

# The Future of Services of General Economic Interest in Finland

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## Overview

- I. Services of General Economic Interest - SGEI definition
- II. Challenges in practice
- III. What next - the future?



# SGI,SSGI, SGEI – definitions

## 1)What is a service of general interest (SGI) ?

Protocol no 26 to the Treaty of Functioning of the European Union (TFEU) concerns SGIs, but does not define the concept -> The Commission has clarified that SGI are services that public authorities of the MS at national, regional or local level classify as being of general interest and therefore subject to specific public service Obligations (PSO)

- > ***the term covers both economic and non economic activities/services***
- > *however only economic activities are subject to specific EU legislation and are covered by the internal market and competition rules of the Treaty*
- also non-economic services may be subject to other general treaty rules, such as the principle of non-discrimination



# SGI,SSGI, SGEI –definitions

## 2) What is a social service of general interest (SSGI) ?

- the concept is not defined on the TFEU or in secondary legislation, but the communication of SSGI in the European Union (COM 2006, 177 final) identified two main groups:

a) Statutory and complementary social security schemes, organised in various ways -> linked usually to health, ageing, occupational accidents, unemployment, retirement and disability

b) Other essential services provided directly to person -> a prevention and social cohesion role, safeguard fundamental rights, offer assistance to persons faced by personal challenges or crises such as unemployment, debt, drug addiction or family breakdown, rehabilitation, social housing

-SSGIs may be economic or non-economic nature depending on the activity involved, The fact that an activity is termed social is not of itself for it to avoid being regarded as economic- > economic SSGIs are SGEIs



# SGI,SSGI, SGEI –definitions

## 3) What is a service of general economic interest (SGEI) ?

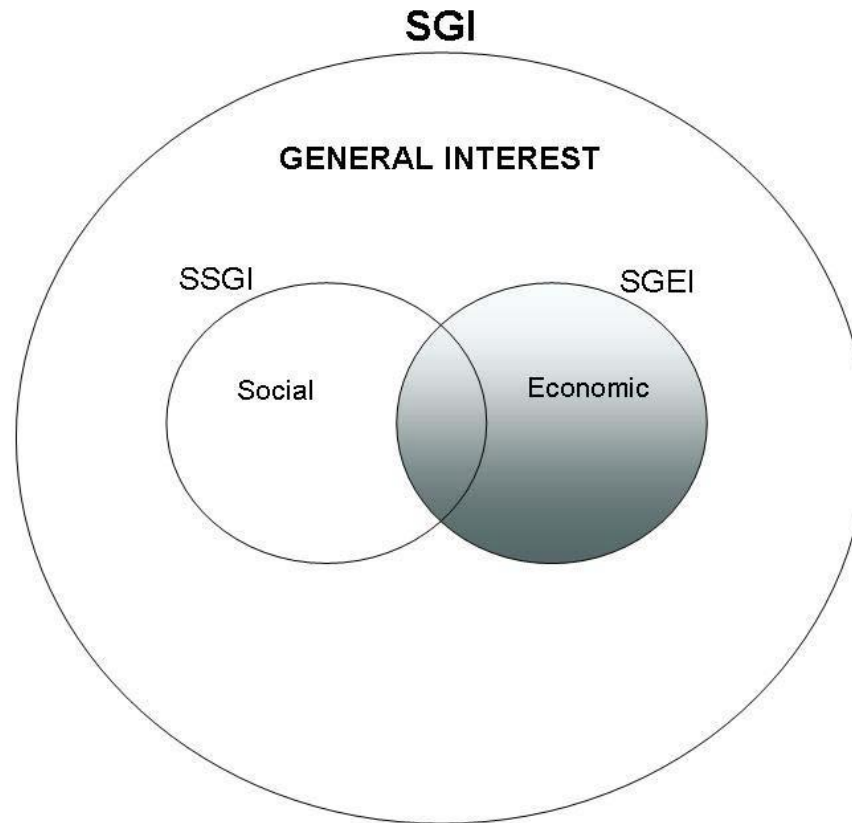
-TFEU articles 14 and 106 (2)

Special characteristics as compared to other economic activities

- Services are not and cannot be satisfactorily provided by the market “under conditions such as price, objective quality characteristics, continuity and access to the service, consistent with the public interest, as defined by the State” . For examples transport networks and postal services.
- Addressed to citizens or in the interest of society as a whole
- MS have wide margin of discretion for definition
- A PSO is imposed on the provider by way of entrustment
- However the Commission checks for manifest error -> has to be special characteristics, no overcompensation



# SGI,SSGI, SGEI – definitions



# Some examples of arrangements considered to be SGEI in Finland at the moment

## Examples of arrangements reported to the Commission

### 1) *Social housing (Ministry of the Environment)* –

The Housing Finance and Development Centre of Finland is a **governmental agency of Finland (ARA)**

- \* ARA is a agency to implement social housing policy
- \* its main task is to finance state-subsidised rental housing production

Target: to promote well-planned quality housing at reasonable costs

- Tenants for rental housis are selected on social basis Priority is given to homeless applicants and to applicants in urgent need (families with children) There are certain maximum income and property level one can have in order to get an appartment. appropriateness and financial need. More detailed criteria are specified annually by the ARA´s Government including the urgency of the applicant´s housing need, level of income and property.



# Some examples of arrangements considered to be SGEI in Finland

## 2) Ensuring waterway services (The ministry Transport and Communications)

- upkeep of waterways and canals, measuring services
- temporary two years arrangement for state owned company before opening the markets
- based on special legislation:

## In addition special SGEI regulations in broadcasting and postal Sector

- Financing Finland's national public service broadcasting Company (YLE). Operations has been financed by public broadcasting tax which replaced TV licenses at the beginning of 2013.





# Challenges in practice

State aid rules comes into play when economic services are provided by a company and financed through public resources- > overly general compensation could enable the service provider to cross- subsidise their other commercial activities and thereby distort competition

## **a) Concepts of undertaking and economic activity-> general State aid key concepts -> case by case analysis**

*Economic Activity:* Offering goods or services on a market. Whether market exists depends on organisation by authority. Irrelevant whether entity set up to generate profit. Differences between MS and developments over time

### **Effect on trade:**

Market opened up to competition by EU or national legislation or de facto by economic development

- > if economic activity and the arrangement fullfills the criteria of State aid
- > application of State Aid package for SGEI -> authorities have to use defined process and ensure that the arrangement is in line with the State aid rules



# Examples

## **Non-economic: exercise of public powers**

Activity forms part of the essential functions of State or closely connected to those activities. Examples: army or police, air navigation safety and control, etc.

## **Social security schemes: schemes based on solidarity vs. economic schemes**

- Affiliation compulsory?
- Scheme is non-profit?
- Benefits independent of contributions?
- Etc.

## **Education**

- Payments by parents/pupils only cover fraction of costs or all costs?
- Competing private organisations?

## **Healthcare – non economic,**

**if based on principle of solidarity** -> funded from State resources and provided free of charge on the basis of universal coverage -> non economic



# Challenges in practice

## b) Does the arrangement fulfill the concept of SGEI ?

MS wide margin of discretion in the definition of SGEI- services (important to inhabitants or beneficial for the society, market failure)

-> What would be the manifest error ? Some examples exists

-> How to test the markets ?

Limit for compensation: costs taking into account receipts and reasonable profit rate of return on capital required by typical company taking into account the risk level. If possible: compare to similar type of public service contracts under competitive conditions (e.g. contracts awarded under tender)

## c) Selection of Provider

Public contract or subsidy ?

a) Compensation result of public procurement procedure

b) Compensation not assigned under tendering procedure



# Challenges in practice

## d) Entrustment Act (PSO)

-Public service assignment that defines obligations of undertaking and authority

- Act: legislative instrument, contract, etc
- Entrustment act has to specify certain core features



# What next - the future?

## 1) State sector

- Most likely few SGEI arrangements in future
- Arrangements will be based on legislation

## 2) SGEI at municipality level

### What is the added value of SGEI for municipalities ?

- Municipalities are responsible of many tasks which could fulfill the principles of SGEI - Finland is sparsely populated country- > market failure areas
- > SGEI could be one option but in practise needed very seldom ?



# What next - the future?

- New Local Government Act includes regulation about SGEI -> the municipalities have the process and mechanism at hand,
- after all how SGEI regulation will be applied depends on policy making and budget
- More general information about SGEI is needed

## Useful links:

Member States reports on the application of the SGEI decision

[http://ec.europa.eu/competition/state\\_aid/overview/public\\_services\\_en.html](http://ec.europa.eu/competition/state_aid/overview/public_services_en.html)

SGEI legislation (State aid)

[http://ec.europa.eu/competition/state\\_aid/legislation/sgei.html](http://ec.europa.eu/competition/state_aid/legislation/sgei.html)



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*Many thanks for your attention !*

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