



**COUNCIL OF  
THE EUROPEAN UNION**

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**NOTE**

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from: The Council General Secretariat  
to: Delegations

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Subject: Social Services of General Interest: at the heart of the European Social Model  
- Council Conclusions

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Delegations will find attached the text of the Council conclusions as adopted by the Council (EPSCO) at its session on 6/7 December 2010.

**Council Conclusions**

**«Social Services of General Interest: at the heart of the European social model»<sup>1</sup>**

**THE COUNCIL OF THE EUROPEAN UNION**

**RECALLING**

1. the Council's conclusions of 8 June 2009 on “ Social Services as a tool for active inclusion, strengthening social cohesion and an area for job opportunities”<sup>2</sup>;
2. the focus on services of general interest in the Integrated Guidelines No. 6 adopted on 8 June 2010 by the Council and Guidelines No. 10 adopted by the Council on 21 October 2010 in the context of the EU 2020 Strategy, particularly underscoring the principle of a sufficient supply of affordable and sustainable quality services accessible to all citizens;
3. that social services contribute directly to reinforcing social protection of every citizen and they contribute to economic, social and territorial cohesion at local, regional, national and European levels while playing a fundamental role in job creation;
4. that the organization and financing of social services are a national competence, to be performed in conformity with EU rules when they are applicable;

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<sup>1</sup> The reference to the European social model fully respects the diversity of the national social systems.

<sup>2</sup> Doc. 10052/09.

5. that social services contribute to ensuring the safeguard of human rights of persons with disabilities and children, as set out in the relevant United Nations Conventions<sup>3</sup>;

## **TAKING INTO ACCOUNT**

6. Article 9 of the Treaty on the Functioning of the European Union that provides that in defining and implementing its policies and activities the Union shall take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health;
7. Article 14 of the Treaty on the Functioning of the European Union on Services of General Economic Interest (SGEI) and Protocol n°26 on Services of General Interest (SGI) that together underscore the important role of SGI in social and territorial cohesion and oblige the European Union and the Member States, each within their respective competencies and within the scope of application of the Treaties, to take care that such services operate on the basis of principles and conditions which enable these services to fulfil their missions;
8. the Charter of Fundamental Rights of the European Union, which has the same legal value as the treaties, and particularly Title IV on solidarity;
9. the views of the European Parliament on the issue of social services of general interest, as expressed in the initiative report on the future of social services of general interest<sup>4</sup>;

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<sup>3</sup> UN Convention on the Rights of Persons with Disabilities, adopted by the General Assembly of the United Nations on 13 December 2006 and UN Convention on the Rights of the Child, adopted by the General Assembly on 20 November 1989.

<sup>4</sup> INI/2009/2222 - EMPL/7/01750.

10. the two biennial reports<sup>5</sup> on Social Services of General Interest published by the Commission;
11. the communication “*Towards a Single Market Act. For a highly competitive social market economy*”, adopted by the Commission on 27 October 2010;<sup>6</sup>
12. the evaluation in progress of the “the Altmark/SGEI” package adopted by the Commission on 28 November 2005. The Monti Report identified some issues such as the enlarged scope of the notification exemption for social services of general interest as worthy of future review;
13. the voluntary European Quality Framework for social services adopted by the Social Protection Committee<sup>7</sup> on 6 October 2010;
14. the Report presented to the President of the European Commission by Professor Mario Monti in May 2010 that stresses the need to tackle the different challenges posed by missing links, bottlenecks of the Single Market and the role of the Commission in ensuring that where EU rules apply to the provision of services of general interest, including social services, they are predictable and proportionate thus ensuring that SGI can fulfil their public service mission as well as the need of more inclusivity to ensure that all citizens can benefit from the Single Market, having regard to Member States competencies;
15. the work carried out at the 3<sup>rd</sup> Forum on Social Services of General Interest organized in Brussels on 26 and 27 October 2010, which followed those of the first forum in Lisbon (September 2007) and of the second in Paris (October 2008);

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<sup>5</sup> Docs 11560/08 ADD 4 and 16035/10.

<sup>6</sup> Doc. 13977/10.

<sup>7</sup> Doc. 16319/10.

## UNDERLINES

16. the fact that social services are essential to implement social policies elaborated more specifically at the local, regional, and national levels, and to combat the negative effects of the current economic crisis;
17. that social services of general interest, which are defined by public authorities in the Member States taking into account the different geographical, social and cultural situations, as well as user's needs and preferences, have specific features which distinguish them from other services of general interest, as they are person-oriented services, designed to respond to human vital needs, generally driven by the principle of solidarity and often rooted in (local) cultural traditions and contribute to the safeguard of fundamental rights and human dignity, to non-discrimination and to ensuring the creation of equal opportunities for all, therefore enabling individuals to play a significant part in the economic and social life of the society;
18. that social services of general interest play a preventive and socially cohesive role, which is addressed to all women, men and children and which is based on the idea of universality, and have aims which are reflected in the ways these services are organised, delivered and financed;
19. the need to further assess the interaction between the internal market and social services of general interest in view of the social aims of the European Union, without prejudice of the powers of the Member States, in order to supply quality services meeting users' specific needs;
20. that the European Union, in accordance with Article 9 of the TFEU, takes into account the specificities of social services of general interest as key tools to fulfil its own objectives;

21. the quality of the work done by the Social Protection Committee (SPC) on the Voluntary European Quality Framework for Social Services which aims to develop a common understanding on concepts related to social services quality while fully respecting the responsibilities of the Member States and taking into account the diverse ways in which these services are organized in Europe ;

#### **INVITES THE MEMBER STATES**

22. to encourage local and regional authorities to make good use of the European Commission's Guide on the application of EU State aid, public procurement and internal market rules to services of general economic interest and, in particular, to social services of general interest (hereafter "the Commission's Guide") and of the Interactive Information Service to get operational responses by presenting concrete problems they might have;
23. to identify any problem encountered by social services of general interest in the application of European legislation by consulting, in appropriate ways to be determined by the Member States, the relevant stakeholders involved in this issue;

#### **INVITES THE COMMISSION**

24. To continue to promote exchanges of best practices between the Member States for quality social services of general interest accessible to all and financially sustainable taking into account the work of the SPC, which could be supported through Progress financed projects;
25. to further clarify and assess the application of EU rules to social services of general interest, in order to enhance their legal certainty, having regard to their missions and specificities as mentioned in paragraphs 17 and 18 of these conclusions. Such exercise should cover in particular the issues as set out in the Annex of these conclusions;

26. to continue to conduct and reinforce thorough social impact analysis within its Impact Assessment System, in line with the quantitative and qualitative requirements of the Guidelines<sup>8</sup>, including the possible impact on Member States' social services of general interest and social protection;
27. to improve transparency and awareness by various means such as the Commission' Guide and the Interactive Information Service, the training initiative for local public authorities and the Biennial Reports, while continuing its dialogue with all the relevant parties;
28. to continue supporting the work of the Social Protection Committee on the application of the EU rules to SSGI notably with the aim of contributing to the preparation of subsequent Fora on SSGI;

#### **INVITES THE MEMBER STATES AND THE COMMISSION**

29. to clearly identify European policies and measures having an indirect but significant impact on social services of general interest;

#### **INVITES THE SOCIAL PROTECTION COMMITTEE**

30. while carrying its work on SSGI and taking into account the work carried on by the three previous Fora on SSGI, notably through the Informal Working Group on the application of the rules, to ensure regular contacts with the European Parliament and the European Union advisory bodies , as well as with all relevant organisations and stakeholders (e.g. social partners and NGOs), inter alia with the aim of preparing the next Forum.

#### **Annex**

*Proposal for measures linked to paragraph 25 of the draft Conclusions.*

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<sup>8</sup> SEC/2009/92.

**Paragraph 25 of the draft Conclusions**

**Invitations to the Commission:**

1. Without prejudice to the Commission's right of initiative, to further clarify, particularly through the Commission's Guide, the Interactive Information Service and, if need be, other appropriate non legislative instruments, its views on:
  - a) the way of identification of a social service as an economic or non-economic service of general interest;
  - b) the concept of « certain cross-border interest » in the context of the application of the public procurement rules to social services of general interest;
  - c) the concept of affecting trade between Member States in the field of the application of the rules on state aids to social services of general interest of economic nature;
2. to clarify and to provide information on how the underlying requirements of social labels could be used by public authorities when outsourcing social services, in the contract performance clauses;

3. to clarify and to provide more information on:
    - a) the use of the contract award criterion of the most economically advantageous tender instead of the lowest price for the award of social services contracts, when public procurement procedures are organised for supplying social services of general interest;
    - b) existing alternatives to public procurement procedures when Member States choose to outsource the provision of social services of general interest, notably through the exchange of best practices among Member States;
  4. to study and assess potential questions which could raise around social services of general interest and the freedom to provide services and the right of establishment.
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