

**Report submitted by the Republic of Slovenia pursuant to
Article 9 of the SGEI Decision and paragraph 62 of the
SGEI Framework:**

**1. DESCRIPTION OF THE APPLICATION OF THE SGEI DECISION AND
THE SGEI FRAMEWORK AND AMOUNTS GRANTED**

In line with the Commission's suggestion, this report covers the application of the SGEI Decision in Slovenia in the years 2012-14 (first half year).

In Slovenia sectoral laws define the commercial and other public services meeting the definition of SGEI in their entirety or on the basis of a selection of payable services ; the competent national and municipal authorities organise them as mandatory or optional and as state or municipal either by establishing a public undertaking or institute or by awarding a concession to a private undertaking selected by public tender. In both cases a standardised approach is used for the prices and price-linked prescribed subsidies (as State aid or social assistance) for selected SGEIs. The competent national or municipal authorities set the prices, allocate subsidies (compensation) and also monitor those actions..

In Slovenia the SGEI Decision applies to SGEI categories for which there is a legally prescribed or contractually agreed defined right to compensation when provided, and to those SGEI providers that are not selected by public tender under the criteria of lowest or economically most favourable price. In the latter cases the SGEI Decision applies regardless of whether providers fall within the public or private sector, provided the selected SGEIs are performed in given areas at prices which, set using the standard methodology with related subsidies (compensation), are confirmed by the competent authorities. The report does not cover SGEI categories or individual SGEI providers with the right to compensation for which the Altmark criteria are fulfilled entirely by legislation and contracts.

Under the existing Slovenian system, the right to State aid in the form of compensation for performing public service obligations for certain SGEI categories is granted in specific circumstances, while for other cases no conditions are imposed. State aid is prescribed where for objective reasons users cannot be charged the full commercial price of a public service provider, or where the costs of performing legally or contractually required duties in the general interest, such as ensuring general access and regular and uninterrupted provision of public services and goods, cannot be included in the sales price.

The relevant provisions of the applicable Slovenian legislation on the organisation of SGEI that regulate the granting of authority to perform a SGEI and the calculation and monitoring of compensation awarded ensure, for the most part, the implementation of the SGEI Decision. However, certain deficiencies have been found in the application of the SGEI Decision which will require longer-term systemic and legislative changes. On the other hand, a significant move towards more transparent subsidising of public

service prices has been observed. In addition to the formulation of economic analyses, an obligation is being introduced for the use of comparative bases and reference prices produced by the competent authorities and independent institutions. We Given this trend, we anticipate that in the foreseeable future more categories of SGEI will fulfil the Altmark criteria in their entirety in Slovenia.

Upon the adoption of the new EU rules on State aid in the form of compensation for performing a SGEI dating back to the beginning of 2012, regarding their application in the context of valid Slovenian legislation or the existing system and practices, as the competent authority for monitoring State aid the Ministry of Finance organised a series of seminars and professional consultations for the competent municipal authorities and line ministries. Subsequently there are plans for the registering of schemes and individual cases of compensation for the purpose of monitoring and reporting on compensation by recipient and category of SGEI.

This report has been drawn up by the Ministry of Finance on the basis of data supplied by ministries and municipalities competent for implementing the SGEI Decision. More than half of the 212 municipalities – including 7 of the 11 urban municipalities – responded to the call for submission of data on allocated amounts of compensation under the relevant categories of SGEI in the 2012-14 period. Data on the amounts of compensation were harmonised with the municipalities prior to submission and verified subsequently. The sample is representative both in size of municipality and in relevant SGEI category and the methods of organising and subsidising them on the municipal level. This sample is assessed for the average total amounts of compensation by different category of SGEI on the municipal level and by size of allocated compensation amounts that do not necessarily correlate to the size of the municipality.

During the period of awareness-raising and familiarisation with the new EU rules on compensation to perform SGEIs and of collecting data for this report, numerous consultations were held with municipalities and ministries, and these highlighted certain difficulties in understanding the application of the SGEI Decision. They are summarised briefly in this report.

1) Hospitals (and health services) (Article 2(1)(b))

Description of service: In accordance with the Health Services Act (Official Gazette of the Republic of Slovenia, no 36/04; ZZDej), health and hospital services are provided as part of the public services network in public health institutions or by private undertakings holding concessions. Concessions for the provision of primary health services are awarded, in agreement with the health ministry, by the municipalities, while concessions for other health services and hospitals serving wider regions or the entire country are awarded by the health ministry. Access to services that are an entitlement under compulsory health insurance are provided to insured persons on a solidarity basis, from contributions for compulsory health insurance and supplements for voluntary supplementary health insurance. For legally defined entitled persons the health ministry pays entirely or partly for health services and contributions for compulsory health insurance.

In accordance with the Health Care and Health Insurance Act (Official Gazette of the Republic of Slovenia, no 100/05), hospitals and health services under the public service are paid for under implemented programmes at prices and to standards prescribed by the Health Insurance Institute of Slovenia (ZZZS). The programme of health and hospital services provided as a public service is determined by the partners in the health sector. Based on the General Agreement the ZZZS concludes contracts with individual providers on the scope of health and hospital services. During the year, the providers of hospital services may propose adjustments amongst each other regarding the provision of services actually achieved or not. There is no overall financial effect from this.

Form of entrustment: Public health institutions are entrusted for the provision of health and hospital services through their founding act, and providers in the private sector through a decision granting a concession and the signing of a concession contract.

According to ZZZS data, on the municipal level around 2,000 concessions have been awarded for primary health services, and around 300 concessions covering wider regions for secondary and specialist health services. There are 26 hospitals operating in the country and established by the Republic of Slovenia. Together with the municipalities the state has also co-established 22 health centres.

Duration of entrustment: The founding acts of the public health institutions show clearly that they have been granted permanent entrustment. Concessions are limited to a duration of 10 to 20 years, depending on the funds invested by the public undertaking concession holders. Regardless of the duration of these entrustments, the ZZZS concludes with each provider separately a contract on the scope of activities that will be financed from public funds, each year with public institutions and for periods of four years with concession holders.

Awarding of exclusive or special rights: Through the entrustment providers are awarded exclusive or special rights to perform the defined activity on the level of one or more municipalities, a wider region or nationally, in accordance with the provisions of the ZZDej concerning regions for the organisation of the relevant activities. Moreover, through the act governing the administration of the real property of the state and municipalities, public institutions are awarded the right to cost-free use of furnished premises owned by their founders – the Republic of Slovenia and municipalities.

Mechanism for compensation: Health legislation envisages no kind of subsidy for health and hospital services from public funds. Pursuant to the Real Property of the State and of Self-Governing Local Communities Act (Official Gazette of the Republic of Slovenia, no 86/10), in performing public services, public health institutions are entitled to free use of the corresponding infrastructure (premises and equipment). Concession holders charge the ZZZS for these costs, which are incorporated into the price of services.

In performing services of supplementary health insurance, the act governing health insurance requires a settlement scheme that is mandatory for all insurance companies offering this service under commercial conditions. Currently this service is offered by three insurance companies.

Public institutions and private concession holders are required to cover losses or surpluses of expenditure from performing health and hospital services from their own funds, from revenue they generate by offering health and hospital services under commercial conditions and prices.

Avoidance and repayment of any overcompensation: The ZZZS pays the bills of health and hospital service providers for provided sets or programmes of services, so no overcompensation arises. Moreover the public health institutions, mainly hospitals, frequently show losses or shortfalls in income from providing the public service, since for the most part the services provided go beyond their contractual obligations.

Total amount of aid granted: We have not been able to gather data on the total amounts of compensation granted in kind to public health institutions with the right to free use of equipment and premises. These amounts, in line with accounting regulations, are shown in the amount of amortisation and depreciation and costs of major maintenance of the said premises in the business books of the competent national and municipal authorities.

Under the settlement scheme for supplementary health insurance, the financial transfer between insurance companies relative to the age structure of insured persons at an individual insurance company averages EUR 12 million a year.

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

SGEI category: Home help for families

Description of service: Under the Social Security Act (Official Gazette of the Republic of Slovenia, no 3/07; ZSV), municipalities are required to provide a public service network of home help for families. To this end the municipalities select one or more providers of such services in their territory. Within the public service network this service is provided under equal conditions and uniform prescribed standards and regulations by public social protection institutions and other public institutions and by other legal and natural persons that obtain concessions in public tenders.

Within the public service network this service is payable at prices formulated by the provider and approved by the competent municipal authorities in accordance with the Rules on the methodology for formulating the prices of social protection services (Official Gazette of the Republic of Slovenia, no 87/06). This nationally prescribed methodology defines and regulates, and in some cases standardises, the eligible costs in formulating the prices of these services.

These prices, which differ significantly from municipality to municipality, are very favourable for users, since they are subsidised in various ways by the municipalities, and depending on available funds, by the Slovenian national budget. However, users are entitled to a maximum of 20 hours of such services a week at the subsidised price. Additional services are payable at the commercial price.

Form of entrustment: For the provision of home help services municipalities directly entrust public social protection institutions, locally competent social work centres or, in the relevant area, separate homes for the elderly by contract, and private sector providers are entrusted through concession award decisions and concession contracts.

According to data from the competent ministry, within the public service network, 82 providers have been entrusted to perform services of home help for families: 63 public institutions and 19 concession holders. Social work centres and homes for the elderly that perform their primary activity under authorisation from the competent ministry perform such services as an additional activity under contract.

Duration of entrustment: Contracts with public institutions have no time limits, while those with concession holders are concluded for 10 years. Irrespective of the duration of such contracts, prices and subsidies (compensation) are formulated and changed annually. The prescribed methodology (parameters) for calculating the prices and subsidies is adjusted as necessary, usually within periods of less than 10 years.

Awarding of exclusive or special rights: Under the contracts, providers have the exclusive or special right to perform services on the level of one or more municipalities. Moreover the ZSV grants them the right to compensation for performing the duties of a public service.

Mechanism for compensation: Under the ZSV, municipalities are bound to cover or make up at least 50 % of the price of the service of home help for families. Under the aforementioned rules on price formulation, municipalities are required to provide additional price reductions through the defined, partial coverage of specific costs, such as professional preparation, management and coordination, which means additional subsidies or compensation from the municipality. The rules set out defined and standardised eligible costs, based on which the price is set, and also the maximum permitted shares of selected costs that are not calculated into the price of services, but are covered by the municipality on the basis of submitted invoices.

Avoidance and repayment of any overcompensation: Subsidies are allocated to providers of home help for families for services rendered, as a supplement towards the full commercial price, so no overcompensation arises. The prices to which municipalities agree are harmonised once a year. During the year they may be adjusted if the calculated harmonisation by individual elements (eligible costs) exceeds 3 per cent of growth relative to the last harmonisation.

Total amount of aid granted: Within the legally prescribed framework, the practice of deciding on the level and method of allocating compensation for the obligations of this public service differ significantly by municipality. The amount varies from the legally required 50 % of the price to the optional 100 %. In the majority of municipalities, prices are subsidised beyond the required minimum, most commonly in a range of 70 to 75 % of the price, and in rare municipalities the price of the service is paid in full for all users from municipal budget funds. In the tightened budgetary conditions, municipalities are increasingly opting for a combination of social and State aid: above 50 % of State aid, the price is paid for selected users under social assistance criteria.

In the reporting period, a handful of municipalities did not allocate compensation for the service of home help for families. To illustrate how the total amounts of compensation vary by municipality, Table 1 shows, in addition to the average amounts by municipality calculated for all municipalities that submitted data on such compensation, the average total amounts of compensation for 10 municipalities where in the stated years the lowest and highest amounts of compensation were allocated, and the averages for 7 urban

municipalities. The data for 2014 relate to amounts of compensation allocated in the first half of the year.

Table 1: Total amounts of compensation for home help, in EUR

home help	2012	2013	2014
Average – amount for all municipalities (125/119/117)	58,494.32	60,198.49	33,738.34
Average – lowest amounts (10)	5,493.00	2,685.00	2,259.00
Average – highest amounts (10)	315,366.00	314,054.00	171,930.00
Average urban municipality (7)	269,460.00	264,995.71	121,098.57

SGEI category: Pre-school education

Description of service: According to the Pre-School Institutions Act (Official Gazette of the Republic of Slovenia, no 100/05; ZVrt), pre-school education is provided as a payable service by public and private nursery schools which, through entry in the record of the competent ministry fulfil the legal requirements. Under the prescribed regulations and standards as well as the curriculum, and in accordance with the Organization and Financing of Education Act (Official Gazette of the Republic of Slovenia, no 16/07; ZOFVI), municipalities are bound to organise a network of public service pre-school education.

Under the aforementioned laws, pre-school education in the public service network is payable by parents at favourable, subsidised prices. The prices and the subsidies linked to their calculation are determined on the basis of the Rules on the methodology for formulating the prices of programmes in pre-school institutions providing a public service (Official Gazette of the Republic of Slovenia, nos 97/03, 77/05 and 120/05). Under the ZVrt, parents freely choose between public or private nursery schools and between various programmes within and outside the public service network. In exercising their right to municipal subsidies, they are not tied to the nursery school in their municipality of permanent residence, which under the laws governing the financing of nursery schools and exercising rights to public funds is bound to make up the price of the programme.

With the municipal subsidies, the prices of comparable programmes of pre-school education as part of the public service are lower than the prices of nursery schools without a concession. The latter are not eligible for State aid which the municipalities – as founders or concession-awards – are bound to allocate nursery schools which provide in their area pre-school education within the public service network. Parents are also entitled to municipal funding for private nursery schools that do not hold a concession, if they provide publicly valid programmes where the municipal supplement is granted at prices valid for the public service.

Form of entrustment: To provide programmes of pre-school education within the

public service, municipalities establish one or more public nursery schools or organise special units in existing public institutions (primary schools) as their founders. Where there is an additional need for pre-school education and the existing capacities of the public network are inadequate, the municipality is bound to issue a decision awarding a concession to a private nursery school selected in a public tender, and to conclude a concession contract with it.

The ZOFVI defines the compulsory content of the founding acts of public pre-school institutions and concession contracts for performing the relevant public service.

Duration of entrustment: By its very nature, the founding act of the public institution signals a permanent entrustment, while a concession contract has a limited duration that is legally defined through the demonstrated need for pre-school education in the relevant municipality and through the process of terminating the concession. Irrespective of the duration of this entrustment, the prices of programmes within the public service network and the calculations of amounts of State (and social) aid linked to their calculation are set annually.

The record of the competent ministry shows a total of 394 nursery schools, of which the great majority are public institutions and organisational units of public institutions, while there are relatively few nursery schools with concessions.

Awarding of exclusive or special rights: In line with their founding act or concession contract, public and private nursery schools that provide the public service of pre-school education have the right and duty to provide publicly valid programmes at regulated prices, with the right to municipal and national subsidies, in accordance with the valid legislation governing the financing of pre-school education and the exercising of rights to public funds. If in addition to what is legally prescribed, the municipalities decide to allocate additional subsidies to cover nursery school prices, these rights of the providers are defined in a contract on nursery school financing.

Mechanism for compensation: Under the existing system, municipalities in Slovenia are legally required and enabled to apply a range of obligatory and optional price subsidies for pre-school education programmes: some involve subsidies for providers (compensation), and others for users (social assistance).

Under the ZVrt, for nursery schools providing a public service in their territory, municipalities are bound to cover the costs that are not included in the price of the pre-school programme, such as investment and major maintenance costs. The municipality is bound to cover these costs for public institutions as the founder, while for concession holders the municipality as the concession awarder covers the costs by agreement or contract. Furthermore the prices do not include costs that are not associated with the pre-school programme, but which stem from the employment regulations (such as severance pay for redundant workers, union trustees, employment beyond the prescribed norms, current equipment maintenance, furniture and functional devices, various compensations for employees, costs of court proceedings, settlements for damages and so on) and replacement costs. In addition to the legally required reductions in prices, municipalities can additionally reduce prices through partial coverage of costs which under the methodology are deemed to be elements in the formulation of programme prices.

Both methods of price reduction, with the exception of certain costs and the reduction of eligible costs in price formulation, involve compensation for the duties of a public service, and ensuring generally accessible and uninterrupted provision of programmes. The two costs are defined in greater detail and standardised through the prescribed methodology for formulating the prices of programmes in nursery schools that provide a public service. Through this methodology, prices are calculated as monthly averages of eligible costs under various pre-school education programmes. Invoices are presented at these prices for payments to parents and for the top-up payments by municipalities competent to make top-up payments pursuant to the permanent residence of the parents.

In accordance with the Exercise of Rights to Public Funds Act (Official Gazette of the Republic of Slovenia, no 62/10), which in terms of payment classes for parents provides a scale of proportionate payments by parents and municipalities liable for top-up payments, municipalities must pay nursery schools for at least 23 % of the price of the programme for all children, and the difference set under the payment classes for parents up to 77 % of the price of the programme under which the service is paid for by parents in the highest payment class. In the municipal budgets, the 23-percent top-up payment is treated as a price subsidy pursuant to the law, and the difference up to 77 % as a top-up payment for parents. The first, non-selective in terms of users, signifies State aid (compensation), while the second, given the formal procedure for decision-making on eligible amounts by parental payment classes, signifies social assistance.

Under the ZVrt, for parents who have several children enrolled in nursery school at the same time, the difference in the range between 30 % and the fully reduced payment for the service is covered from the Slovenian national budget.

For subsidies on the prices of programmes from municipal budgets, nursery schools providing a public service conclude with municipalities financing contracts whereby each year, based on confirmed nursery school financial plans, the necessary funds are determined under different items in municipal budgets.

Avoidance and repayment of any overcompensation: Municipalities provide payment of costs and top-up payments for nursery schools on the basis of requests for the payment of costs and invoices for top-up payments. Since nursery schools issue to municipalities requests each month for the repayment of costs in the amounts arising in the previous month, there is no overcompensation in this respect. Nor is there any overcompensation through the allocation of State aid and social assistance in the legally prescribed price percentages.

The prices of pre-school education programmes are harmonised once a year in view of the annual growth of eligible costs, and in the event of significant changes, also during the year. As for the harmonised price proposed by nursery schools or the municipality in agreement with nursery schools through the submission and justification of price calculations, the municipalities issue official decisions. If a municipality is the founder of several nursery schools, it may issue a decision determining a single price valid for the same programmes in its territory. To change and correct prices, municipalities can rely on data from the competent ministry regarding the average level of eligible costs calculated on the basis of programme prices for the current year.

Total amount of aid granted: Within the range of legally defined obligatory and optional subsidies, both the prices of pre-school education programmes and the methods

for their subsidising are regulated by the municipalities individually; practices in both regards differ significantly from one municipality to another. Thus, for instance, those rare municipalities with sufficient funds can opt to raise the obligatory 23-percent subsidy on the price by a few percentage points. Others tend more towards partial coverage of specific eligible costs in the calculations of prices as a method of reducing prices for users and municipal budgets.

Data on the total amounts of compensation for covering costs that are not included in the calculations of programme prices differ significantly from municipality to municipality, on the one hand in terms of level and breakdown of these costs, and on the other in terms of the size of the municipality and its age structure. The amounts of this compensation range by municipality from less than EUR 10 000 to more than EUR 2 million a year, and are on average around EUR 100 000 per municipality per year.

Despite the uncertainty as to whether the 23-percent top-up payment by the municipalities constitutes State aid (by analogy with the price subsidies for other SGEL, it does), data on the total amounts of compensation for this purpose have been estimated in 59 municipalities. In the reporting period they varied by municipality from less than EUR 20 000 to more than EUR 1 million a year, and are on average between EUR 300 000 - 350 000 per municipality per year.

Table 2 shows data on the average total amounts of compensation by municipality, including amounts as they are allocated together under two compensation mechanisms (the 23-percent price subsidy and costs exempted from the price calculation) on the level of the individual municipality. In addition to the average total amounts of compensation for all municipalities, we calculated the averages for 10 municipalities that allocated the lowest and highest amounts and the averages for 7 urban municipalities. The data for 2014 relate to total amounts allocated in the first half of the year.

Table 2: Total amounts of compensation for pre-school education, in EUR

pre-school education	2012	2013	2014
Average – amount for all municipalities (115/115/115)	572,696.09	509,630.10	230,328.43
Average – lowest amounts (10)	23,509.00	26,599.00	30,920.00
Average – highest amounts (10)	3,351,953.00	2,741,709.00	698,786.00
Average – amounts for urban municipalities (7)	2,216,581.43	2,072,864.29	959,636.67

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

There is no necessity in Slovenia for this category of SGEL.

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

Description of service: Pursuant to the Aviation Act (Official Gazette of the Republic of Slovenia, no 81/10), insofar as the operation of a public airport cannot be ensured in the scope and manner as laid down in the act as serving the public interest, for airports of national importance this is ensured by the Slovenian Government, and by municipalities for airports of local importance, in both cases through the awarding of a concession to a concession holder selected through a public tender.

Currently there are two airports of national importance in operation. General aviation air transport and special air transport are operated at both airports. In 2012 one airport recorded 90 commercial air transports and 1181 other flights, and the other 17845 other flights.

Form of entrustment: For the operation of the two public airports, concession contracts have been concluded on the basis of concession acts (government decrees), and in addition to the detailed demarcation of the legal requirements for operating a public airport and the mutual financial relations, these contracts set out the right to compensation to cover the defined eligible costs of performing the duties of a public service. The concession contracts also define the method of calculating and monitoring the amount of compensation.

In the preceding period these contracts were concluded directly with undertakings that were historical co-owners of the airport infrastructure and the sole providers of airport services at those airports.

Duration of entrustment: Pursuant to the Aviation Act these contracts are valid for a limited duration, up until the conclusion of a contract with a concession holder selected by public tender.

Awarding of exclusive or special rights: Through the concession contract the provider is awarded the exclusive right to operate the named public airport and the right to compensation for performing the legally required duties in providing the relevant public service.

Mechanism for compensation: The contractually envisaged compensation for partial or full coverage of specific eligible costs signifies a direct subsidy (grant) in the amount of the difference between income and expenditure from operating a public airport, taking into account the actually incurred costs – supported by bills of actual costs presented – of performing the duties of the public service. The two undertakings are eligible for compensation to the extent that they are unable to cover the costs incurred from performing the duties of the public service in a given year from their income from operating a public airport.

Compensation funds are reserved in a special item in each year's Slovenian national budget. This earmarked budget amount is determined on the basis of economic analysis on the operation of public airports, with account being taken both of demonstrated income and expenditure in previous years and of planned income and expenditure in coming years in view of recorded trends of growth or decline in traffic at the two airports.

Avoidance and repayment of any overcompensation: In the framework of the envisaged amount in the annual annex to the concession contract (items in the Slovenian national budget), compensation is paid out each month as a prepayment against the payment of bills for eligible costs incurred in the previous month. At the end of the year, based on audited financial statements of the undertakings a review is made of the eligibility of the prepayments made relative to the demonstrated income and expenditure of operating the airport in the previous year. If a prepayment surplus is found, the compensation is proportionately reduced for the following year or the surplus compensation is reclaimed.

Total amount of compensation: The total amount of compensation allocated for performing the public service duties of operating the two public airports in Slovenia in 2012 amounted to EUR 780 000, and in 2013 it was EUR 987 000.

5) Other SGEI compensation not exceeding EUR 15 million a year (Art. 2(1)(a))

Description of service: The Environmental Protection Act (Official Gazette of the Republic of Slovenia, no 39/06; ZVO) lays down the obligatory municipal commercial public services of environmental protection: provision of drinking water, removal and treatment of municipal waste water and rain water, collection and transport of municipal waste and the landfill disposal of residues from recycling or removal of municipal waste. Municipalities are bound to organise these services in accordance with the regulations governing commercial public services. Otherwise they are established in a form appropriate for their territory and for their account by the State.

The implementation of these public services involves legally defined duties such as uninterrupted, permanent and generally accessible provision for the population and environmental protection requirements. Moreover the Slovenian Government prescribes in detail the standards of provision and the technical, maintenance and organisational norms as well as the uniform methodology for setting the prices of individual services and for calculating subsidies or amounts of compensation. Facilities and devices for performing the public service constitute public infrastructure of local importance owned by one or more municipalities where the public service is organised and operated.

In organising such public services, municipalities pursue the objectives of financial traceability and economic efficiency, with emphasis on achieving the lowest or economically most favourable price for users and municipal budgets. These public services are organised in different ways by individual municipality: in urban or larger municipalities the same undertaking performs one or more of these public services, while smaller and medium-sized municipalities most commonly organise them together. A typical undertaking performs one public service in several municipalities or several public services in one or more municipalities. The exception to this is certain urban municipalities, as well as certain small municipalities, where a public utility unit is established to perform these public services.

Form of entrustment: In accordance with the Commercial Public Services Act (Official Gazette of the Republic of Slovenia, no 32/93), entrustment for performing municipal public services of environmental protection is awarded to a public undertaking established by one or more municipalities or to the public utility unit of the

municipality. Providers that are private undertakings are selected by a public tender held by one or more municipalities. In the former case the entrustment document is the undertaking's founding act, and in the latter it is a concession contract. Under both forms of entrustment the public services are performed in accordance with the corresponding systemic and sectoral regulations and they are subsidised from municipal budgets under the same methodology (parameters).

The right to compensation and the methodology for calculating the amount of compensation are laid down in the Decree on the methodology for setting prices of municipal environmental protection services under a public service obligation (Official Gazette of the Republic of Slovenia, no 87/12 and 109/12).

Duration of entrustment: The entrustment of public undertakings for performing these public services is permanent in form (founding act of the undertaking), until the relevant circumstances cease to exist, while it is limited for concession contracts. Even though the duration of such concessions is not legally defined or limited, their duration, which for the most part does not exceed 10 years, is decided with regard to the value of the funds invested by concession holders.

Irrespective of the duration of the entrustment for performing the public service, the right to compensation is awarded and defined in contracts concluded by the municipalities with providers for the leasing of public infrastructure, and these contracts are extended each year with annexes. The annexes set the price of leasing infrastructure and discounts on the price (amounts of compensation). Moreover the prescribed methodology (parameters) for calculating the amounts of compensation is reviewed and adjusted as necessary, usually within periods of less than 10 years.

According to the list of providers of the aforementioned commercial public environmental protection services kept by the ministry competent for the environment, entrustment is for the most part (in 90 % of cases) permanent and allocated to public undertakings and public utility units. Cases of time-limited concessions are recorded for public services and those services provided using infrastructure constructed through public-private partnerships.

Awarding of exclusive or special rights: Along with the exclusive right to perform the public service, the provider is awarded the exclusive right to use or lease the corresponding public infrastructure owned by one or more municipalities. Furthermore providers may be awarded rights or given obligations to provide associated services. Equally, municipalities may permit or require the free capacities of public infrastructure to be traded at commercial prices or used to offer services on the free market, where the price is reduced for users and municipal subsidies (amounts of compensation).

Mechanism for compensation: Under the valid legislation, in certain circumstances two forms of price subsidy are permitted for public services of environmental protection.

According to the uniform methodology for formulating the prices of obligatory municipal commercial public services of environmental protection, municipalities may – on their own judgement – reduce the lease fees for public infrastructure in the calculation of the price for eligible users – households and providers of non-profit activities. Under this methodology the municipality is bound to charge the provider the market lease fee for the entire infrastructure in an amount that is not less than the costs

of depreciation. If the confirmed price for eligible users does not cover the lease fee entirely, the municipality allocates compensation in the amount of the difference between the confirmed and accounted economic price of the service. The municipality issues a decision for the allocation of compensation and creates an item in each municipal budget.

Furthermore as founders of the public undertaking, and where envisaged in a concession contract, the municipalities as concession granters cover extraordinary shortfalls in revenue arising through a reduced or increased scope of operation or through the implementation of municipality-required extraordinary obligations that were not included in the financial plans of providers and consequently in the corresponding municipal budget items.

Under both mechanisms the compensation is treated as a cash subsidy or grant; in line with the Slovenian accounting standards, this is shown in the provider's financial statements as income, and in the municipality's financial statements as expenditure. In the notes to the financial statements providers explain the purpose of the compensation. Moreover they are required to keep separate accounting records by different activity.

The parameters for calculating the amount of compensation under the two mechanisms are defined by the prescribed methodology for formulating prices. According to this methodology, each year providers must make up reports (economic analyses) for price formulation, where depending on the envisaged scope of operation they take into account all costs, and in addition to the income from the specific public service, income (savings) from the use of the infrastructure for performing associated and other commercial activities. The calculation of prices or compensation allows for the return on invested and commercially necessary fixed assets of the provider, which may not exceed 5 % of their value. When calculated prices vary more than 10 % from the confirmed prices, the municipality confirms them once again.

This methodology that was recently prescribed anew for calculating compensation will now fulfil the fourth condition of the Altmark criteria for the relevant public services. It requires the ministry competent for the environment to calculate and publish for comparable territories representative and average confirmed, charged and accounted prices for the relevant services. These prices, which were first published in 2014, will serve providers and municipalities as reference prices; variances from the average price for a comparable territory must be explained in the report (economic analysis) for calculating the price of services and the amount of compensation.

Avoidance and repayment of any overcompensation: Under the aforementioned methodology for calculating compensation, in formulating the price of services municipalities are bound to verify, on the basis of financial statements for the previous year, the presence of any possible difference between the confirmed price and the accounted price. This difference is taken into account in calculating the pro forma price and the amount of compensation for the ensuing period. If 10 percent of the confirmed price is exceeded, the competent municipal authority must, on the basis of the provider's report, implement a procedure for confirming the changed price.

Compensation for covering extraordinary costs or shortfalls in income from required extraordinary obligations or owing to reduced or increased scope of operation is allocated subsequently, in the actually incurred and demonstrated amounts, so no

overcompensation arises.

Total sum of allocated aid: In the period of validity of the SGEI Decision, municipalities have used the option of allocating compensation in the form of reduced lease fees for public infrastructure mainly owing to the Slovenian Government measure extended several times for freezing prices of environmental protection public services. This is true especially of municipalities where prior to price freezing the prices did not include the costs of major investments carried out or planned.

After the entry into force of the new methodology, which removed the limitation on the amount of compensation, and after the freeing of prices, in 2012 municipalities for the most part raised prices, for certain services they proportionally reduced the amounts of compensation and for others they raised them transitionally. In the coming years this compensation is expected to gradually disappear. Municipalities will make use of the option of allocating this compensation in exceptions, so that after planned major investments they can prevent any large, unexpected jump in prices for eligible users.

Tables 3 to 5 show the average total amounts of compensation by the aforementioned municipal commercial public services on the individual municipality level. These amounts are calculated for all municipalities that submitted data on allocated amounts of compensation and especially for municipalities where the allocated total amounts are the lowest and highest, and for urban municipalities. The data for 2014 relate to amounts of compensation allocated in the first half of the year.

Table 3: Total amount of compensation for collection and removal of municipal waste, in EUR

	2012	2013	2014
Average – amount for all municipalities (46/66/57)	53,402.17	43,070.70	34,545.14
Average – lowest amounts (10)	2,089.00	770.80	1,007.00
Average – highest amounts (10)	201,277.00	184,557.00	111,858.00
Average – amount for urban municipalities (7)	354,245.00	229,873.33	357,150.00

Table 4: Total amount of compensation for drinking water supply, in EUR

Drinking water	2012	2013	2014
Average – amount for all municipalities (64/66/57)	64,567.97	58,805.68	27,245.93
Average – lowest amounts (10)	5,662.00	3,375.00	3,007.00
Average – highest amounts (10)	237,478.00	205,336.00	79,090.00

Average – amount for urban municipalities (7)	314,252.50	366,510.00	221,650.00
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Table 5: Total amount of compensation for removal and treatment of waste water, in EUR

Waste water	2012	2013	2014
Average for all municipalities (63/81/61)	128,729.29	106,947.21	58,637.38
Average – lowest amounts (10)	3,083.50	6,027.00	2,685.00
Average – highest amounts (10)	566,320.00	542,988.00	208,971.00
Average – amount for urban municipalities	734,557.50	729,473.33	288,870.00

6) SGEI compensation under the Framework

In the stated period Slovenia recorded no case of a SGEI provider with the right to State aid in the form of compensation for the obligations of providing public services requiring the application of the SGEI Framework.

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

As Slovenia previously advised the European Commission, the provision of the SGEI Decision regarding the duration of entrustment for performing a SGEI, as is understood in the literal sense, could mean an obligation to make multiple applications to the Commission under the SGEI Framework, including many cases of allocating negligible amounts of compensation. Insofar as this limitation does not relate to performing a SGEI, but to the valid duration of parameters for calculating compensation or to the obligation to audit parameters, as the Commission explained verbally at the consultation with Member States, this should be laid down in the SGEI Decision. Meanwhile we expect clear instructions from the Commission on this issue.

In applying the SGEI Decision certain issues arose in relation to the definition of SGEI, especially concerning Articles 2(1) (b) and (c) of the SGEI Decision. Such public services are financed in Slovenia predominantly from municipal budgets, and it is crucial for their definition as a SGEI that they are defined by law as payable services. Under regulated prices they are paid for in relatively small shares by users, while the larger proportion is paid for out of national and municipal budgets, frequently in a combination of State aid and social assistance. In certain cases such public services are

paid for entirely from public funds. Under the criterion of payability they are separated from public services which as non-economic activities are financed from integrated municipal budgets pursuant to the public finance regulations. Such non-economic activities (such as primary, secondary and higher education) are free for users, with the exception of prescribed enrolment fees and other charges.

In this connection we should highlight the case of several public institutions which perform non-economic and economic activities at the same time. If the latter are defined by law as payable services, in principle there are no difficulties in them being defined as SGEIs. Yet doubt arises as to whether the SGEI Decision should also apply to public institutions that mainly perform non-economic activities, while at the same time generating negligible income through the sale of associated services and goods. Such cases involve, for instance, natural and cultural monuments and parks and numerous public cultural institutions. Sales prices do not reflect the economic prices of the relevant services, while income from sales on the market do not exceed 10 % of all income of the public institution.

We believe that for more transparent application of the SGEI Decision it would be appropriate to consider setting a threshold or other consistent criterion by which providers that perform (inseparable, associated) non-economic and economic activities at the same time can be exempted a priori from the application of State aid rules, provided certain conditions are met. Thus, for instance, under the valid Slovenian legislation in such cases there is a requirement to keep separate accounting records, while any surplus of income from sales on the market must be consistently allocated to providing and developing the public service, whereby there is a proportionate reduction in the obligation to provide public financing.

Certain difficulties have also been identified with regard to the definition of compensation, especially in connection with so-called collective public services. These are paid at confirmed prices entirely from national and municipal budget funds, since for objective reasons users cannot be charged for them. Such cases of public services involve the management and operation of public infrastructure, including non-toll roads and parking areas, freely accessible public parks and other maintained public areas, street lighting and so forth. Regarding the payment of required extraordinary services in performing such public services (e.g. removing the disruption and consequences of natural disasters), there are no uniform practices. In some municipalities the bills for such extraordinary tasks are settled for providers in line with price lists as a regular activity, in other municipalities they are treated as compensation for extraordinary costs or income shortfalls, insofar as the provider's financial plans or the relevant municipal budget items are exceeded.

Equally, difficulties have been identified regarding the determination of the gross equivalent compensation in kind in performing a SGEI referred to in Article 2(1)(b-c) of the SGEI Decision. In certain cases only depreciation is considered, while others also take the costs of major maintenance and in exceptions also current maintenance. Practices vary both among individual providers and among specific fixed assets, which are often procured through a combination of public funds and the provider's own funds, including donations. Owing to the varying accounting practices and varying situations caution is needed in gathering and interpreting data. For this reason we have not gathered data on this compensation in kind for this report.

In gathering data on allocated amounts of compensation for carrying out the obligations of public services referred to in Article 2(1)(c) of the SGEI Decision, the main difficulty was how to differentiate between State aid and social assistance, for in recent years these data have no longer been recorded separately in the financial statements of providers and municipalities. The question therefore arises whether obligatory municipal subsidies, which are non-selective with regard to the material status of the users stated by name, should be treated as social assistance. Such treatment would not be consistent with the definition of compensation, which is intended primarily to ensure general access to public services. Furthermore, other similar subsidies that are allocated to users in the same proportions of the price would not then be treated as compensation.

COMPLAINTS BY THIRD PARTIES

In the period of the last two and a half years no complaint has been lodged.

3. MISCELLANEOUS

A. (non-compulsory)

Under the system valid in Slovenia, in performing public services referred to in Article 2(1)(a) of the SGEI Decision, the right to compensation is for the most part not envisaged. In the majority of cases (e.g. universal postal services, operation of mobile and distribution networks) the costs of performing the obligation of public services in a suitable way are taken into account in the calculation of the sales prices, while the providers are expected to cover extraordinary costs or shortfalls in income arising through or owing to the performance of public service obligations from their own sources – surplus income generated from performing public services and associated commercial activities.

In individual cases of providers with the exclusive right to perform a public service in a specific area, in the allocation of compensation the Altmark criteria are entirely fulfilled. These are in particular cases of private-public partnership and technologically intensive services (e.g. treatment facilities and waste landfills), for which the right to compensation may be allocated through a concession contract, depending on the nature of the activity, and this is tied to the shortfall in income or surplus of expenditure arising through a significant reduction or increase in the scope of the activity relative to the plan and taken into account in the calculation of the service price. The Altmark criteria are met particularly in those areas where Slovenian legislation adopts the corresponding EU directives.

In this connection we would highlight the obligatory national and municipal subsidising of the legally defined eligible users of land passenger transport, which in the opinion of the competent ministry is exempt from application of the SGEI Decision, on the basis of the compliance of Slovenian law with Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70. Equally, in the opinion of that ministry, application of the SGEI Decision does not pertain to the transport of schoolchildren and other obligatory organised transport, and to cases of free urban bus transport for which the operators are generally selected through the public procurement procedure according to the criteria of lowest or

economically most favourable price for society as a whole.

Under the valid Slovenian legislation the majority of public services referred to in Article 2(1)(c) of the SGEI Decision are organised as SGEI (social housing, care for the elderly and vulnerable groups, assistance for individuals with learning difficulties, those with limited mobility and so forth). Yet the SGEI Decision is not applied, since the compulsorily formulated (economic) prices for eligible users are subsidised exclusively via social assistance measures, in accordance with the Exercise of Rights to Public Funds Act (Official Gazette of the Republic of Slovenia, no 62/10) – on the basis of individual decisions of the locally competent social work centres issued on the basis of applications from those eligible.

Attention should also be drawn to the problems in applying the *de minimis* rule for SGEI. In terms of subsidies for individual SGEI, many municipalities are still far from attaining the threshold for this *de minimis* rule, yet precisely these municipalities organise SGEI with other municipalities, whereby in terms of providers this threshold is frequently exceeded.

B. (non-compulsory)

The SGEI Decision and SGEI Framework are undoubtedly easier to apply than the SGEI Decision and SGEI Framework of 2005. Yet their further improved application would be facilitated by clear instructions from the European Commission regarding the criteria for determining the economic nature of public services in the field of social protection, education and so forth and for defining public institutions as undertakings, whenever they offer associated services against payment while also performing non-commercial activities. In this place we would also request the European Commission for more detailed instructions regarding the differentiation between the payment – or top-up payment – for services and compensation in the cases of SGEI highlighted in this report. We would also seek its official interpretation of the provision in the SGEI Decision concerning the duration of entrustment as a condition for the permitted application of the SGEI Decision.

Ljubljana, 20 August 2014