



SSGI in the EU context – EPSU reflections, requests and recommendations

Brussels 20 January 2011

Subject: Hearing of the EMPL Committee on the EP own-initiative report ‘The future of social services’ (rapporteur: Proinsias De Rossa), 25 January 2011

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Main messages

1. EPSU calls upon the relevant bodies in the member states and competent European institutions to make full use of art. 14 TFEU when shaping the legal, policy and quality frameworks for social and health services of general interest. If need be existing strategies and policies in the field of internal market, competition, state aid and public procurement should be adapted to allow for the delivery of quality social services, regulated competition on social markets on a level playing field, quality jobs and decent working conditions.
2. EPSU calls upon the European institutions to develop at EU-level a ‘general interest statute’ as way of strengthening the regulatory framework / criteria, applicable to both social economy and public services providers and accommodating their specificities.
3. EPSU suggests considering enlarging the notion of ‘in-house’ to include service providers who meet specific general interest criteria (building on recent the ECJ case law on inter-municipal cooperation).
4. For EPSU improving the quality of work must be a high priority when implementing the European Voluntary Quality Framework. EPSU insofar considers important to foresee a prominent place to working and pay conditions when developing and implementing policies to ensure and improve the quality, effectiveness and efficiency of SSGI. We would also recommend add a clearer reference to the respect for workers’ rights when implementing and further developing this framework.
5. EPSU suggests giving priority to the elaboration of specific sectoral policies with tangible goals – e.g. EU action plans on elderly/long-term care, care for people with disabilities, mental health, child care (to build on the Recommendation on Childcare, aiming at an implementation of the Barcelona targets) or housing in order to illustrate the potential EU added value of joint work and common quality frameworks at EU-level around SSGI.

1. Introduction

This paper builds on previous EPSU position papers and contributions on SSGI issued in 2010¹. It has been prepared as background document for a hearing of the European Parliament’s

¹ Cf. http://www.epsu.org/IMG/pdf/EPSU_paper_on_SSGI_EN.pdf (October 2010) and http://www.epsu.org/IMG/pdf/EPSU_paper_on_SSGI-2.pdf (November 2010)

Committee on Employment and Social Affairs of the on its own-initiative report on the 'Future of social services' held on 25 January 2011.

It starts off with selected statements on the roles and objectives of SSGI as a key element of the European Social Model. The paper then lists and explains EPSU's priority demands for this policy field to be reflected in the EP own-initiative report. It finally comprises selected remarks on a Discussion Paper shared with stakeholders by Proinsias De Rossa, EP rapporteur for this report, in October 2010 to summarise EPSU's view on which issues should in any case/ideally be covered in the forthcoming EP report on the future of SSGI.

2. EPSU key statements

2.1 Concepts and approaches at EU-level

Social services are public services and ensure the development of a cohesive and fair society. In EPSU's view all public services (SSGI and network industries / economic and non-economic) need to be organised on the basis of public services principles and obligations. Whilst our preference clearly is for a public, non-profit provision, we believe that all providers of social services need to fulfil a set of public service obligations. We therefore do not see a need to enter into extensive discussions about a precise definition of SSGI, and what makes them all so different from other public services, even though SSGI and their users have specific characteristics.

In EPSU's view prolonged and in-depth discussions on the economic character of a service are not particularly fruitful as they won't have a direct impact on the service users and the service personnel. This is also true due to dynamic developments as to public service organisation, delivery and financing. There exists a huge body of ECJ jurisprudence using three interlinked criteria to define 'economic activity' according to Community Law difficult to revise not least because it has not been developed for the sector of social and health services. In our view there is a real risk that further EU clarification on 'non-economic' versus 'economic' SSGI will only result in a further narrowing of the scope of SSGI to include only those areas that are non-profitable, i.e. services provided to the poorest or most vulnerable in our communities.

Nevertheless we cannot assume that the EU will never interfere with any non-economic services. As the Lisbon Treaty mentions the guarantee of adequate social protection, the fight against social exclusion and protection of human health as areas of competence (art. 9 TFEU), there is ample evidence for more than a decade now that SSGI will play a major role in the implementation of EU-policies. Therefore it is safe to claim that there are numerous (at least indirect) backwash effects on social services by EU-initiatives. This becomes obvious when e.g. looking more closely at the 'European Platform Against Poverty and Social Exclusion' (COM(2010) 758/3, published on 16 December 2010), one of the seven Flagship Initiatives under the EU2020 Strategy. The list of key initiatives² accompanying this Communication i.a. mentions the Voluntary European Quality Framework on SSGI³.

² Cf. section '1. Delivering action to fight poverty and social exclusion across the policy spectrum', section 'Social protection and access to essential services', initiative 'Develop the Voluntary European Quality Framework on social services at a sectoral level, including in the field of long-term care and homelessness.

³ The Voluntary European Quality Framework on SSGI has been adopted by the SPC in October 2010 and endorsed by the December 2010 EPSCO Council and is now to be implemented in the context of the Flagship Initiative 'European Platform Against Poverty'

EPSU has been discussing for a long time our objectives for the 'future' of SSGI (well summed up by the 9 principles on quality social services from the Social Platform⁴). Each day the reality of SSGI, however, is moving in the opposite direction. In our view this is not so much because the EU rules lack clarity (on the contrary, we would argue that the internal market logic is too clear) but because they lack the right focus and follow an inappropriate conceptual approach.

Therefore EPSU recalls that we need to get the reference points for policy development and legal initiatives right at EU-level

- There is a need to shift from a predominant orientation on compatibility of modalities of organisation, regulation and financing of local SSGI with Community law (one could call 'compliance mania') to an approach that gives priority to the realisation of objectives of SSGI and of specific missions of general interest taking due account of the specificities of SSGI and their users
- For SSGIs this means to start with the question how to take due account of the specificities of social services and their users and how to best translate recognised specific characteristics of the social services and their users into adapted rules and procedures at EU-level.
- In simple and more political terms: There is a need to focus on how to best to achieve the political aim as defined by the competent public authority in the member states first and then use instruments in a way that they comply with requirements of Community Law.

2.2 Legal framework

For EPSU it is essential that community legislation should be instrumental to the promotion and realisation of objectives of social, health, employment and housing policies, and not the other way around. In case of conflict the realisation of these policies and their objectives have to prevail over the application of Community rules and procedures.

In this context it is important to underline that Art. 14 TFEU provides a sound basis for developing policy and legal initiatives along this line. It calls upon both member states and EU to take care that services of general economic interest '*operate on the basis of principles and conditions, particularly economic and financial conditions, which enable them to fulfil their missions*' which includes public service obligations. It stipulates that relevant principles and conditions should be set without prejudice to the competence of Member States, in compliance with the Treaties, to provide, to commission and to fund such services. In addition Protocol Nr. 26 obliges legislators and regulating bodies to by respect the shared values of the Union in respect of services of general economic interest as listed there, including '*a high level of quality, safety and affordability, equal treatment and the promotion of universal access and of user rights*'. It also confers an '*essential role and the wide discretion of national, regional and local authorities in providing, commissioning and organising services of general economic interest as closely as possible to the needs of the users*'.

EPSU calls upon the relevant bodies in the member states and competent European institutions to make full use of art. 14 TFEU in shaping the legal, policy and quality frameworks for social and health services of general interest. EPSU is in favour of a sectoral directive on SSGI. If need be existing strategies and policies in the field of internal market, competition, state aid and public procurement should be adapted to allow for the delivery of quality social services, regulated

⁴ Cf. <http://www.socialplatform.org/PolicyStatement.asp?DocID=18873>

competition on social markets on a level playing field, quality jobs and decent working conditions. **[EPSU Recommendation 1]** In practical terms this means e.g. to

- Define as obligatory the option of ‘economically most advantageous offer’ in public procurement or give high weight to quality criteria including qualification of staff, quota for qualified staff, working conditions, etc.
- Adapt Community concept of ‘mandating’ to the field of SSGI (e.g. with systems of authorisation of providers with regulated competition for users that as a rule can chose the provider, e.g. in Germany ‘triangular system’ (*sozialrechtliches Dreiecksverhältnis*))

2.3 Voluntary European Quality Framework

The Voluntary European Quality Framework on SSGI as adopted by the SPC stresses that universal objectives and principles are fundamental to the organisation of social services. In line with the approach reflected in the Voluntary European Quality Framework on SSGI, EPSU considers that SSGI should not to be limited to basic ‘needs’, but have to cover all areas where social rights and equal opportunities need to be maintained and strengthened (including employment, housing, education, health, recreation, community life). It underlines that these services ‘play a preventive and socially cohesive role which is addressed to the whole population, independently of wealth or income.’ This approach and understanding of social services is supported by EPSU. We also share the objectives and principles included in this framework relating both to the characteristics of the service provided (availability, affordability, continuity) and to quality criteria:

- respect for users’ rights (abuse of vulnerable users should be prevented)
- participation and empowerment of service users (periodic review of users’ satisfaction)
- partnership (active involvement of all stakeholders)
- good governance (regular independent review of procedures, outcomes...)
- human and physical capital (respect for decent work principles, social dialogue, skills...)
- adequate physical infrastructure (*‘Design for All’*)

The quality framework does not clarify what is meant by ‘social services’⁵. As the dividing lines between different services are blurred, strategies must be coherent and overlapping to avoid the risk that the quality framework becomes a ‘pick and chose’ basket of policies. There are no specific targets that providers have to meet and no formal monitoring procedures. This is particularly difficult when issues of training and professional development are mentioned, which should be mandatory. It does also not contain a separate section on framework requirements for quality (such as sufficient financing, qualified staff, cooperation and partnership in delivering services on the ground) and only a few elements on decent working conditions and quality jobs are being dealt with. However, the importance of achieving good employment conditions, a key concern for trade unions, is recognised. Unfortunately, employment conditions in social services can be poor. In this context it is important to recall the strong feminisation of labour in the health and social services⁶ and the as the gender wage gap as the major challenge to be addressed across the EU. A trade union list of ‘typical’ problems in private care homes and homecare agencies in the UK, e.g., includes:

⁵ See p. 3, 12., in EPSU background paper for the joint HSS / LRG workshop on eldercare services 27 October 2010, Luxembourg, ‘EU policy on social services of general interest (SSGI): Towards a “voluntary quality framework for social services”’, http://www.epsu.org/IMG/pdf/EPSU_paper_on_SSGI-2.pdf

⁶ In 2008 in the EU 79%, 81% and 83% of the workforce in the sectors human health services (NACE code 86), residential care services (NACE code 87) and social work activities without accommodation (NACE code 88) were women, according to the Labour Force Survey 2008, cf. European Sectoral Social Dialogue – Recent developments. 2010 edition, Luxembourg, June 2010, p. 119

- Below minimum wage payments to third-country nationals
- Minimum training for new staff
- Use of untrained temporary agency workers
- Breaches of working time regulations
- Below minimum levels of staffing, particularly at night
- Avoidance of paying normal hourly rates to staff 'on call' at night

3. EPSU priority demands

3.1 Legal framework

EPSU is of the opinion that SGI/SGEI (including SSGI) should fulfil public service obligations and that those obligations should take preference over market/competition rules. This position is now more or less legally supported by article 14 FTEU and the SGI Protocol Nr 26. Therefore, it is important to ensure that article 14 FTEU and the Protocol Nr 26 cover SGI and SSGI.

There are now clear obligations on the European Union to act in the area of public services. Our assessment is in line with the 15 recommendations drawn at the end of the 3rd Forum on SSGI, 25 and 26 October 2010⁷, in general shared and broadly supported by EPSU. This being said, EPSU has a number of demands:

- Use relevant articles of Charter of Fundamental Rights (in particular art. 34 and 36) and the SGI Protocol Nr 26 to the Lisbon Treaty as 'benchmark' or reference point by which to judge EU and national developments regarding public services **[EPSU Recommendation 2]**
 - A first assessment can now be made as to the Patients' Rights Directive;
 - A a second 'test case' could be to evaluate the implementation of the Voluntary European Quality Framework on SSGI against the Charter of Fundamental Rights and the Protocol Nr 26 to the Lisbon Treaty;
 - As a third concrete example EPSU would like to suggest assessing the Quality Framework for services of general interest – announced by President Barroso in his political guidelines for his second mandate on 3 September 2009⁸ – along these yardsticks
- Develop at EU-level a 'general interest statute' as way of strengthening the regulatory framework / criteria, applicable to public services providers. **[EPSU Recommendation 3]** This initiative could build upon Question 07bis of the background paper of Belgian Presidency for the 3rd Forum on SSGI on 'SSGI and public procurement'⁹. In EPSU's view this concept/scope, however, would need to be enlarged from the too narrow focus

⁷ Cf. http://www.socialsecurity.fgov.be/eu/docs/agenda/26-27_10_10_recommandations_en.pdf

⁸ Cf. http://ec.europa.eu/commission_2010-2014/president/pdf/press_20090903_en.pdf, p 24, highlighting the 'need to give a boost to the overall development of the social and health services' sector, for instance by establishing a quality framework for public and social services, thus recognising their importance in the European model of society'. Also see footnote 23

⁹ In the section on 'Acknowledgement of the specificity of certain operators of SSGI for awarding reserved contracts' the background paper on p. 12 suggests setting-up for social economy actors, 'a uniform European status of the social interest undertaking or the social economy undertaking (or any equivalent designation). This status would favour a social description of the purposes pursued by the operator, instead of the economic or non-economic character of the services provided', http://www.socialsecurity.fgov.be/eu/docs/agenda/26-27_10_10_ssig_marches_publics_en.pdf

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- on 'social economy actors' to 'general/social interest providers' to also cover providers of the public sector and to accommodate for the specificities of those two provider types.
 - EPSU could also consider enlarging the notion of 'in-house' to include service providers who meet specific general interest criteria (building on recent the ECJ case law on inter-municipal cooperation) **[EPSU Recommendation 4]**

EPSU has argued that the EU public procurement directives need to be improved to strengthen possibilities to include social criteria in public contracts¹⁰. The Commission Guide on Socially-responsible Public Procurement¹¹ has to be used to encourage the use of social considerations and the pursuit of objectives of social, health, employment and housing policy¹². **[EPSU Recommendation 5]**

The Monti Report 'A New Strategy for the Internal Market. At the Service of Europe's Economy and Society'¹³ has clearly called for such a re-orientation of public procurement policies in view of strengthening its social dimension. The Single Market Act¹⁴ also announces a review of procurement directives 'to enable public contracts to be put to better use in support of other policies' (Proposal 17, p. 15). The related consultation process will be launched with a consultation already tomorrow, 26 January 2011.

3.2 European Voluntary Quality Framework

EPSU supports the aim of the European Voluntary Quality Framework on SSGI to build support by governments (at all levels) and social service providers (public, not-for-profit, and other private organisations/companies) of universal, high quality social services. To put flesh on the bones and do first concrete steps it now needs to be put into practice. EPSU calls on the responsible actors to give appropriate support by means of action programmes at different levels (local, regional, national) underpinned with realistic targets in view of improving the quality of services and jobs **[EPSU Recommendation 6]**. EPSU also suggests to closely monitoring the concrete implementation of the European Voluntary Quality Framework in different sectors (in particular long-term care for elderly, mentally ill or disabled people) and recalls the need to also involve social partners – including representatives of work councils and trade unions active in the field of health and social services – in this process. **[EPSU Recommendation 7]** This is also essential as the framework is basically silent about funding.

¹⁰ See also EPSU background note on social procurement (February 2010), <http://www.epsu.org/a/6214>, and EPSU demands asking for more consistency from the European Commission in view of socially-responsible and sustainable public procurement (November 2010), <http://www.epsu.org/a/7046>

¹¹ Commission Staff Working Paper SEC(2010)1258 of 19 October 2010 ('Buying social: A guide to taking account of social considerations in public procurement'), still to be officially published

¹² 'The drive to achieve lowest cost in public procurement and the insufficient scope and encouragement to consider other policy objectives – in particular social, decent work and employment objectives - means that public procurement is currently not able to play its full role in addressing societal challenges. The review of legislation and policy should strengthen the scope for public procurement to contribute to these objectives. Such a development would be in line with the new Treaty provisions that reinforce social Europe, such as Article 3.3, Article 14 and Protocol 26, the Charter of Fundamental Rights, and the Integration Principle incorporated into Article 11.', p.2), <http://www.epsu.org/a/7046>

¹³ http://ec.europa.eu/internal_market/strategy/docs/monti_report_final_10_05_2010_en.pdf, see in particular section 3.4 Harnessing public procurement for Europe's policy goals

¹⁴ COM(2010) 608 final/2 of 11 November 2010, http://ec.europa.eu/internal_market/smact/docs/single-market-act_en.pdf

In order to illustrate the potential EU added value of joint work around SSGI at EU-level EPSU suggests giving priority in the years to come to the elaboration of specific sectoral policies with tangible goals – e.g. EU action plans on elderly/long-term care, care for people with disabilities, mental health, child care (to build on the Recommendation on Childcare, aiming at an implementation of the Barcelona targets) or housing in order to illustrate the potential EU added value of joint work and common quality frameworks at EU-level. **[EPSU Recommendation 8]** Policies here again need to be designed in a spirit of favouring cooperation between actors and to be financially underpinned by EU structural funds.

3.3 Employment and pay conditions

In any discussion on SSGI quality of work is essential. The Commission identified 10 'dimensions' of job quality back in 2001¹⁵ and, together with the ILO's 'decent work' concept (which adds social protection) these dimensions can provide a common framework for improving the quality of employment. Working and pay conditions go hand in hand with quality and are inseparable. They are linked to questions of financing and organisation of services. Low pay and poor working conditions are all too common in SSGI and need to be tackled.

For EPSU improving the quality of work must be a high priority, in general and under the European Voluntary Quality Framework. EPSU insofar considers important to foresee a prominent place to working and pay conditions when developing and implementing policies to ensure and improve the quality, effectiveness and efficiency of SSGI. We would also recommend add a clearer reference to the respect for workers' rights when further developing the framework under a first revision. **[EPSU Recommendation 9]**

In order for the European Voluntary Quality Framework to be a catalyst for '*defining, assuring, improving and evaluating the quality of social services*' strategies must be put in place to ensure that social services are delivered by professional, motivated and accountable workers, alongside which volunteers can play their full role. In this context EPSU is in favour of initiatives to support the professionalisation of the social services workforce. **[EPSU Recommendation 10]** This could and should be done under the new Flagship Initiative 'New Skills and New Jobs' and with support from the EU structural funds. EPSU calls for a strengthening or development of social dialogue and collective bargaining in the health and social services sector both within member states as at European level **[EPSU Recommendation 11]** as this would facilitate addressing and negotiating relevant issues related to qualifications and training, professional standards, decent work and pay conditions.

3.4 Modalities of organisation, regulation and financing of SSGI to support quality services and to promote quality jobs

In order to strengthen EU quality framework(s) and the orientation of policies towards quality services and jobs EPSU underlines that EU policy should aim to

- Build consensus for maintaining and strengthening the public (collective) funding basis for social services, not least because it is an essential part of the EU social model, and

¹⁵ See Communication COM(2001)313 final. The Laeken European Council in December 2001 approved a list of 10 indicators (Indicators of Quality in Work, Report by the Employment Committee to the Council, 14263/01, 23.11.2001) relating to: Intrinsic job quality (includes pay level indicators); Skills, training; Gender equality; Health and safety; Flexibility and security; Access to labour market; Work organisation and work-life balance; Social dialogue and worker involvement (and including collective bargaining); Non discrimination; Overall work performance

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- there is clearly popular support for this. Governments at all levels need to take responsibility for ensuring that citizens receive quality public services.
- Develop clear objectives and targets for developing collectively-funded social services in Europe, supported by a range of instruments including the Open Method of Coordination (OMC)¹⁶ and the European Structural Funds (ESF). **[EPSU Recommendation 12]**
 - Recognise the contribution of ‘in-house’ and public sector provision of social services: Publicly provided care homes and care services for example play a key role in guaranteeing service continuity and stability, as well as providing a basis for innovation and standard-setting. Citizens should be able to ‘choose’ for public sector provision and we disagree strongly that, *‘where competition in a market is not the best option, open public procurement procedures may be a good way of ensuring that public services are provided efficiently’*¹⁷. There are many problems with public contracting in social services¹⁸, not least because of a lack of a social dimension to public procurement¹⁹.
 - Encourage cooperation between the public and not-for profit sector, built on trust and mutual cooperation, not competition. In EPSU’s view the development of a European status specific to social services providers, whereby social service providers commit to a set of specific requirements²⁰, could help achieve such cooperation. **[EPSU Recommendation 13]** Service providers who adhere to the specified requirements listed below should be seen as ‘in-house’ providers of social services for the purposes of procurement rules. The specific status could include:
 - The commitment that any financial gain is reinvested into the service, in order to preserve the collective-basis of the service
 - Provisions on transparency, democratic control, accountability in service provision
 - Minimum requirements on ‘quality of work’ (wages, working conditions, training)
 - Encourage member states (and to the extent possible also neighbouring countries) to make accurate and realistic projections of the growth in the workforce that will be needed in different areas of social services (and especially eldercare services) **[EPSU Recommendation 14]** and to design ‘action plans’ (with clear objectives; to be monitored involving the social partners) setting out how employment growth and the promotion of the quality of employment is going to be improved. This tool should support social partners and public authorities to promote professionalisation of the social services workforce. **[EPSU Recommendation 15]** Consistency in the quality of social services will only be achieved if there are enough workers and they have access to the training, development and qualifications²¹ they need. The action plans should integrate the 10

¹⁶ See Social Platform ‘5 recommendations for an effective Open Method of Coordination in social protection and social inclusion’. June 2009

¹⁷ Speech by Joaquin Almunia 22 November 2007. The Informal Network of Social Services Providers (INSSP) in their report ‘Impact of EU legislation on social services’ (June 2010) noted ‘public tendering often has a negative impact on innovation, in that tendering tends to drive services providers towards traditional service models.’ The report also notes that within a competitive tendering system, non-for – profit social service providers often innovate, only to see their innovation used by other providers. <http://cms.horus.be/files/99931/MediaArchive/INSSP-Seminar-Report-Revised-Final-02.06.10.pdf>

¹⁸ And see Informal network of Social Services Providers (INSSP) report on ‘Impact of EU legislation on social services’ <http://cms.horus.be/files/99931/MediaArchive/INSSP-Seminar-Report-Revised-Final-02.06.10.pdf>

¹⁹ See EP report from Heide Rühle ‘new developments on public procurement’ <http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A7-2010-0151&language=EN>

²⁰ This suggestion is inspired by Question 07bis of the background paper of Belgian Presidency for the 3rd Forum on SSGI on ‘SSGI and public procurement’; see footnote 9

²¹ Very high levels of skills are needed in specific areas (e.g., dementia, end of life care, mental health).

indicators developed by the Commission and Council²² on 'quality of work'. In the context of workforce development low pay must be addressed, migrant workers' right respected and collective bargaining and social dialogue be developed. Volunteers cannot substitute for a professional workforce; guidelines could be developed on the appropriate use of volunteers.

EPSU would like to see these orientations reflected in an initiative by the European Commission contained in the Single Market Act. It mentions under Proposal 25 (p. 15) a communication and/or action plan on public services to be published in 2011. The Commission there also announces an initiative, of importance to EPSU, to '*examine the suitability and possibility of extending universal service obligations into new areas in the light of changes to the essential needs of European citizens, potentially on the basis of Article 14 of the TFEU*'. The same holds in view of the quality framework on public services already announced by President Barroso in February 2010 at the European Parliament²³ and a forthcoming Commission initiative on the health sector referred to in recent Communication on industrial policy, the Flagship Initiative 'Innovation Union'²⁴.

3.5 Governance at EU-level

We propose that the EU develops a comprehensive policy on eldercare to start with – in a similar way as already done on childcare. **[EPSU Recommendation 16]** Such a (sub-)sector-specific approach should, however, be pursued with the aim at strengthening their general interest orientation and not give precedence to market liberalisation, privatisation and commercialisation policies. In this context EPSU sees an important role for a revised OMC that should develop into a stronger policy tool with clear objectives to develop solidarity-based public services, backed up with EU guidance, targets, monitoring and resources (from the EU structural funds)²⁵. There are also clear links to recent Flagship Initiatives on 'Agenda for New Skills and Jobs'²⁶, 'Innovation Union'²⁷ and 'European Platform Against Poverty'.

EPSU has argued in view of SGIs that the EU should support the setting up of an independent observatory / a 'development agency' to support Member States (and indeed third countries) to improve their public services (and rather than only to promote PPPs as in currently the case). **[EPSU Recommendation 17]** This demand with regard to public services is equally valid to all

²² The 10 dimensions/indicators are: Intrinsic job quality (includes pay level indicators); Skills, training; Gender equality; Health and safety; Flexibility and security; Access to labour market; Work organisation and work-life balance; Social dialogue and worker involvement (includes the percentage of employees covered by collective agreements); Non discrimination; Overall work performance.

²³ See http://ec.europa.eu/internal_market/post/doc/conferences/20102904/almunia_en.pdf, p. 4, quoted in a speech of Joaquín Almunia Vice-President European Commission responsible for Competition policy, in Valencia end of April 2010: 'President Barroso undertook, before the European Parliament in February, to develop a quality framework for services of general interest. Our objective here is to ensure that Member States retain the possibility of guaranteeing certain public services to all citizens on the basis of affordable conditions. Also see footnote 8.

²⁴ Proposal 28 (p. 22) announces that the Commission will 'ask the social partners for proposals on how to develop the 'knowledge economy' and labour market strategy for caring sector', http://ec.europa.eu/commission_2010-2014/geoghegan-quinn/headlines/documents/com-2010-546-final_en.pdf.

²⁵ Cf. footnote 16.

²⁶ I.a. suggesting an action plan to address the gap in the supply of health workers in the section on 'reaping the benefits of migration'

²⁷ See footnote 24

social services. A 'development agency' could provide an appropriate umbrella to support comprehensive, 'joined-up' and accountable SSGI that have sufficient funding to provide for appropriate staffing levels and good working conditions. Such an initiative could well be underpinned by a multi-stakeholder forum as sketched out in the October 2010 Discussion Paper by Proinsias de Rossa. **[EPSU Recommendation 18]**

4. Comments on Proinsias De Rossa's Discussion Paper (October 2010)

EPSU thinks it is correct to place EU initiatives on SSGI firmly within the concept of a 'social market economy' and the new EU Treaty provisions on SGI. We believe that it is not enough that Member States are 'not constrained' by EU rules from fulfilling their responsibilities; they must be assisted – and encouraged – to do so.

In our opinion the objectives and principles of SSGI sit uneasily alongside the objectives of profit-maximisation. Furthermore, if we want the EU to support the development of more, as well as better, SSGI, then increased public spending will be essential in the less prosperous regions and countries of Europe. It is in the general interest that this public funding is not siphoned off into private profit. This could be taken up in the report.

The Discussion Paper includes several references to the Lisbon Treaty, in particular to art. 3 TFEU (objectives of the EU), art. 14 TFEU (SGEI) and Protocol Nr. 26 on SGI. EPSU would advise to include additional references to

- Art. 9 TFEU (horizontal social clause + social impact assessment, ex post + ex ante), as basically all SSGI are of economic nature – according to categorisation by EC following relevant ECJ jurisprudence; therefore need to strongly counterbalance the dynamics of internal market integration pushed by the four freedoms and competition rules by objectives of social, health, employment, housing policy and policies to safeguard and promote social inclusion and social cohesion
- the Charter of Fundamental Rights of the EU, in particular art. 34 (Social security and social assistance) and 36 (Access to services of general economic interest)²⁸

The section on the quality of SSGI and the future use of the voluntary European quality framework for SSGI should be extended and strengthened. Regarding this issue and the other issues listed below please see EPSU's recommendations above. In EPSU's view other topics that should have more weight in view of EP own-initiative report on the future of SSGI are

- the employment potential of health and social services
- life-long learning and training needs in the sector
- Employment conditions of qualified staff/staff with professional qualifications; challenges/limits related to the involvement of volunteers; special focus need to migrant workers, in particular female (often undocumented) care workers from Central and Eastern Europe and abroad (not least given recent initiatives on seasonal work and the free movement of workers within the EU as of May 2011, creating new challenges as to national arrangements on minimum wages and other minimum requirements related to employment conditions.

²⁸ Art. 34 reads: 1. ... Union recognises and respects the entitlement to social security benefits and social services ..., in accordance with the rules laid down by Community law and national laws and practices; providing protection. 2. ... Union recognises and respects the right to social and housing assistance ...

Art. 36 reads: The Union recognises and respects access to services of general economic interest as provided for in national laws and practices, in accordance with the Treaty establishing the European Community, in order to promote the social and territorial cohesion of the Union.