

Report from the Republic of Bulgaria
on the services satisfying the conditions of Article 9 of the SGEI Decision
and paragraph 62 of the SGEI Framework

Based on the information and data received from the responsible authorities on the provision of services of general economic interest in Bulgaria, this report contains information on the aid measures under the SGEI Decision and the SGEI Framework, and additional information. Please note that where no information is included, it has not been provided by the responsible authorities.

1. DESCRIPTION OF THE APPLICATION OF THE SGEI DECISION AND THE SGEI FRAMEWORK AND AMOUNT GRANTED

Please structure this part of your report by the following sections:

1) Hospitals (Article 2(1)(b))

Medical activities outside the scope of the mandatory health insurance, performed by municipal medical institutions

2) Social services (Article 2(1)(c))

a) Health and long-term care

b) Childcare

Social services provided by municipalities in accordance with Article 18a of the Social Assistance Act (ZSP)

c) Access to and reintegration into the labour market

d) Social housing

Operation and management of students' canteens, student dormitories, buffets, clubs and other catering facilities.

e) Care and social inclusion of vulnerable groups

Social services provided by municipalities in accordance with Article 18a of the Social Assistance Act

3) Air or maritime links to islands (Article 2(1)(d))

4) Airports and ports (Article 2(1)(e))

5) Other SGEI compensation not exceeding EUR 15 million (Article 2(1)(a))

a) Funds from the 2013 national budget of Bulgaria to compensate for the unfair financial burden from the provision of the universal postal service in 2011 have been given to the postal operator obliged to provide the universal postal service (Bulgarian Post EAD) in accordance with Article 2(1)(a) of the SGEI Decision. The total aid is BGN 9 500 000.

Sector: Division 53, Group 51.3, Class 53.10 'Postal activities under universal service obligation', according to Annex I 'NACE REV.2' to Article 2(2) of Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains.

b) ...

6) SGEI compensation under the Framework

a) (Please refer to the Commission decision approving each measure)

b) ...

For each of the items outlined above please provide information in the form of the following table:

Clear and comprehensive description of how the respective services are organised in your Member State¹	
Explanation of what kind of services in the respective sector have been defined as SGEI in your Member State. Please list the contents of the services entrusted as SGEI as clearly as possible.	<p><u>Item 1:</u></p> <p>Medical activities outside the scope of the mandatory health insurance are included in the Decision on the Operation of Medical Institutions, issued by the Minister of Health, and are in line with the approved medical standards and the rules of good medical practice.</p> <p><u>Item 2, b) and e):</u></p> <p>Social services under Article 36 of the Implementing Regulations of the Social Assistance Act (PPZSP)</p> <p><u>Item 2, d):</u></p> <p>Accommodation in student dormitories to satisfy temporarily the housing needs of undergraduate and postgraduate students in full-time education in state higher education institutions in Bulgaria.</p>

¹ If in a certain sector only a small number of individual SGEIs exist in your Member State, we appreciate a detailed description of those services. If a large number of services are entrusted in a specific sector in your Member State (for example because the competence lies with regional or local authorities), individual details of the entrustments would be disproportionate, but a clear and concise general description of the way the sector is organised including the common features of the individual entrustments remains crucial. Since cases falling under the SGEI Framework will be limited in number, the Commission expects a detailed description of each concrete measure.

	<p><u>Item 5, a):</u></p> <p>Universal Postal Service (UPS)</p> <p>The scope and characteristics of the UPS are regulated by the Postal Services Act (ZPU). The UPS is a service of specified quality uniformly performed within set working hours at affordable prices and accessible to all users throughout Bulgaria. The UPS involves the following types of postal services:</p> <ol style="list-style-type: none"> 1. clearance, transport and distribution of domestic and cross-border postal items, as follows: <ol style="list-style-type: none"> (a) items of mail weighing up to 2 kg; (b) small packages weighing up to 2 kg; (c) printed paper weighing up to 5 kg; (d) items for the blind weighing up to 7 kg; 2. clearance, transport and distribution of domestic and cross-border postal packages weighing up to 20 kg. The upper weight limit for packages from other countries may be higher; 3. supplementary services for 'registered items' and 'insured items'.
<p>Explanation of the (typical) forms of entrustment. If standardised templates for entrustments are used for a certain sector, please attach them.</p>	<p><u>Item 1:</u></p> <p>Contract for medical activities pursuant to Article 106(1) and (2) of the Medical Institutions Act, concluded by and between the corresponding municipality and the medical institution.</p> <p><u>Item 2, b) and e):</u></p> <p>Such services are entrusted on the grounds and in accordance with the procedure in Article 18a(3) of the Social Assistance Act and Articles 37 to 39a of the Implementing Regulations of the Social Assistance Act after a tender procedure or direct negotiations with a single bidder. A contract for the service is concluded.</p> <p><u>Item 2, d):</u></p> <p>Agreement No D01-1809 of 23 January 2013 by and between the Ministry of Education, Youth and Science and 'Students' Canteens and Dormitories' EAD.</p> <p><u>Item 5, a):</u></p> <p>The obligation to provide the UPS is assigned</p>

	<p>under the Postal Services Act and an individual licence issued by the Communications Regulation Commission (KRS). The obligation to provide the UPS includes:</p> <ul style="list-style-type: none"> • provision of the UPS throughout the country, ensuring that it is available to all users regardless of their geographical location; • provision of the UPS at the operator's points of access to the postal network on all working days, and at least five days a week, with at least one collection of post every working day and one delivery to recipients, except in settlements and residential areas with difficult access; • provision of a UPS of a quality corresponding to the standards adopted by the regulator; • provision of the UPS by type of service at affordable prices that are the same for the entire country and are established in accordance with the Ordinance on determining rules for setting and implementing the price of the UPS and the Methodology for determining the affordability of the UPS, adopted by the Council of Ministers. • provision of the UPS free of charge in the cases envisaged in the Postal Services Act.
<p>Explanation of the (typical) duration of the entrustment and the range of durations of the entrustments. Please also specify the proportion of entrustments that are longer than 10 years.</p>	<p><u>Item 1 and item 2, d):</u></p> <p>One year.</p> <p><u>Item 2, b) and e):</u></p> <p>All services are entrusted for a period of 3 years, except for the following: care for children in day-care facilities, care for children in care establishments and 'home social patronage', with regard to the decisions made annually with the adoption of the corresponding municipal budget.</p> <p><u>Item 5, a):</u></p> <p>Pursuant to § 70 of the Transitional and Final Provisions of the Act Amending and Supplementing the Postal Services Act, in force since 30 December 2010 (State Gazette No 102 of 2010), the postal operator entrusted by law to provide the UPS is the company Bulgarian Post EAD, and the period of entrustment is 15 years from 30 December 2010. At the end of each five-year period from the entrustment of the UPS, the Communications Regulation Commission (KRS) will prepare a report on the</p>

	implementation of this obligation with a view to continuing, amending or revoking it.
Explanation whether (typically) exclusive or special rights are assigned to the undertakings.	<p><u>Under all items:</u></p> <p>No exclusive or special rights are assigned.</p>
Explanation of the (typical) compensation mechanism as regards the respective services, including the aid instrument (direct subsidy, guarantee, etc.) used and whether a methodology based on cost allocation or the net avoided cost methodology is used.	<p><u>Item 1:</u></p> <p>The funds for compensating the medical activities performed outside the scope of the mandatory health insurance are defined using a non-standardised methodology approved by the mayor and developed on the basis of the specific internal rules on the operations and organisation of the corresponding municipality.</p> <p>The compensation funds are in line with the laws and regulations and the national rules and regulations for financing medical activities approved by the Ministry of Health and the National Health Insurance Fund.</p> <p><u>Item 2, b) and e):</u></p> <p>For the provision of social services, the municipalities give external providers funding from the municipal budget based on a subsidy from the executive budget, in accordance with the cost standards for state mandates approved by a Council of Ministers decision for the corresponding financial year.</p> <p><u>Item 2, d):</u></p> <p>The subsidy is determined on the basis of the indicators for meals-per-day and overnight stays and the standards for one day of meals in student canteens and one overnight stay in student dormitories laid down in the state budget. The state subsidy for one day of meals and one overnight stay is regulated every year in the Decree on the Implementation of the State Budget of the Republic of Bulgaria Act.</p> <p><u>Item 5, a):</u></p> <p>The compensation mechanism for the unfair financial burden resulting from the provision of the UPS is regulated in the Act Amending and Supplementing the Postal Services Act. This Act transposed Directive 2008/6/EC of the European Parliament and of the Council of 20 February 2008 amending Directive 97/67/EC with regard to the full accomplishment of the internal market of Community postal services</p>

	<p>(OJ L 52/3 of 20 February 2008) in connection with the financing of the universal postal service after the abolishment of the reserved area as of 1 January 2011. Pursuant to the Postal Services Act, the postal operator obliged to provide the UPS receives compensation from the state budget where the UPS obligation results in net costs and is an unfair financial burden on it. The amount of the unfair financial burden resulting from the UPS is determined on the basis of the net costs. The compensation is determined in the State Budget of the Republic of Bulgaria Act for the corresponding year and may not exceed the amount of the unfair financial burden resulting from the provision of the universal postal service. This aid is a direct subsidy from the central budget of Bulgaria for the corresponding year.</p> <p>Net costs resulting from the provision of UPS are calculated using a methodology prepared by the KRS and approved by the Council of Ministers. This methodology is based on the NAC (Net Avoided Cost) method.</p> <p>The methodology defines the procedure and manner in which the postal operator obliged to provide UPS in the entire territory of the country via the postal network, organised and managed by it, shall calculate and substantiate the net costs resulting from the obligation to provide the service. The methodology has been developed in accordance with Part B: Calculation of net cost of Annex I 'Guidance on calculating the net cost, if any, of universal service' of Directive 2008/6/EC.</p>
<p>Explanation of the (typical) arrangements for avoiding and repaying any overcompensation.</p>	<p><u>Item 1:</u></p> <p>Medical activities performed by medical institutions outside the scope of the mandatory health insurance are not financed with additional funds.</p> <p><u>Item 2, b) and e):</u></p> <p>Together with the tender documentation the provider submits to the corresponding municipality a Programme for the Development of Social Services, comprising Technical Proposal and Financial Proposal for the entire period in which the service will be managed. These proposals are binding for the provider who has won the competition and are an integral part</p>

	<p>of the concluded contract. The service provider is obliged to submit monthly reports accompanied by copies of the documents supporting the costs corresponding to the Financial Proposal. Funds not utilised by the end of the budget year are subject to refunding by 31 December of the current year.</p> <p><u>Item 2, d):</u></p> <p>The subsidy aims only at supplementing the amount of funds received from students' catering and dormitories so that this amount reaches the cost of the services provided. The latter is stipulated every year in the Decree on the Implementation of the State Budget of the Republic of Bulgaria Act.</p> <p><u>Item 5, a):</u></p> <p>Arrangements for avoiding overcompensation</p> <p>Pursuant to the Postal Services Act, the amount of the compensation is determined in the State Budget of the Republic of Bulgaria Act and may not exceed the amount of the unfair financial burden resulting from the provision of the UPS, calculated in accordance with the Methodology for calculating the net costs resulting from the obligation to provide the UPS. The documents relating to the calculation of the net costs and the unfair financial burden resulting from the provision of the UPS, and the implementation of the cost allocation system by the postal operator obliged to provide UPS are subject to an examination by an independent auditor. The cost allocation system is approved by the KRS and uses an objective approach to the calculation of costs by type of services: activity-based costing.</p> <p>Based on the results of the calculation of net costs and the auditor's assessment, the KRS issues a ruling regarding:</p> <ul style="list-style-type: none"> • the existence of an unfair financial burden resulting from the provision of the UPS; and • the amount of compensation due to the postal operator obliged to provide the UPS. <p>Pursuant to the procedure envisaged in the Postal Services Act for the calculation of net costs (based on the previous year's data), proving an unfair financial burden and determining the amount of the compensation, the postal operator obliged to provide the UPS</p>
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	<p>receives compensation at the earliest during the second year after the year for which the net costs were calculated.</p> <p>The legal arrangements for calculating the net costs resulting from the obligation to provide the UPS, determining the amount of the unfair financial burden and determining the amount of compensation eliminate, in practice, any possibility of overcompensation.</p> <p>Arrangements for repaying overcompensation</p> <p>Arrangements for repaying overcompensation are established in an instrument of the Council of Ministers. If overcompensation is identified, Bulgarian Post EAD will recover, within one month of being notified of the overcompensation, the funds exceeding the compensation amount, calculated in accordance with the procedure in the Postal Services Act and Article 5 of the SGEI Decision. If the overcompensation does not exceed 10 % of the compensation amount, it will be deducted from the compensation for the following year.</p>
Amount of aid granted	
<p>Total amount of aid granted.² <u>This includes all aid paid in your territory, including aid paid by regional and local authorities.</u></p>	<p><u>Item 1:</u></p> <p>2012 — BGN 7 741 120</p> <p>2013 — BGN 7 593 117</p> <p><u>Item 2, b):</u></p> <p>2012 — BGN 1 519 764</p> <p>2013 — BGN 2 242 504</p> <p><u>Item 2, d):</u></p> <p>2012 — BGN 6 484 400</p> <p>2013 — BGN 6 426 620</p> <p><u>Item 2, e):</u></p> <p>2012 — BGN 2 443 028</p> <p>2013 — BGN 2 689 526</p> <p><u>Item 5, a):</u></p> <p>The total used to compensate for the unfair financial burden resulting from the provision of</p>

² As stipulated in Article 9 b) of the SGEI Decision and Paragraph 62 b) of the SGEI Framework. Please provide a breakdown by calendar year.

	the UPS in 2011 was BGN 9 500 000. The funds were given to Bulgarian Post EAD in 2013 from Bulgaria's central budget.
Other quantitative information³	<u>Item 5, a):</u> The funds to compensate for the unfair financial burden resulting from the provision of the UPS in 2012, envisaged in the 2014 State Budget of the Republic of Bulgaria Act, amount to BGN 12 500 000.

2. DIFFICULTIES WITH THE APPLICATION OF THE SGEI DECISION OR SGEI FRAMEWORK

Please be as specific as possible and include the sector for which the difficulties are relevant, if applicable.

3. COMPLAINTS BY THIRD PARTIES

Please be as specific as possible and include the sector for which you have received the complaints, the contents of the complaints and the possible follow-up by your authorities.

Item 1:

No complaints were received about the entrusting of medical services during the reporting period.

Item 2, b) and e):

No complaints were received about with the entrusting of social services to external providers.

Item 5, a):

During the period 2012–2013 no complaints were received from postal operators providing services within the scope of the UPS about the financing of the postal operator entrusted by the Postal Services Act to provide the UPS.

4. MISCELLANEOUS

A. (non-compulsory)

³ The Commission would welcome data that you might have on aid granted under the SGEI Decision and the SGEI Framework, for example number of beneficiaries per sector, average amount of aid, amount per aid instrument (direct subsidy, guarantee, etc.), size of the undertakings, etc. Should such other quantitative information data not be readily available in a Member State, they can of course be presented in a more aggregated and/or estimated way. In that case please indicate that estimations have been used as well as the type of aggregation made.

If your Member State has **not** granted State aid for the provision of SGEI in certain sectors, information regarding other instruments to ensure the provision of those services (direct aid to users, compensation complying with all four Altmark criteria, *de minimis* aid...) could be useful. Please feel free to provide a brief description of these instruments and the areas in which they are used.

Pursuant to Article 106(2) of the Treaty on the Functioning of the European Union (ex-Article 86 of the Treaty establishing the European Community), undertakings entrusted with the operation of services of general economic interest (SGEI) shall be subject to the rules on competition, in so far as the application of such rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them. The financing of SGEIs is generally subject to state aid rules applied to government funding of economic activities. In the cases where government support satisfies the conditions set out in the ruling of the European Court of Justice in *Altmark Trans GmbH and Regierungspräsidium Magdeburg v Nahverkehrsgesellschaft Altmark GmbH* (Altmark), the compensation is not state aid.

In this specific case, it is presumed that NEK EAD, in its capacity as a public provider entrusted with the legal obligation in Article 94 of the Energy Act (ZE) to purchase all electricity from renewable sources (RS) at preferential prices, provides an SGEI (known as a 'service of public interest' in the Energy Act and the Protection of Competition Act). The statutory compensation mechanism is applied because financial support from the state is needed to cover specific costs resulting from the commitment to provide a public service.

In this connection, in July 2013 the Energy Act and the 2013 State Budget of the Republic of Bulgaria Act were amended to provide for additional financial resources to compensate for the costs of purchasing electricity from RS at preferential prices. The funds are provided from the revenue received from auctions of greenhouse gas emission allowances, envisaged in the Environmental Protection Act.

In order to use these resources, Order No RD-16-1289 of 24 September 2013 of the Minister of Economy and Energy approved a mechanism for applying the method for compensating NEK EAD, in its capacity as a public supplier of electricity, for purchasing electricity from RS at preferential prices (which are not covered by the revenue from electricity sales or public obligations).

The mechanism was developed in accordance with the amendments to the Energy Act, promulgated in State Gazette No 59 of 5 July 2013, amended in No 66 of 26 July 2013, Article 58(2) of the Energy Efficiency Act, § 4 of the Final Provisions of the Act Amending and Supplementing the 2013 State Budget of the Republic of Bulgaria Act (State Gazette No 74 of 2013) and § 2 of the Final Provisions, in accordance with Article 1(3) of Council of Ministers Decree No 217 of 26 September 2013 on the approval of additional expenditure and transfers in the 2013 executive budget (promulgated in State Gazette No 85 of 28 September 2013).

The funds for compensating NEK EAD are provided from the state budget, specifically the budget of the Ministry of Economy and Energy, and taken from the revenue of the Ministry of Environment and Water received from auctioning greenhouse gas emission allowances.

Compensation is given if a decision is taken to provide financial resources from the state budget in the annual State Budget of the Republic of Bulgaria Act for the corresponding year and in accordance with a procedure determined by the Council of Ministers. In accordance with its functions under Article 35 of the Energy Act, the State Energy and

Water Regulatory Commission determines the amount of financial resources to be used to compensate the public provider, which shall be granted from the state budget through the budget of the Ministry of Economy and Energy. This compensation for public obligations is in line with the criteria set out in the ruling of the European Court of Justice in the Altmark case.

NEK EAD is compensated under this mechanism in accordance with the procedure in the annual State Budget of the Republic of Bulgaria Act and with the funds specially earmarked for the corresponding year for compensation for the costs incurred by the public provider as a result of its obligation to purchase electricity from RS at preferential prices, where conditions for this exist.

B. (non-compulsory)

Please describe in what respect the new SGEI Decision and the new SGEI Framework are easier to apply or more appropriate than the 2005 SGEI Decision and 2005 SGEI Framework.

C. (non-compulsory)

If you have any other comments on the application of the SGEI Decision and the SGEI Framework on issues other than the ones covered in the previous questions please feel free to provide them within your report.