

Office of the President

*Cellule Coordination internationale*

***Secrétariat de la Commission économique interministérielle***

*[International Coordination Unit*

***Secretariat of the Interministerial Economic Committee]***

**KINGDOM OF BELGIUM**  
**INTERMINISTERIAL ECONOMIC COMMITTEE**

**Periodic report 2012 – 2013 on the implementation of the  
European Commission Decision of 20 December 2011 C(2011) 9380 in several sectors**

In accordance with Article 9 of the Commission Decision of 20 December 2011<sup>1</sup>, the Member States must prepare a report on services of general economic interest with regard to State aid.

It is difficult to carry out this exercise as the public authorities have different levels of understanding of the rules relating to the 'Altmark 2 package', and the constitutional structure of a federal State such as the Kingdom of Belgium requires complete respect for the autonomy of all its entities.

From this perspective, the report from Belgium is made up of annexes from the different entities which have drawn up specific reports for several of the sectors covered by the abovementioned decision.

In accordance with the document<sup>2</sup> already submitted in the context of the work of the European Social Protection Committee (report to be published in 2014), a series of general comments may be formulated in order to contribute to an improved understanding of the difficulties in applying the 'Altmark 2' package, in spite of the welcome efforts that have already been made on the part of the Commission to clarify the concepts by means of a whole series of working documents.

The multi-sectoral approach adopted by the European rules makes the coordination task particularly difficult in the area of financing of services of general interest which, most of the time, are governed by rules which are specific to certain sectors and sub-sectors.

It is possible to make the comments which follow, without prejudice to the specific reports attached as annexes:

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<sup>1</sup> (C(2011) 9380) - <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:007:0003:0010:en:PDF>

<sup>2</sup> Report on social services of general interest, Belgian contribution (endorsed by the Interministerial Economic Committee) to the Report of the working group of the European Social Protection Committee on the application of the rules of European Union law to social services of general interest 'Social Protection and Internal Market Regulation: Evaluation & Perspectives on the application of EU rules to SSGI', 2014 (to be published).

- The constant references in the rules relating to public service compensation to those relating to public procurement are particularly complex to manage, both in terms of consistency and in view of the elements with an institutional context (for example: notion of procurement is almost non-existent, public procurement procedures are little used for social services, etc.).
- The Court of Justice<sup>3</sup> recently gave a judgment relating to the hospital sector in Belgium where representatives of the private hospital sector questioned financing granted to a public entity (IRIS hospitals). A reading of the judgment shows that it is still difficult, even for the European Commission, to apply the rules adopted under the 'Altmark 1 package'.
- It seems to us that cross-border interests or the effect on intra-Community trade are rarely challenged in the social services of general interest sector. Moreover, the Conclusions of the Council of 2010 asked the Commission to consider this question<sup>4</sup>:

*'Invitations to the Commission:*

*1. Without prejudice to the Commission's right of initiative, to further clarify, particularly through the Commission's Guide, the Interactive Information Service and, if need be, other appropriate non legislative instruments, its views on:*

*...*

*b) the concept of 'certain cross-border interest' in the context of the application of the public procurement rules to social services of general interest;*

*c) the concept of affecting trade between Member States in the field of the application of the rules on state aids to social services of general interest of economic nature;'.<sup>4</sup>*

- The restricted 10-year duration of the authorisation for compensation seems to be a concern which is raised in several sectors.
- Enterprises and public authorities also wonder about the cumulation rules in relation to the *de minimis* rule of 2008 and the SGEI *de minimis* rule. It is also noted that the public authorities grant similar financing but use different systems, particularly because the legal context has changed considerably in recent years. For example, enterprises which provide jobs for the unemployed are financed by a notified scheme in Wallonia, by the GBER in the Flemish Region, and by rules relating to SGEIs in the Brussels Region. The public authorities therefore experience real difficulties in complying with the new systems, particularly when measures are being revised. The complexity of the rules might cause some public authorities to use the new *de minimis* rules so that they are more certain of complying with the rules, instead of establishing complex systems for calculating service compensation.
- One of the questions raised by the public authorities, in particular, is the notion of entrustment which is difficult to reconcile with national legislation, where the rules relating to approval and subsidies are different.

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<sup>3</sup> T-137/10, judgment of the General Court of 7 November 2012, *Coordination bruxelloise d'institutions sociales et de santé (CBI) v European Commission*.

<sup>4</sup> Council Conclusions 'Social Services of General Interest: at the heart of the European social model', 3053rd EMPLOYMENT, SOCIAL POLICY HEALTH and CONSUMER AFFAIRS Council meeting Brussels, 6 December 2010: [http://socialsecurity.fgov.be/eu/docs/agenda/06-07\\_12\\_10\\_conclusions\\_ssgi\\_en.pdf](http://socialsecurity.fgov.be/eu/docs/agenda/06-07_12_10_conclusions_ssgi_en.pdf)

This report contains the contributions listed below:

**Annex 1: Report on the SGEI by the *Commission Communautaire française* [Commission for the French Community]**

**Annex 2: Report by DG05 on social and health matters (*Département du Service Public de Wallonie* [Department of the Public Service of Wallonia])**

**Annex 3: Contribution from the *Institut scientifique de Service Public de la Région wallonne* [Public Service Scientific Institute for the Walloon Region]**

**Annex 4: *Fond du Logement de Wallonie* [Wallonia Housing Fund]**

**Annex 5: Contribution from the *Société wallonne du crédit hypothécaire social* [Walloon Social Mortgage Credit Association]**

**Annex 6: Contribution from the *Société wallonne du Logement* [Walloon Housing Association]**

**Annex 7: Contribution from the *Société du Logement de la Région de Bruxelles-Capitale* [Brussels-Capital Region Housing Company]**

**Annex 8: Contribution from the hospital sector**