



SSGI in the EU context – EPSU and ETUC reflections, proposals, requests

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Subject: EP own-initiative report ‘The future of social services’ (rapporteur: Proinsias De Rossa), Trade Union Intergroup Plenary Meeting, 10 March 2011, Strasbourg

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Bullet points for contribution

Three parts of oral contribution

- EPSU’s assessment of report “Future of SSGI” MEP De Rossa (draft version 02.03.11)
- Highlight some issues of key importance for both ETUC and EPSU as to the further development of the legal, policy and quality framework for SSGI at EU-level
- Exchange on relevant issues around SSGI and discuss possible/useful next steps/initiatives by the EP

Which hats am I wearing?

- I intervene on behalf of EPSU
- The handout “SSGI in the EU context – EPSU and ETUC reflections, proposals, requests” has been coordinated with the ETUC and contains key issues shared (with one exception each) and jointly advocated for

You all know what the ETUC is and what they are doing. Let me shortly introduce the European Public Service Union (EPSU)

- **EPSU represents 8 million workers in 250 TUs in 47 countries across Europe, 60% of whom are women**
- EPSU covers 4 key sectors
 - Local and regional government (municipalities, districts, provinces/regions)
 - Central government and EU administration
 - Public utilities [services of general interest] (network industries: electricity, gas, water, waste)
 - **Health and social services; representing about 3.5 million workers/employees**
- EPSU’s four horizontal issues are public services and the EU, collective bargaining, gender equality and global issues (such as migration, climate change)
- EPSU has 3 main objectives
 - Promote quality public services and jobs
 - Improve members’/workers’ and employees’ working and pay conditions, i.e. individual labour rights
 - Social dialogue
 - Policy and advocacy work
 - Campaigns to defend public services (e.g. ‘Turning the tide’) and strikes
 - Safeguard trade union rights, i.e. collective labour rights (enterprise, sectoral, national, European level)

1) EPSU's assessment of EP report "Future of SSGI" MEP Prionsias De Rossa

EPSU supports the general orientation of the draft report and basically all proposals made

- Report takes up a broad range of issues important for trade unions (TU), but also for NGOs/providers of SSGI and local authorities/providers and regulators of SSGI
- Proposals reflect well the suggestions and requests by a broad range of stakeholders, including TU and service providers from the public sector and from social economy
- EPSU thanks the rapporteur for having carefully considered and taken up many concerns, demands and proposals made i.a. by EPSU and the ETUC

Examples of proposals/requests/recommendations in the report supported by EPSU

- Reference to **(stronger) revised legal basis for SGI/SGEI – comprising SSGI – under Lisbon Treaty**, including the Charter of Fundamental Rights (CFR) [recital B.]
- Reference to **European Social Model (ESM)** and giving support for strengthened role of local and regional authorities a) to take political choices; b) to decide along own priorities [recital C.; 5.; 15.]
- **Taking special characteristics of SSGI and their users as reference point for a) legal initiatives; b) policy development** [1.]
- Recalling the responsibility of member states and public authorities at different levels to ensure a sustainable and stable financial framework, not least on the backdrop of budget cuts/austerity measures + reference to new financial sources, including a financial transaction tax (FTT) [12. + 13.]
- Demanding **adaptation of Community Law** (state aid; public procurement; internal market freedoms), e.g. 1) higher thresholds for state aid; 2) redefinition of the economically most advantageous offer as the rule and the cheapest price as the exception; 3) quality as obligatory criteria [17. + 24. + 26. + 35.]
- **Extension of in-house concept** to service providers meeting certain general interest criteria/non-for-profit criteria => **specific status? + strengthening existing in-house concept** (i.e. self provision or awarding of public service contracts to a legally distinct entity over which the competent (local or regional) authority exercises control similar to that exercised over own department => **public enterprises; => inter-municipal cooperation** [21. + 22.]
- The report advocates for a **legal and policy framework that gives same value to**
 - **different forms of service delegations to private** (for-profit/commercial or not-for-profit) **providers** – i.e. that can mean competitive tenders, but this can also mean authorisation/licensing of providers + service contracts with a plurality of providers + users' choice; this second approach would allow to take into account 1) specificities of SSGIs and their users; 2) type of SSGI (standard, case-management); 3) options for user choice; 4) political choice of (local or regional) authority; i.e. no obligation or encouragement/push towards tendering out SSGI at all means
 - **different forms of contracting**
 - **different mechanisms/procedures of financing** [21.]
- Supporting the **European Voluntary Quality Framework (EVQF) on SSGI** and recalling the need to monitor its implementation, including references to the CFR (Art. 34 + 36) and the Protocol Nr. 26 on SGI and its use in the context of public procurement [32. + 35. + 36.]
- Suggesting action programmes based on the EVQF [29.]
- Supporting the idea of **pilot projects in the LTC/elderly care sector** [29.]
- Recalling the **importance and value of decent and stable working conditions** and professional training for the delivery of quality SSGI [34.]

Comments on elements in the EP report, but not in EPSU and/or ETUC paper

- Setting up a high level multi-stakeholder task force, “prolonging” to some extent the 3rd Forum on SSGI + suggesting a 4th Forum on SSGI
 - EPSU in support of participatory approach and comprehensiveness
 - This task force could play a role in accompanying action plans/programmes based on the EVQF or pilot projects in the LTC/elderly care sector and to monitor the implementation of the EVQF
 - EPSU, however, wonders what could be the “mandate” and actual power of this task force to move things and to prepare decisions, what the strength of such a “soft governance tool” to tackle legislative change/amendments and making it actually happen

Issues in EPSU and/or ETUC paper that are not/only partially covered by EP report

- The report is silent about and could/should elaborate on how to further shape the legal, policy and quality framework for SSGI at EU-level on the backdrop of the flagship initiatives of the EU 2020 Strategy; EPSU recalls the need to make sure that the current discussion on processes on SSGI are not by-passed by (concrete proposals under the different) flagship initiatives
- EPSU is of the opinion that it would be **more appropriate to use the distinctions “not-for-profit/for-profit” and “marchand/non-marchand” to grasp the very nature of SSGI and SGI** as well as the related challenges for policy development instead of the dichotomy “economic/non-economic” that reflects a formal, legal and functional approach; but this latter distinction is not really appropriate to seize the design principles of social protection schemes (=> solidarity-based and collective mechanisms) as well as the rationales behind SHSGI (=> highly regulated/quasi markets) and the raison-d’être behind public services (=> market failure)
- Objectives and principles of SSGI sit uneasily alongside the objective of profit-maximisation/making; it is not in the general interest of society that public funding is siphoned off into private profit for commercial enterprises
- Draft EP report on the future of SSGI mentions decent working conditions and underlines their importance, but the term used could be extended to include “pay conditions”
- Draft report could/should recall the aim to work towards quality jobs and employment, also in the field of SHSGI

2) Highlighting some issues of key importance for both ETUC and EPSU as to the further development of the legal, policy and quality framework for SSGI

Position papers by ETUC (on SGI; of June 2010) and by EPSU (on SSGI; of January 2011) as well as a handout “SSGI in the EU context – EPSU and ETUC reflections, proposals, requests”

- provide a good and rather comprehensive overview of key issues, concerns or requests
- they elaborate on reasons for and rationales behind specific positions or demands

Key messages for EPSU

- Social and health services are core parts of the ESM and normally embedded into national systems of social protection/security/assistance
 - Which fields are/should be covered when we talk about SSGI? (personal) social services –for sure!; health services – also?; professional qualification/ employment-related LLL?

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- Design policies that give **precedence to the realisation of objectives of social, health, employment and housing policies, to public service obligations and principles over market rules and the compliance with Community Law** that initially has not been defined for SSGI {EPSU/ETUC handout: EPSU 2.}
 - Develop a **general interest statute** in Community law {EPSU/ETUC handout: EPSU 4.}
 - **Extension of in-house concept** to service providers meeting certain general interest criteria/non-for-profit criteria => specific status? {EPSU/ETUC handout: EPSU 5.}
 - **Strengthening existing in-house concept => public enterprises; => inter-municipal cooperation** {EPSU/ETUC handout: EPSU 5.}
 - Pursue a **sectoral approach on SSGI** in considering the broader framework SGI/SGEI {EPSU/ETUC handout: Introduction}
 - What do we need to include in a sectoral directive on SSGI/regulations developed on the basis of art. 14 TFEU and Protocol 26? E.g. 1) precedence to the realisation of horizontal policy objectives in case of conflict; 2) anchorage of principles (e.g. accessibility; affordability; continuity); 3) relevance of general principles such as gender equality, non-discrimination, equal treatment; 4) choice of local and regional government on provider, contractual arrangement, financing
 - Rational: Local and regional government is 1) democratically elected, 2) using public money (taxes; social insurance contributions); 3) has to pursue politically defined objectives and modalities of service provision, regulation and financing
 - Recall the employment growth potential and the **need to improve the quality of existing and newly created jobs**; this includes the 1) realisation of the equal pay for equal work principle; 2) need to counter lowering of pay and deterioration of working conditions; 3) need to prevent from a downgrading and precarisation of jobs and/or their replacement by lower qualified and lower paid jobs {EPSU/ETUC handout: EPSU 12.}
 - SSGI mainly provide employment for women and therefore are key to improve the situation around gender equality (gender pay gap = on average 10% to 20%) [cf. EP Womens' Rights and Gender Equality Opinion to EP Report on the Future of SSGI (rapporteur: Siiri Oviir)]; wage levels; job classifications; etc.
 - Sector is undervalued in economic terms and not having adequate recognition in our societies [cf. EP Report Womens' Rights and Gender Equality Committee on the role of women in an ageing society (rapporteur: Sirpi Pietikäinen)]
 - Reality and challenge of brain drain and serious lacks of qualified staff in health and social care in countries of Central and Eastern Europe
 - Strong link between financing of SSGI on the one hand and access to and quality of SSGI on the other hand: 1) mix of sources; 2) **very high share of public money**; 3) **need to tap potential of new sources**, e.g. FTT
 - Implement EVQF on SSGI, with stronger focus on decent working and pay conditions and the quality of work in EVQF as taken into account/foreseen up to date {EPSU/ETUC handout: EPSU 8. + 9. + 12.}
 - Elaborate an **European action plan/programme on LTC/elderly care**, underpinned by targets, a monitoring system, money from structural fund for infrastructures and professional training – to illustrate the potential and added value of joint action at EU-level and European quality frameworks {EPSU/ETUC handout: EPSU 11.}
 - Need to mainstream objective of social, health, employment and housing policy into EU-policies on SSGI [cf. EP Report Environment, Public Health and Food Safety Committee on reducing health inequalities in the EU (rapporteur: Edite Estrela)]

Key messages for the ETUC (in addition to issues already covered by/mentioned list above)

- Call for a **regulation on SGI to reinforce the public service mission** and three main objectives {EPSU/ETUC handout: ETUC 12.}
 - the power of definition is with the relevant local, regional and national public authorities
 - the exercise of this discretion should not be open to challenge in any legal proceedings except in case of manifest error
 - the burden of proof should fall on the European Commission or other complainant and not on the local or regional or national authority
- **Benchmarking legal and non-legal initiatives against the public service provisions of the Lisbon Treaty**, to be backed by Art. 14 {EPSU/ETUC handout: ETUC 19.}
- Backing up legal and policy initiatives on SGI/SGEI by a **social progress clause** {EPSU/ETUC handout: ETUC 20.}
- Set up a **register per member states on non-economic services** that then have to be exempted from EU law on state aid, public procurement and internal market freedoms {EPSU/ETUC handout: ETUC 13.}

3) Exchanging on relevant issues around SSGI and discussing possible/useful next steps/initiatives by the EP

- Do you have questions or comments with regard to EPSU and/or ETUC papers?
- Where do we go from here? Which role for the EP in the future process on the further development of legal, policy and quality framework for SSGI at EU-level?
- Which are the topics/initiatives you would like to work towards and have support for from TU?