

PUBLIC SERVICES: a core feature of the European social model RESOLUTION

1. Water, energy, health care, social services, education, research, culture, information, transport represent essential public infrastructures and services. Citizens, communities as well as companies have to be able to rely on stable and efficient public services. As services of general interest (SGI) and / or services of general economic interest (SGEI) they are recognised as a core feature of the European Social Model. This has been emphasised by the Commission's Green Paper on SGI – COM (2003) 270 final. The targets of the Lisbon strategy for economic and social sustainability commit the EU to aim for increased competitiveness but equally to social inclusion. SGI can therefore not be seen as a mere component of the Internal Market but rather as the necessary counterweight in a *social market economy*.
2. The work of the Convention on the Future of Europe represents a noteworthy step for European integration in the perspective of the enlargement of the EU of the 1st of May 2004. It is important that the basic work of the Convention should be maintained and the political consensus achieved should not be jeopardized. Part III of the Draft Constitution on policy implementation measures has, however, suffered from considerable time constraints and therefore needs to be brought into line with parts I and II to ensure consistency. In particular, the concept of the social market economy needs to be incorporated into new Articles 69, 70 and 77. Consistency is also necessary in the EU foreign economic and trade relations, in particular in the context of WTO – GATS. The recent opposition voiced by many organisations against the lack of transparency in the GATS negotiations would strongly suggest that the current Article 133-5 be kept as a shared competence of Council, Commission and the European Parliament.
3. A central demand for EPSU and the ETUC as a whole had been that SGI should obtain constitutional value, by in particular, the integration of quality SGI into the objectives of the Draft Constitution of Article I-3. The redaction of this Article is overall very positive. Although there is no explicit reference to SGI, the values listed in I-3 imply that SGI are necessary if citizens are to enjoy their basic rights. EPSU equally welcomes the integration of the Fundamental Rights Charter into the Draft Constitution. Article 36 of the Charter guarantees access to services of general economic interest. The revised Article III-6 is a significant element of the Draft Constitution. Although it does not remove all ambiguities and contradictions of SGI / SGEI and the application of competition rules, it would provide a possibility to regulate SGEI from an angle of economic, social and territorial cohesion. This is an important shift in emphasis.

4. The principle of subsidiarity must be applied to give the most suitable level of territorial authority (local, regional, national, European) the responsibility to determine the provision of quality services within their respective area of responsibility. This includes decisions on how services should be funded and organised, i.e. in-house delivery, exclusive or special rights, other possibilities, including intermunicipal co-operation and suitable SGI / SGEI partnership models. As stated in the EPSU Position on the Green Paper on SGI we would be opposed to:
 - Extending the powers of the EU at the detriment of Member States or territorial authorities;
 - Widening the scope of competition at the disadvantage of SGI or SGEI;
 - Putting further restrictions on the rights and powers of Member States or territorial authorities;
 - Reducing their right of choice as to the organisation and management of SGI and SGEI;

5. EPSU is opposed to any attempts to liberalise water services EU wide. This position is shared by many local authorities, associations of local authorities and social / environmental non-governmental organisations.

6. The ETUC, its relevant industry federations, including EPSU, have together with CEEP advanced the concept of a European framework on SGI and the need for a clear Treaty base. This has become all the more necessary as a counterweight to the Commission's continued and accelerated liberalisation agenda, especially as outlined in its Internal Market Strategy – Priorities 2003 – 2006. As a departure point, EPSU supports the drawing up of a framework directive on SGEI based on Articles 16 and 95 TEC with a view to reinforcing a socially balanced market economy taking into account the spirit of the proposed article III-6 of the draft Constitution. EPSU endorses in this regard the approach taken by MEP Herzog in his draft report of 15 October 2003.

7. EPSU agrees with the view of several MEPs that it is neither desirable nor feasible to harmonise SGI at EU level but varying delivery systems must reflect the principles of a European social market economy. It is equally recognised that the distinction between economic and non-economic services of general interest is increasingly blurred. This entails at least potentially the risk that more and more activities are considered to be only economic and hence subject to EU competition rules. EPSU would support the idea of establishing a list of criteria to decide whether a service has to comply with competition rules. Rather than the distinction of economic and non-economic it would seem to be more relevant to focus on criteria such as, e.g. people's needs, social and environmental objectives, solidarity elements, non-profit making, ethical investment, public funding, the existence of a cross-border market, long-term efficiency and macro-economic cost.

8. EPSU believes that a framework directive can contribute to ensuring coherence and increasing the certainty of the provision of quality services by setting horizontal principles and rules to be applied in all sectors concerned. This approach in no way excludes further action at sectoral levels as a way forward to design adequate regulation, fitting to the specific needs of a sector. A framework directive should serve to improve the legal clarity regarding the application of competition rules, including clarifying the competencies of public authorities and the SGI categories to be excluded from its scope. This would, for instance, relate to education, health, and social services. Based on the Altmark judgement a framework directive should further contribute to

clarify the scope of state aid rules and the possibilities for derogation from these rules. EPSU agrees with MEP Herzog that the 'private investor' criterion developed by the Commission is inadequate for public enterprises responsible for SGI delivery. Instead, state participation must be commensurate with the mission of a particular service taking into account in particular the need for long-term financing of unprofitable or low-profit investments.

9. The development of a framework directive would also enable the Union to support a proactive strategy for the negotiated modernisation of SGI / SGEI by the social partners concerned with the aim of improving and developing them on the basis of general principles such as: high quality, equal access, continuity of service, universality, neutrality of ownership, safety, a good work environment, sustainable development, fair pricing securing affordability and where appropriate access free of charge, efficiency, which can be objectively verified, democratic control, transparency and accountability, concertation, particularly with workers and their unions, and with users and their representative associations, adaptation to necessary change. Last but not least, a horizontal framework could be a suitable instrument to define methods of regulation, supervision and evaluation. The experiences of the recent power cuts in a number of European countries highlight the risks of liberalisation and competition. There should not be any further liberalisation until conclusions are drawn from the discussion on the Green Paper on Services of General Interest, which should allow for a proper assessment of the impacts to date.

10. The European Union and so much more the enlarged European Union cannot be reduced to an internal market. The pursuit of a social European Union providing good jobs, democracy, respect of trade union rights, and an environment free of discrimination, equal opportunities, and improved conditions of life for all remains a political priority. EPSU will build alliances with appropriate organisations sharing the same perspective. In view of the next elections to the European Parliament, EPSU and its affiliated unions will measure the election programmes of the political parties by their commitment to a social Europe, high quality public services and services of general interest.

Adopted by the EPSU Executive Committee, 25-26 November 2003