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Joint contribution of EPSU and ETUC to the EC consultation on the employment potential of the personal and household services

- related to Staff Working Document 95(2012)final of 18 April 2012

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Introductory remarks

- *This contribution has been coordinated between the European Public Service Union (EPSU) and the European Trade Union Confederation (ETUC) and is being jointly submitted by both organisations. Where the document refers to "EPSU" to facilitate the reading, this should therefore be read as "EPSU and ETUC". This joint reply has also been coordinated with a contribution separately submitted by the Trades Union Congress (TUC), UK, and incorporates quotes from this document.*
- *Both EPSU and the ETUC have consulted their members. EPSU member Royal College of Nursing (RCN), UK, in particular provided feedback and input.*
- *The contribution has been drafted in bullet point style. The page numbers in angular brackets refer to the English language version of SWD(2012)95 final to highlight issues and statement made there.*
- *Our bullet points 1) to 20) are being attributed – where they seemed to fit best – to the four issues the European Commission suggested to focus on under the consultation. EPSU's and ETUC's contribution, however, aims at covering a broader range of issues, reaching beyond the scope of the four questions which makes this exercise not always easy.*

Attribution of bullet points of EPSU and ETUC contribution to four issues of EC consultation

Issue 1: Ways to improve **measurement and monitoring of the employment levels in PHS**, taking into account the **impact of the on-going crisis, loss of purchasing power, labour market exclusion issues** and the potentially positive effect on the creation or growth of SMEs

Bullet points 1), 2), 4), 7) and 9)

Issue 2: The utility of developing **sharing of experiences**, especially concerning the **tools used or planned to support the PHS** with a specific attention to the cost effectiveness and to the reduction of undeclared work

Bullet points 10), 11), 12), 15), 18), 19) and 20)

Issue 3: Ways of **ensuring quality services and jobs (skill needs, working conditions)**, including possibly through development quality standards

Bullet points 3), 5), 6), 8), 10), 12), 13), 14), 15), 16) and 17)

Issue 4: Other ways to ensure **greater professionalisation of PHS jobs**

Bullet points 5), 6), 8) and 17)



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Elements of EPSU and ETUC contribution

- 1) **EPSU welcomes the attention that the European Commission (EC) gives in the Staff Working Document (SWD) to personal (social) services as one key element of a European strategy on employment growth and recovery on the labour markets across Europe** and the related consultation with relevant stakeholders. **This is even more important in times of tight public budgets and budget cuts (not least at local and regional level) affecting social services** [p. 3] we are witnessing in many countries of the European Union. The need and demand of these services will increase with the demographic changes and changes in family structures, employment patterns, labour market participation of women, etc. – and this clearly provides the opportunity for job creation [p. 3]. As indicated in section 1.1 “Employment trends” of the second biennial report on SSGI, SEC(2010)1284 final of 22 October 2010, and in the SWD(2012)93 of 18 April 2012 on an Action Plan for the EU Health Workforce, the **number of jobs in the sectors of health and residential care** (NACE 86 “health care” and NACE 87 “residential care”) **increased by 21% between 2000-2010 creating 4 million new jobs**. Even during the economic crisis, employment in the healthcare sector has continued to grow: while overall employment fell by 5 million people over the period 2008-2010, the healthcare sector increased its share of total employment by half a percentage point, creating more than 770,000 new jobs” (p. 2). And: “More than 1 million new jobs are expected to be created between 2010-2020. The growth rate in this sector is projected to be 5%, which is higher than EU average slightly above 3%.” (p. 3) There is also an **important job creation potential in the field of other social care and social work** (NACE 88) into which a large share of the PHS as described in SWD(2012)95 are falling.
- 2) **Unfortunately there is nothing in the SWD on how to concretely stabilise or increase public finances dedicated to these services** – EPSU in this context e.g. advocates supports the introduction of a financial transaction tax (FTT), cf. e.g. <http://www.epsu.org/a/8827> – **or on a role the public sector/local and regional authorities could play in financing and delivering infrastructures to address collective needs**. The policy measures suggested are rather perceived as aiming at opening up markets for personal and social services (PHS). As the TUC we “certainly do not endorse the view that a free market in the provision of such services is always the best option ... Whilst this does not rule out the private sector, a more collective response to delivery also helps to facilitate union organisation also providing the workers with greater security.” (TUC contribution). EPSU holds that **“more balanced measures to get out of the crisis start with ... a financial transaction tax (FTT) at a European level as a first step to a Global FTT to address speculation, fighting fraud and tax evasion and addressing the common tax base for corporate profits and minimum tax rate. This will allow members states to undertake the massive investment in public services and infrastructure that is needed for job creation and a fair transition to get us out of the mess that has being created”** (<http://euobserver.com/7/32579>).
- 3) EPSU also welcomes that the SWD 1) highlights the **importance and the role publicly supported personal (social) services** can play and are actually playing **to support gender equality and women in their access to the labour market and a better work-life balance of both women and men**, 2) recalls the **necessity of an improvement of the quality of all types of formal care and efforts needed to have a skilled workforce benefitting from good working conditions** and 3) calls upon MS to support measures to regularise migrant workers, in the field of health and social services nearly exclusively women, and to bring the services they provide from the shadow economy into the formal

economy [p. 3]. Main challenges also relevant for PHS (such as the on average lower wage levels than and the bigger wage gap between men and women working in the health and social services sector than in the total economy or maintaining an adequate supply and quality of health and social services under increasing budget constraints) and to be addressed by policy makers and employers are well summarised in sections 1.2 “Structural challenges in the health and social services sector” and 1.3 “Main challenges in addressing the demand for health and social services” of the second biennial report on SSGI, SEC(2010)1284 final of 22 October 2010. EPSU recalls that for the sake of policy coherence the **objectives to improve the quality of all types of formal care and to improve skills and access to vocational education and training (VET) and continued professional development (CPQ) for those working in PHS** to have a workforce benefitting from good working conditions need to be reflected in the National Reform Programmes and country-specific recommendations in the context of Europe 2020 processes as well as in priority actions under the European Social Fund (ESF).

- 4) EPSU fully **supports the classification by the EC of long-term care/elderly care and child care services as services of general interest** [p. 4], but recalls that this holds true for all (personal) social services, referring to the EC Communication on social services on general interest (SSGI) of 26 April 2006 (COM(2006)177). There is overlap between the concepts PHS and SSGI. The term “personal and household services” as used in SWD(2012)95 is not consistent with the description of SSGI as referred to as a rule by Commission services since then as those services dealing with care of persons are in, but those providing support on household work (cleaning, cooking, support with shopping, etc.) are clearly not covered, which is a source of confusion and policy incoherence. **EPSU encourages the EC to refer to and to make full use of the relevant articles of the Lisbon Treaty – i.e. Article 14 FTEU and Protocol 26 on Services of General Interest as well as articles 34, 35 and 36 of the Charter of Fundamental Rights of the European Union – for any future policy development in the field of PHS and SSGI.**
- 5) EPSU is therefore **critical about the borderlines rather arbitrarily drawn as to what is being covered by the SWD and possible future EC policies in the field of PHS**, as the SWD only focuses on child care, elderly care, disability care (sometimes mentioned, sometimes not, which gives a incoherent picture; in EPSU’s view they make up for an integral part of social services of general interest) as well as housework provided at the home of those needing the services. Except of the last category all these services are also provided outside the home in/by institutions ... and relevant policies are as a rule designed per type of measure, not per place of delivery. Most importantly **workforce issues, in particular related to the qualification, pay and working conditions of those delivering PHS, can only be addressed with a more comprehensive approach comprising the different types of PHS and the sector of health and social services in general. The same holds for all challenges or problems in view of the recruitment and retention of workers.**
- 6) EPSU is insofar also **critical about having put together – under one and the same EU policy strategy – (personal) social services provided to persons in need on the one hand and household services potentially provided to everyone including cooking, cleaning, etc.,** as the first are relational services and have a dominant medical or social care dimension. They also are part of social, employment and health policies and services of general interest which altogether implies different regulatory and financial frameworks and policy objectives. These services should not be lumped together in view of what is needed as to adequate policies of employment and qualification (comprising VET and CPD).

This is e.g. reflected by the uncritical mentioning of e.g. on the one hand “Mini-Jobs” in Germany [p. 9] that clearly can’t be considered as a model to promote the objectives also set out in the SWP [p. 3] as this is a form of atypical and precarious employment (contract) and on the other various systems of voucher systems [p. 9f] without systematically assessing their benefits and downsides for the workers in the field of PHS.

- 7) The EC is right in mentioning the predominantly public financing of these services [p. 4] – to which EPSU would like to add that the main sources are general taxes or social security contribution from **solidarity-based systems of social protection**. This type of financing also calls for **well developed regulatory frameworks and the monitoring of the quality of the services for the users/clients/patients and of the pay and employment conditions of the workers** as its about the effective and targeted use of considerable amounts of public money (cf. EPSU position papers on SSGI elaborated in 2011, <http://www.epsu.org/a/7452>). They recall that SSGI are about the guarantee of (access to) social rights, respond to specific social needs, deficits or disadvantages and involve relational work, which distinguishes them in many dimensions from services of household help/support such as a cleaning, cooking, support with shopping, gardening, etc. These documents also explain why **in EPSU’s view quality SSGI can only be guaranteed for citizens and workers within a collective framework** (see also bullet point 12).
- 8) EPSU acknowledges the **potential of PHS to support the employment of lower skilled people and their full inclusion into the first labour market** [p. 4]. EPSU, however, opposes their across the board classification in the SWD as “low productivity jobs” [p. 4], as this gives a wrong spin/twist for future policy debates and the development of adequate solutions to safeguard and improve the job quality. PHS are much more and also offer employment possibilities for highly skilled workers. They build on **relational work that requires a broad range of professional qualifications and personal skills and qualities that are undervalued and inadequately recognised in our economies and societies** (see also bullet point 15) below). EPSU in this context also sees links to the policy process to revise Directive 2005/36/EC for the recognition of professional qualifications (cf. e.g. <http://www.epsu.org/a/8744> for further information on EPSU’s positions and suggestions) and initiatives in the framework of a planned joint action on health workforce planning coordinated by DG SANCO, i.a. focusing on better workforce planning policies and tools and comprising a horizon scanning exercise.
- 9) EPSU **considers necessary to specify the multiply roles public authorities play in relation to PHS** to illustrate/explain the sentence “... public authorities have also been involved in the organization and financial of long-term care and child care as tools of social policy” [p. 5]. Local and regional government indeed play the multiple roles of provider, regulatory body, co-financing or financing body and competent authorities to monitor and control the quality of the service delivery. **This needs to be acknowledged to elaborate adequate policy measures and strategies for the further development of PHS.**
- 10) The EC rightfully sketches out the **link between personal and household services and the EU legislative framework on public procurement** [p. 4]. EPSU in this context would like to recall the need of legislative changes in the context of the on-going revision of the public procurement directives. In case public services are being delegated to private (not-for-profit or commercial) providers, EPSU sees the **need to better protect and actively promote the inclusion of social clauses and the full respect of labour law and compliance with collective agreements** to overcome the **risk of social dumping by undercutting wage levels and other working conditions in the labour-intensive PHS** –

where staff costs often amounts to 70% to 80% of the costs of the service provision, if not more. EPSU in this context asks for the respect for employment protections, working conditions and collective agreements in force where the contract is carried out. This demands clear recognition of the right to apply labour clauses in public Contracts. ILO Convention 94 on Labour Clauses in Public Contracts in Recital/Article should be explicitly mentioned. Not least to fight social dumping on sub-contacting there should be joint and several liability in all sectors and at all levels of the supply-chain. “Lowest price” tendering should be removed from the revised directive on public procurement. Securing the “most advantageous/best value offer” for all public contracts should be the objective and would also allow creating more space for working and pay conditions as well as sustainability considerations to be included. There also need to be clear conditions on scrutiny with regard to abnormally low offers. For more information on EPSU’s demands and proposals please consult <http://www.epsu.org/r/71> and in particular <http://www.epsu.org/a/8493> and <http://www.epsu.org/a/7559>.

- 11) **EPSU welcomes the acknowledgement by the EC of positive externalities of public intervention and of the benefits for both the European economies and societies of public financial support for job creation via voucher systems or personal budgets** (even though the latter, of importance in the field of the care for persons with a disability, are not explicitly mentioned) [p. 11] and the identification of earn-back effects in form of additional personal taxes and/or additional social security contributions, combined with a reduction of unemployment benefits due to job growth [p. 11f]. EPSU, however, recalls that an assessment in only quantitative and/or monetary terms and a focus on cost effectiveness is far from sufficient. For EPSU the most important criterion is the **quality of work in the field of PHS**, comprising i.a. the contractual arrangements, the pay and working conditions, coverage by/access to occupational safety and health, access to training, coverage by social dialogue structures and collective agreements, etc. EPSU strongly opposes a marketisation and privatisation of personal social services.
- 12) EPSU would support further steps to do a comprehensive **assessment of service vouchers as a tool for employment creation, but also of health and social policies and the backwash effects on the organisation, financing and quality of PHS as well as on working and pay conditions in PHS**. EPSU recalls that a functioning service infrastructure (that can also be run by public authorities) is a precondition for service voucher systems to be operational. The assessment should also look into the role, potentials and challenges for social economy organisations in this context – as research from Belgium and abroad (e.g. by Prof. Marthe Nyssens, UCL, Belgium) seems to confirm that small and medium-sized social economy providers with knowledge of local situation and needs do better and have higher levels of user satisfaction in the mid- and long-term run than e.g. commercial providers operating at national level and/or in different Member States. In this context there will also be the need to look into pre-conditions for households/families to provide for decent working and pay conditions and to identify related action that is needed to address possible problems and the risk of exploitation of those employed in PHS. In EPSU’s view policy action should be geared towards the setting up of structured framework conditions for good working and pay conditions which includes the enjoyment of individual and collective labour rights (see also bullet point 15)).
- 13) **EPSU welcomes the focus on the quality of PHS and the references included in the SWD [p. 13f], e.g. to the European Voluntary Quality Framework for Social Services of General Interest (EVQF SSGI)**, adopted on 6 October 2010 by the Social Protection Committee (SPC), as well as to other tools to guarantee and improve the service quality,

such as the Position Paper by the EU Disability High Level Group on Social Services of General Interest (2008) or the Common Quality Framework for SSGI (<http://www.epr.eu/images/EPR/documents/projects/prometheus/CQF%20for%20SSGI%20-%20FINAL%20VERSION.pdf>). The EVQF SSGI contains provisions dealing with the respect for workers' rights and with the quality of jobs, but since its adoption the SPC has not undertaken a structured follow up in view of its use or promotion and the EC has also not delivered on its announcement to "reinforce its commitment to promoting quality in the field of social services, and will use these achievements in this area as a model for other services of general interest" (COM (2011) 900, p. 3). EPSU recalls the **need to give the same weight to the quality of jobs/working and pay conditions as to the quality of the service provision** which means that a range of framework requirements for the provision of quality services such as public financing, regulation and control need to be incorporated into the design of adequate policies (cf. for more details various documents on SSGI elaborated in 2011, <http://www.epsu.org/a/7452>).

- 14) **EPSU warns against and opposes policies that provide incentives for (often false/bogus) self-employment of mostly women in PHS.** This demand has also been spelled out in EPSU's report "Care Services for Older People in Europe. Challenges for Labour", published in February 2011, cf. <http://www.epsu.org/a/7431>. In our view what is **needed are structures of employment in the framework of salaried employment**, as this provides for better/decent employment and pay conditions, access to training and qualification, higher levels and share of professionalisation, representation and defence of workers' rights by TU, coverage by collective bargaining and collective agreements, etc.. EPSU calls for an entitlement for continued professional training, to be (mainly or comprehensively) financed by the employers for all workers, including those in PHS.
- 15) **EPSU considers that the development of quality social services is best guaranteed within a framework that limits the scope for individual employer-employee relationships.** This is well explained in the contribution of the TUC that we fully share: "The TUC supports the view that this increased and existing provision should be performed in the formal not the informal economy both for the benefit of those performing the services and the wider society. Services delivered in the informal economy are extremely difficult to monitor both with regard to their quality and indeed as to the treatment of those providing the services. In addition it should be recognised that many of those who are legitimately providing such services on a self-employed basis would welcome the benefits that come with being an employee. Making the provision of these services more attractive is essential in recruiting more people to this sector." (p. 1)
- 16) **EPSU is not supporting policies that provide incentives for the setting up of fragmented services delivered by individual/"atomised" workers** that risk having lower job quality and not to be protected by all rules of labour law or covered by all schemes of social protection. We rather **support the design of packages of services for frail elderly, parents needing child care, handicapped persons, etc. in the context of structured employment relations.** This would also allow innovative service policies and to upgrade the quality of work as it will also be **more interesting for providers, not least from the social economy, to provide packages of services** e.g. for frail elderly persons **with more "enriching" context to comprise different tasks, from (medical) care to household-based.** Then there is a real potential to create employment also for lower skilled persons based on training and qualification programmes (cf. bullet point 8) above). Such an approach will also bring about advantages for those persons and households in need of PHS as they then don't have to deal with three or four persons or providers for a

little specific task each. Last but not least **such an approach of integrated services delivery in service packages can and should also be developed in a public policy framework and receive public financial and organisational support, e.g. for training and qualification of workers or for social economy enterprises working in line with the general interest to build up structures.** Such providers as a rule tend to have/have the advantage to be well anchored in local neighbourhoods, to know well about the needs due to personal contact with the families needing PHS and therefore to be highly responsive. In an appropriate policy framework they are also read to cover rural areas and areas with social problems/difficulties. In EPSU's view **public services have their role to play to address collective needs**, not individual wants of the better off. EPSU and ETUC support public policy objectives to tackle informal or undeclared work, and recognise that public financial support (for example direct or via vouchers or tax advantages) may be one method of addressing this issue in the sectors in question. However, such measures need to be properly evaluated and monitored to ensure their effectiveness and that public finances are not used merely as a means of subsidizing the provision of household services e.g. cleaning or shopping, for non-frail or non-vulnerable persons.

- 17) In view of possible follow-up activities in the field of PHS, **EPSU would suggest EU Action Plans/Programmes on elderly care, care for persons with disabilities, child care and mental health.** This proposal is being elaborated on in more detail in EPSU documents on SSGI elaborated in 2011, <http://www.epsu.org/a/7452>. EPSU calls on EU institutions to i.a. **define concrete policy targets in view of the improvement of the quality of services and jobs** – to be then also designed and monitored by the sectoral social partners – **and to support measures improving qualifications and the professionalisation of workers in the field of SSGI**, co-funded by the European Social Fund (ESF). In EPSU's view the **Communication on PHS announced for 2013 should focus on these services and suggest concrete actions.**
- 18) The SWD puts emphasis on the **need to regularise undocumented migrant workers and to bring employment in PHS (back) into “regular” employment**, in other words out of the grey market. EPSU in this context invites the EC and employers in the public and private sector to look into a instrument endorsed in 2008 by the European sectoral social partners in the hospital/health care sector, EPSU and HOSPEEM, to foster ethical recruitment and retention practices in the event of cross-border employment, the **EPSU-HOSPEEM Code of Conduct on Ethical Cross-Border Recruitment** (available in 12 languages at <http://www.epsu.org/a/3715>). EPSU would like to see the EC promoting in EU policies in particular the provisions on non-discrimination and on the role and assessment of placement agencies. EPSU supports initiatives to share information and good practice in reducing undeclared work not least in the health and social services comprising PHS. EPSU, however, recalls and deplors that cuts not least in the budgets of labour inspections in several EU member states are one of the causes to make concrete action and monitoring even more difficult in the future than in earlier years, a development to be reversed (for more information see a mapping report for 15 countries EPSU had commissioned and published in 2011, cf. <http://www.epsu.org/a/8829>).
- 19) EPSU shares the analysis and recommendations contained in the TUC contribution: “**The delivery of these services in the informal economy also means that such workers do not build up contributory benefits ... [and entitlements] to statutory sickness pay, maternity leave and the state pension. ... Schemes ... to take such workers out of the informal economy should be seriously considered in all EU states** even if there are associated public costs, because:



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- The lack of social security cover will be a deterrent to many who would otherwise be attracted to the sector. The consequences of which will lead to costs to society.
 - The delivery of these services through the informal sector is often accompanied by exploitative practices.
 - The delivery of such services through the informal sector invariably leads to a loss of revenue to the state through taxation but also through means tested benefits – payable in the absence of accrued contributory benefits.” (p. 1)
- 20) EPSU calls upon all EU governments to **ratify and make use of ILO Convention 189 on Domestic Workers** of 16 June 2011 and in this context wishes to highlight further elements of the TUC contribution:
- “Evidence ... shows domestic workers to be particularly vulnerable and even more so if they are living in their employers home. Acknowledgement of this particular vulnerability means there is a need for special measures and indeed this is what led to the drafting of ILO Convention 189 on Domestic Workers
 - ... if the domestic worker is undocumented they cannot enforce their employment rights ... and are open to widespread abuse. The TUC would argue that the rights given to workers under ILO conventions are indivisible and should apply to all workers.
 - Convention 189 sprung from an acknowledgement of the particular circumstances that make domestic workers exceptionally vulnerable. ... **Abuse takes place behind the closed door of a private house which cannot be inspected by those agencies charged with enforcing employee’s rights.**” (p. 2)
 - As the TUC we believe that unless the lack of power of domestic workers is “addressed by providing domestic workers with enforceable rights geared to meet their specific needs, one can assume abuse will continue to be an all too common phenomenon. In ILO Convention 189 we have that bedrock of rights on which we can build. ... The ratification of Convention 189 by member states should be at the core of the EUs strategy” (p. 3)