

COMMON POSITION ON SERVICES OF GENERAL INTEREST

14 June 2007

1. The SGI and the Lisbon strategy.

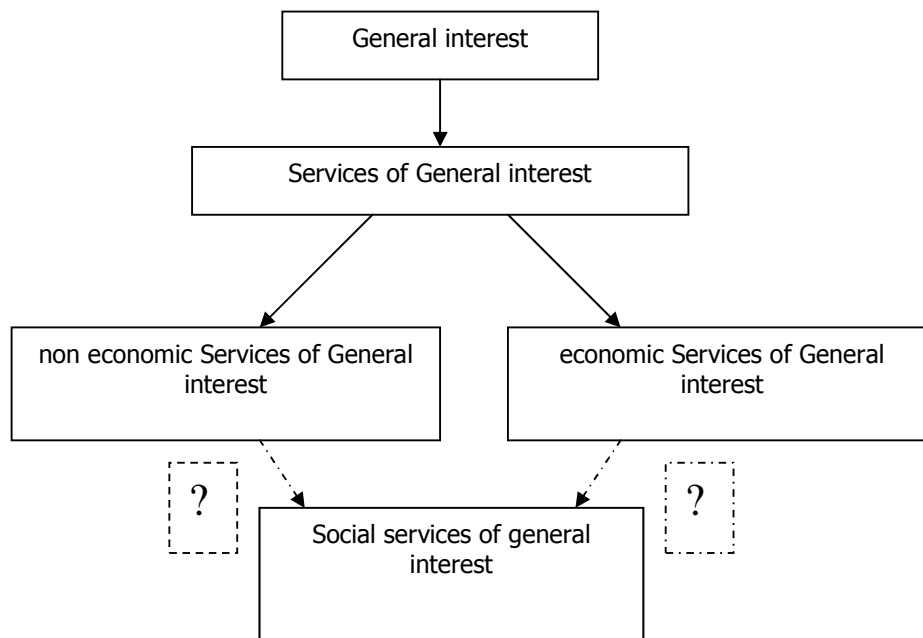
The Lisbon declaration has the objective of making Europe the most competitive and knowledge-based economy in the world, while also stating that economic growth is a key factor for ensuring social cohesion in Europe. In order to ensure social cohesion in the EU, it is also necessary to ensure the maintenance and further development of the services of general interest (SGI) across the 27 member states. The balance between the economic and social objectives of the Lisbon declaration needs to translate into a proper balance between the development of the internal market and the development of the SGI.

2. The need for a conceptual framework.

The concept of service of general interest (SGI) is not defined in the European treaties but derives from a community doctrine that developed itself from the concept of "service of general economic interest". We thus find mentions of services of general interest that are "economic", as opposed (most often in an arbitrary way) to others that are "non-economic".

This distinction should not make us forget that the very notion of SGI is much larger since it covers both the "economic" and "non economic" SGI. Another concept that has appeared over recent years in EU texts is the one of social services of general interest, without fully clarifying the link between the latter category on the one hand and the "economic" and "non-economic" SGI on the other.

A deductive conceptual framework should thus be established, departing from the more essential concepts and flowing towards the more complex ones, in a cascade of definitions. Indeed, in order to be able to define the so-called "non-economic services of general interest" and "services of economic general interest", it is necessary to define the SGI in the first place. Before even defining the SGI, one should clarify the very concept of general interest. The deductive conceptual framework would thus be as follows:



By general interest we mean the satisfaction of the common and fundamental needs of all citizens – or their vast majority - in a given territory or community (European, national, regional or local), as distinct from private interests, which are by nature multiple and fragmentary. Among others, the general interest is linked with the fields of education, health, information, communication, transports, the protection of the environment, housing, food security, social care, social cohesion etc. Several of those items also have a private (and thus multiple and fragmentary) dimension alongside their general interest dimension: for example, not all educational activities are within the framework of the general interest. The criteria to define whether an educational activity is within the framework of the general interest or within the framework of private interests is to define whether this activity is geared towards the majority and whether it corresponds to a fundamental need.

By services of general interest we mean the supply of activities that ensure the satisfaction of the fundamental needs of all or the vast majority of citizens in a given community. The further distinction between SGI of an “economic” nature and SGI of a “non-economic” nature, as has been already formulated in EU texts, should be handled with great care, since it is often very difficult to make. The same is the case for social services of general interest, as well as health services: an ongoing debate is taking place to know whether the latter should be distinguished or not from the former.

3. The need for a regulatory framework.

In developing the internal market, it is necessary to make sure that the provision of SGI can be ensured both in quantitative and qualitative terms. In order to ensure this, there is a need for a regulatory framework that would take the form of a framework directive, and and that would define clearly the concept of general interest . It will thus be possible to define the sub-categories of SGI and the type of activities which they contain, and, thence, to clarify which authorities will have to define the specific activities that :

- Should be taken charge of directly by the state;
- Should be taken charge of by specific socio-economic actors, or in priority by the latter, under specific state regulation;
- Should be taken charge of by all economic actors but under specific state regulation;
- Should be submitted to the internal market without restriction nor specific regulations.

The absence so far of a European regulatory framework on SGI has inevitably entailed a multiplication of recourses before the European Court of justice, which could found its jurisprudence only on existing texts. Those are essentially texts that guarantee the "four freedoms" of the internal market: the free circulation of goods, services, funds and persons, namely texts that have the mission to guarantee the freedom of competition on the internal market.

This multiplication of recourses to justice with, inevitably, free competition in the internal market as the only reference, is one of the reasons why the SGI tend to be analyzed as being exceptions to the application to the community rules on competition whereas they should be considered as an essential element in the promotion of the social and territorial cohesion of the EU, within the context of an appropriately regulated internal market (as is already the case in a number of sectors) and not in competition with it.

4. SGI and cooperatives and other social economy enterprises

In the provision of SGI, there are three types of enterprises: public, private for profit, and enterprises from a third area often called "social economy". Cooperatives, which occupy a prominent part among social economy enterprises, are linked to the concept of general interest, because they incorporate by definition the objective of pursuing the general interest and combine an economic purpose with a social purpose. Indeed, a cooperative defines itself as an "*association of persons united voluntarily to meet their common economic, social and cultural needs and aspirations through a jointly owned and democratically controlled enterprise*" (ILO Recommendation 193 on the Promotion of Cooperatives, art.2). Furthermore, the first cooperative principle stipulates that "*Cooperatives are (...) open to all persons able to use their services and willing to accept the responsibilities of membership, without gender, social, racial, political or religious discrimination*", while the seventh cooperative principle stipulates that "*Cooperatives work for the sustainable development of their communities through policies approved by their members*" (ibid, annex). Thus cooperatives enterprises with a community but non-state nature, aimed at fulfilling the socio-economic needs of their membership which is open to all those that are eligible to each category of cooperatives, as well at working for the development of the wider community.

While all cooperatives are linked by definition to the concept of general interest, an important number of them are direct providers of SGI (in particular in all the fields mentioned under paragraph 2 above). In the provision of SIG, cooperatives hold a particular place. They increasingly ensure functions of general interest that are entrusted to them by the public authorities, in particular in the fields of the creation and salvation of jobs, enterprise start-ups, restructuring of enterprises in crisis, insertion of persons with difficulties, development of underprivileged territories, maintenance of social cohesion, in full accordance with the Lisbon strategy.

In their provision of SGI, cooperatives thus have unique characteristics as compared to enterprises of another type, because of their very nature linked to the general interest and to the community. Those characteristics should therefore be taken into account within the above-mentioned regulatory framework (section 3).

Such a regulatory framework would allow cooperatives to provide SGI in a appropriately regulated market, and, therefore, to better display their specific mission, social responsibility and economic capacities within the framework of a plural economy.

5. Support to enterprise creation by social economy structures should be recognised as SGI

The activities of a number of cooperative and other social economy support structures (financial instruments etc) aimed at promoting start-ups, transformation, restructuring and development of enterprises for unemployed persons or to develop initiatives of social innovation, which, in a number of EU countries, obtain important public financial support and a clear mandate for the missions that are entrusted to them. Those not-for-profit social economy initiatives of support to enterprise creation have shown very clear results in terms of employment creation and employment salvation. Such activities should be recognized as SGI and regulated accordingly.