15 % compared with the average value of the dollar against the euro in the year in which the contract was signed, or a variation in the cost of insurance premiums above the previous year's rate of inflation.

ATLÂNTICOLINE, SA

The rules for allocating the amount of financial compensation to Atlânticoline, SA, are clearly stipulated in the contract. At the end of the calendar year, the concessionaire must send the awarding authority a final report on the service provided; the report must be certified by an official auditor and must contain information on: the fulfilment of the public service obligations; the number of passengers transported for each maritime transport service and for each type of tariff; and the revenue from the maritime transport services, broken down by ticket sales and by tariff type.

At the end of the calendar year, the annual price adjustment is carried out on the basis of the number of passengers transported, using the final report on the service provided as submitted by the concessionaire (see above). In the event that, at the end of the calendar year, the balance is in favour of the awarding authority, the amount will be offset against the monthly payment the following year, aside from in the last calendar year, when the amount will be repaid.

For the purpose of restoring the financial equilibrium of the service provision, the contract allows account to be taken of situations where the awarding authority decides to unilaterally amend the Contract or the public service obligations, if the amendment results directly in higher expenditure or lost revenue for the concessionaire.

A short explanation of how the **transparency requirements** (see Paragraph 60 of the 2012 SGEI Framework) are being complied with.

In your answer please also include some relevant examples of information published for this purpose (e.g. some links to websites or other references), indicate whether you have a central website on which you publish this information for all aid measures concerned in your Member State (and if so provide the link to this website), or alternatively explain if and how the publication takes place at the level granting the aid (e.g. central, regional or local level).

Details of calls and of contract performance are published on the 'base' portal: (<http://www.base.gov.pt/Base/pt/Homepage>).

Amount of aid granted

Total amount of aid granted (in millions EUR)⁸. This includes all aid granted in your territory, including aid granted by regional and local authorities. (A+B+C)

| 2016 | 2017 |
|-----------------|-----------------|
| € 44 566 430.50 | € 32 305 497.85 |

A: Total amount of aid granted (in millions EUR) paid by national central authorities⁹

| 2016 | 2017 |
|-------------|-------------|
|-------------|-------------|

⁸ As stipulated in Paragraph 62 b) of the 2012 SGEI Framework.

⁹ If the aid amount cannot be split between central, regional and local authorities only the total amount of aid granted for all authorities should be reported.

| | |
|---|---|
| 0.00 | 0.00 |
| B: Total amount of aid granted (in millions EUR) paid by regional authorities¹⁰ | |
| 2016 | 2017 |
| Air: € 34 567 775.50 Maritime: € 9 998 655.00 | Air: € 24 363 215.10 Maritime: € 7 942 282.75 |
| C: Total amount of aid granted (in millions EUR) paid by local authorities¹¹ | |
| 2016 | 2017 |
| € 0.00 | € 0.00 |
| Share of expenditure per aid instrument (direct subsidy, guarantees etc.) (if available) | |
| 2016 | 2017 |
| Direct grant: Air: € 34 567 775.50 Maritime: € 9 998 655.00 | Direct grant: Air: € 24 363 215.10 Maritime: € 7 942 282.75 |
| Additional quantitative information (e.g. number of beneficiaries per sector, average aid amount, size of the undertakings)¹⁶ | |
| 2016 | 2017 |
| The beneficiaries of the services of general economic interest in the air and maritime transport sectors (see Annex I - Passenger numbers on inter-island air and maritime routes) are citizens. Atlânticoline, SA has 100 members of staff. SATA Air Açores has an average workforce of 697 staff. | The beneficiaries of the services of general economic interest in the air and maritime transport sectors (see Annex I - Passenger numbers on inter-island air and maritime routes) are citizens. Atlânticoline, SA has 100 members of staff. SATA Air Açores has an average workforce of 697 staff. |

vi. Airports and ports with average annual traffic above the limit set in Art. 2(1)(e)

Azores - airport services to support civil aviation at regional aerodromes and redevelopment, modernisation and construction of port infrastructure

¹⁰ See footnote 13.

¹¹ See footnote 13.

Clear and comprehensive description of how the respective services are organized in your Member State¹²

Explanation of what kind of services in the respective sector have been defined as SGEI in your Member State. Please list the **contents of the services entrusted as SGEI** as clearly as possible.

The following services have been defined as SGEI:

- a) airport services to support civil aviation at regional aerodromes;
- b) redevelopment, modernisation and construction of port infrastructure.

Explanation of the (typical) **forms of entrustment**. If standardized templates for entrustments are used for a certain sector, please attach them.

The management of the service of general economic interest was entrusted to undertakings in the commercial public sector, as explained below.

AIRPORTS

SATA GESTÃO DE AERÓDROMOS, SA

The concession for the public airport service to support civil aviation at the aerodromes of Corvo, Graciosa, Pico and São Jorge and the Flores air terminal was awarded to SATA Gestão de Aeródromos, SA, by means of a contract of 1 July 2005, which was signed following the publication of the Council of Government Resolution No 102/2005 of 16 June 2005; the concession was awarded for ten years, renewable in five-year periods up to a maximum of 20 years. By means of Resolution No 103/2016 of 25 May 2016 the contract was renewed for five years, expiring on 1 July 2020.

PORTS

PORTOS DOS AÇORES, SA

By means of Regional Legislative Decree No 30/2003/A of 27 June 2003, three regional port administrations were created (APSM - Administração dos Portos das Ilhas de S. Miguel e Santa Maria, S.A (for the islands of São Miguel and Santa Maria); APTO - Administração dos Portos do Triângulo e do Grupo Ocidental, S.A (for the islands of the so-called 'Triangle' group and the Western group); and APTG - Administração dos Portos da Terceira e Graciosa, S.A (for Terceira and Graciosa)). By means of Regional Legislative Decree No 24/2011/A of 22 August 2011, these authorities were merged into one undertaking, Portos dos Açores, SA.

Portos dos Açores, SA is entirely publicly owned and is responsible for managing the ports in the Autonomous Region of the Azores; this involves operating, maintaining and developing the ports and acting as the port authority.

In 2016, three public investment contracts were entered into by the Autonomous Region of the Azores (RAA) and Portos dos Açores, SA, by means of Council of Government Resolutions. The contracts relate to the following construction projects: redevelopment of the port of Poças, construction of a 'ro-ro' ramp at the port of Calheta S. Jorge and strengthening of the protective wall of the main quay at the port of Ponta Delgada.

¹² If in a certain sector only a small number of individual SGEIs exist in your Member State, we appreciate a detailed description of those services. If a large number of services are entrusted in a specific sector in your Member State (for example because the competence lies with regional or local authorities), individual details of the entrustments would be disproportionate, but a clear and concise general description of the way the sector is organised including the common features of the individual entrustments remains crucial. Since cases falling under the SGEI Framework will be limited in number, the Commission expects a detailed description of each concrete measure.

In 2017, three public investment contracts were also signed for the following work: purchasing and installation of bollards and defences, regrading of the quay -10 (CD), repaving of the port embankment and improvements to the technical networks that are part of it, dredging of the port basin at the port of Ponta Delgada and repairs to the damage caused to the port of Madalena on Pico during the storm of 27/28 February 2017.

Average duration of the entrustment (in years) and the proportion of entrustments that are **longer than 10 years** (in %) per sector. Specify in which sectors SGEI were entrusted with a duration exceeding 10 years and explain how this duration is justified?

The durations are usually as follows for the contracts:

- a) airport services to support civil aviation at regional aerodromes: ten years, with the possibility of renewal for five-year periods, up to a maximum of 20 years;
- b) redevelopment, modernisation and construction of port infrastructure: one to four years.

Explanation whether (typically) **exclusive or special rights** are assigned to the undertakings.

Yes. Specifically, the right to manage the infrastructure entrusted by law or by contract.

Which **aid instruments** have been used (direct subsidies, guarantees, etc.)?

Direct grant.

Typical compensation mechanism as regards the respective services and whether a methodology based on cost allocation or the net avoided cost methodology is used.

All contracts signed with the regional public-sector undertakings providing public services include clauses to prevent cross-subsidising, allow the costs to be allocated correctly and avoid overcompensation.

In order to ensure that the amount of compensation does not exceed what is necessary to cover the costs incurred by fulfilling the obligations, in the contracts entered into with Administrações Portuárias Regionais (currently Portos dos Açores, SA) a number of clauses are included setting out the overall amount of funding and establishing the condition that the financial contribution to be allocated will be proportionally reduced if the undertaking receives additional support via other types of funding.

For SATA Gestão de Aeródromos, SA, the costs and investments for which the awarding authority is responsible were set out and it was established that the concessionaire must submit an operating plan each year for the following year, for prior approval, indicating the equipment, conservation/maintenance work or extension work that needs to be carried out at the aerodromes to ensure that they operate normally and develop, as well as a timetable for the work and the related costs.

Typical arrangements for avoiding and repaying any overcompensation.

The Autonomous Region of the Azores carries out and commissions regular checks to guarantee that the undertakings are not receiving more compensation than is necessary to cover the costs incurred by fulfilling the public service obligations.

The Region considers this monitoring to be perfectly adequate and welcomes the close relationship it has with these public-sector undertakings in the region for the purposes of supervision and oversight and close monitoring of their activities.

SATA - GESTÃO DE AERÓDROMOS, SA

SATA Gestão de Aeródromos, SA, as the concessionaire for the public airport service to support civil aviation at the regional aerodromes, is required to submit, for approval by the awarding authority, an operating plan for the following year by July of the previous year, indicating the equipment needed and the conservation/maintenance/extension work it plans to carry out at the aerodromes for which it holds the concession in order to ensure that the aerodromes develop as they should, as well as a timetable for the work and the related costs. In consideration for the provision of services, the concessionaire is entitled to receive the financial compensation set out in the contract.

The same contract also establishes that SATA – Gestão de Aeródromos, SA bears the risks of the concession, while it nevertheless remains possible to restore the financial equilibrium of the concession in the event of force majeure due to unforeseen and inevitable events beyond the control of the concessionaire that have a direct negative impact on the concession, or in the event of abnormal and unforeseen changes to the conditions on which the proposal was based that result in a substantial increase in costs. The financial equilibrium of the concession will be restored by way of direct compensation from the awarding authority to the concessionaire, and the concessionaire must inform the awarding authority of any event that might give rise to the need to restore the financial equilibrium of the concession, within a maximum of ten days of the event occurring.

SATA – Gestão de Aeródromos, SA is contractually obliged to provide the awarding authority with all information relating to the concession when so requested and to allow duly identified inspection bodies unrestricted access to all facilities and equipment inside the areas covered by the concession.

PORTOS DOS AÇORES, SA

Checks on the use of the funding made available under the contracts entered into with Portos dos Açores, S.A. and on the matching of the funds to the proposed objectives are carried out by means of the requirement on the undertaking to provide any information and clarifications requested by the Region, at intervals decided on by the Region; it is also required to undergo assessments and/or audits carried out by the Region or whoever it appoints for that purpose.

Portos dos Açores, SA is also required to draw up annual progress reports and send them to the Region, as well as final reports on the implementation of the contracts and to include in its annual activity report an express reference to the stage of implementation of the contracts entered into.

A short explanation of how the **transparency requirements** (see Paragraph 60 of the 2012 SGEI Framework) are being complied with.

In your answer please also include some relevant examples of information published for this purpose (e.g. some links to websites or other references), indicate whether you have a central website on which you publish this information for all aid measures concerned in your Member State (and if so provide the link to this website), or alternatively explain if and how the publication takes place at the level granting the aid (e.g. central, regional or local level).

The contracts are approved by means of Council of Government Resolutions, which are published in the Official Journal of the Autonomous Region of the Azores (<https://jo.azores.gov.pt/#/>).

| Amount of aid granted | |
|---|---|
| Total amount of aid granted (in millions EUR)¹³. This includes all aid granted in your territory, including aid granted by regional and local authorities. (A+B+C) | |
| 2016 | 2017 |
| € 4 351 999.14 | € 8 262 532.17 |
| A: Total amount of aid granted (in millions EUR) paid by national central authorities¹⁴ | |
| 2016 | 2017 |
| 0.00 | 0.00 |
| B: Total amount of aid granted (in millions EUR) paid by regional authorities¹⁵ | |
| 2016 | 2017 |
| Airports: € 3 925 049.65 Ports: € 426 949.49 | Airports: € 7 717 280.17 Ports: € 545 252.00 |
| C: Total amount of aid granted (in millions EUR) paid by local authorities¹⁶ | |
| 2016 | 2017 |
| 0.00 | 0.00 |
| Share of expenditure per aid instrument (direct subsidy, guarantees etc.) (if available) | |
| 2016 | 2017 |
| Direct grant: Airports: € 3 925 049.65 Ports: € 426 949.49 | Direct grant: Airports: € 7 717 280.17 Ports: € 545 252.00 |
| Additional quantitative information (e.g. number of beneficiaries per sector, average aid amount, size of the undertakings) ¹⁶ | |
| 2016 | 2017 |
| The beneficiaries of the services of general economic interest at airports and ports are citizens and businesses. Portos dos Açores, SA is an SME with an average workforce of 274 staff. SATA Gestão de Aeródromos, SA is a small company with an average workforce of 24 staff. | The beneficiaries of the services of general economic interest at airports and ports are citizens and businesses. Portos dos Açores, SA is an SME with an average workforce of 279 staff. SATA Gestão de Aeródromos, SA is a small company with an average workforce of 24 staff. |

¹³ As stipulated in Paragraph 62 b) of the 2012 SGEI Framework.

¹⁴ If the aid amount cannot be split between central, regional and local authorities only the total amount of aid granted for all authorities should be reported.

¹⁵ See footnote 13.

¹⁶ See footnote 13.

4. COMPLAINTS BY THIRD PARTIES

Please provide an overview of complaints by third parties, in particular litigation before national courts, regarding measures in scope of the 2012 SGEI Decision or 2012 SGEI Framework. Please be as specific as possible in your reply and include the sector for which you have received the complaints, the contents of the complaints and the possible follow-up by your authorities or the likely outcome of the court proceedings.

In 2015, a group of private waste-management undertakings, not active on the regulated market for the public urban-waste service, sent a complaint to DG Competition (case SA.40963) maintaining that it was necessary to further define the boundaries between the regulated market for the public urban-waste management service and the unregulated waste market, which is open to all private undertakings active in the sector.

Following intervention by the Portuguese State, on 1 August 2017 a Memorandum of Understanding was signed by the Ministry of the Environment and the complainants in order to settle the dispute.

The complaint was then withdrawn and is now null and void.

5. MISCELLANEOUS QUESTIONS

a. We kindly invite you to indicate whether your authorities have experienced difficulties in applying the 2012 SGEI Decision and ask you to in particular consider the following issues:

- drawing up an entrustment act that complies with Article 4 of the SGEI Decision;
- specifying the amount of compensation in line with Article 5 of the SGEI Decision;
- determining the reasonable profit level in line with Article 5(5)-(8) of the SGEI Decision;
- regularly checking overcompensation as required by Article 6 of the SGEI Decision;

Please be as specific as possible in your reply, include relevant examples and, if applicable, the sector for which the difficulties are (most) relevant.

Nothing to report.

¹⁶ The Commission would welcome any data that you might have on aid granted under the 2012 SGEI Framework, for example the number of beneficiaries per sector, average amount of aid, amount per aid instrument, size of the undertakings, etc. Should such other quantitative information data not be readily available in your Member State, they can of course be presented in a more aggregated and/or estimated way. In that case please indicate that estimations have been used as well as the type of aggregation made.

b. We kindly invite you to indicate whether your authorities have experienced difficulties in applying the 2012 SGEI Framework and ask you to in particular consider the following issues:

- carrying out a public consultation in line with paragraph 14 of the SGEI Framework;
- complying with public procurement rules in line with para 19 of the SGEI Framework;
- determining the net avoided cost as required by paras 25-27 of the SGEI Framework;
- determining the reasonable profit level in line with paras 33-38 of the SGEI Framework;

Please be as specific as possible in your reply, include relevant examples and, if applicable, the sector for which the difficulties are (most) relevant.

Nothing to report.

c. If you have any other comments on the application of the SGEI Decision and the SGEI Framework on issues other than the ones covered in the previous questions please feel free to provide them within your report.

Nothing to report.

ANNEX I

Air passenger numbers on inter-island routes

| Year | Island | Passengers (No) | | |
|------|--------------|-----------------|----------------|---------------|
| | | Embarked | Disembarked | Transfers |
| 2016 | Total | 592 557 | 591 108 | 61 675 |
| | Santa Maria | 35 594 | 32 241 | 375 |
| | São Miguel | 200 130 | 205 675 | 4 907 |
| | Terceira | 159 292 | 156 950 | 40 725 |
| | Graciosa | 23 688 | 23 593 | 144 |
| | São Jorge | 31 961 | 31 590 | 445 |
| | Pico | 45 059 | 42 691 | 531 |
| | Faial | 66 105 | 67 826 | 13 447 |
| | Flores | 27 618 | 27 434 | 212 |
| | Corvo | 3 110 | 3 108 | 889 |
| 2017 | Total | 646 552 | 645 521 | 72 387 |
| | Santa Maria | 36 408 | 35 309 | 155 |
| | São Miguel | 225 061 | 224 790 | 3 483 |
| | Terceira | 171 931 | 170 388 | 49 824 |
| | Graciosa | 26 168 | 26 206 | 211 |
| | São Jorge | 35 653 | 35 897 | 508 |
| | Pico | 46 702 | 45 053 | 396 |
| | Faial | 69 118 | 72 206 | 17 496 |
| | Flores | 31 944 | 31 952 | 83 |
| | Corvo | 3 567 | 3 720 | 231 |

Passenger numbers on inter-island maritime routes

| Islands | Years | | | |
|--------------|---------------------|------------------------|---------------------|------------------------|
| | 2016 | | 2017 | |
| | Embarked passengers | Disembarked passengers | Embarked passengers | Disembarked passengers |
| Santa Maria | 9 028 | 9 160 | 11 451 | 11 594 |
| São Miguel | 16 633 | 16 465 | 20 388 | 19 688 |
| Terceira | 17 104 | 16 925 | 18 513 | 18 836 |
| Graciosa | 4 261 | 4 339 | 4 929 | 4 957 |
| São Jorge | 42 252 | 43 367 | 48 818 | 48 887 |
| Pico | 236 521 | 236 251 | 244 693 | 245 043 |
| Faial | 224 247 | 223 548 | 232 096 | 231 897 |
| Flores | 3 007 | 2 904 | 2 989 | 3 013 |
| Corvo | 1 914 | 2 008 | 2 196 | 2 158 |
| Total | 554 967 | 554 967 | 586 073 | 586 073 |