

## ANNEX

### Services of general economic interest: guidance for report to be submitted in accordance with the 2012 SGEI Decision and the 2012 SGEI Framework

#### 1. EXPENDITURE OVERVIEW

Total SGEI government expenditure by legal basis (millions EUR)		
	2016	2017
<i>Compensation for Services of General Economic Interest (1+2)</i>	44 498 <sup>1</sup>	70 844 <sup>2</sup>
(1) Compensation granted on the basis of the SGEI Decision	44 498	70 844
(2) Compensation granted on the basis of the SGEI Framework	0.0	0.0

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<sup>1</sup> All the data in this report were obtained from the SHRIMP application on 18.06.2018.

<sup>2</sup> All the data in this report were obtained from the SHRIMP application on 18.06.2018.

## 2. Description of the application of the 2012 SGEI Decision

- **Social housing:**

**Aid scheme implemented by Bank Gospodarstwa Krajowego.**

<b>Clear and comprehensive description of how the respective services are organized in Poland</b>
<b>The range of services entrusted as SGEI.</b>
<p>The Polish authorities would point out that the service in question consists of creating and then providing rented or cooperative housing to persons of moderate (statutorily limited) incomes preventing them from addressing their housing needs on the market. Maximum rent rates for rented dwellings are defined by statute, whereas maintenance charges in cooperative dwellings are limited by virtue of the provisions of the Housing Cooperatives Act, which specifically defines the purposes for which they may be charged.</p>
<b>Forms of entrustment.</b>
<p>The following national legislation lays down the principles governing the granting of compensation:</p> <ul style="list-style-type: none"><li>• the Act of 26 October 1995 on certain forms of support for the residential construction (Journal of Law 2017, item 79, as amended);</li><li>• Cabinet Regulation of 20 October 2015 on the conditions of and arrangements for repayable financing in the context of the implementation by the Bank Gospodarstwa Krajowego of the Government programme for the support of residential construction and the minimum requirements for accommodation resulting from the grant of such financing (Journal of Law item 1720, as amended).</li></ul> <p>In addition, each investor concludes a loan contract with Bank Gospodarstwa Krajowego (hereinafter: 'BGK' or 'the Bank') specifying the public service aspect and the terms and conditions governing the use of the preferential funding.</p>
<b>Average duration of the entrustment.</b>
<p>The Polish authorities would point out that the average duration of entrustment of the service is equal to the duration of the loan and in the case of compensation granted during the reporting period is 30 years (this is also the maximum duration of entrustment of the service under this scheme). At the same time, we would indicate that the use of the maximum period of funding by service providers results from the objective of minimising the amount of monthly repayments and hence the rent/maintenance charges paid by renters/tenants. Moreover, the justification for applying an entrustment period exceeding 10 years is the need to carry out significant investments (amortised over a long period) in the area of social housing.</p>
<b>Exclusive or special rights.</b>

No exclusive or special rights have been granted to service providers.	
<b>Aid instruments.</b>	
Compensation is granted as low-interest debt funding in the form of loans or bond issues with guaranteed purchase, although service providers have so far only used loans.	
<b>Compensation mechanism.</b>	
<p>Compensation is the difference between the cost of interest on preferential financing actually incurred by the borrower (service provider) and the interest cost which the borrower (service provider) would incur if borrowing on market terms. The level of compensation granted is calculated on the date on which the contract is signed in terms of the gross grant equivalent (gge) of the financing awarded.</p> <p>As a general rule, service providers providing an SGEI under the aid scheme also engage in other activities not constituting an SGEI so that the net cost necessary for the fulfilment of the public service obligations is determined according to a cost allocation method (as the difference between the service provider's costs and revenues). Use of the avoided cost method is not possible owing to the lack of reliable data on the revenues that could be obtained by entities providing commercial housing rental services (especially in smaller localities).</p>	
<b>Arrangements for avoiding and repaying any overcompensation.</b>	
<p>The mechanism for repaying overcompensation is described in the Cabinet Regulation on the conditions of and arrangements for repayable financing in the context of the implementation by the Bank Gospodarstwa Krajowego of the Government programme for the support of residential construction and the minimum requirements for accommodation resulting from the grant of such financing.</p> <p>The BGK checks whether the compensation granted has not exceeded the permitted level (net costs plus a reasonable profit). If an overrun occurs, the Bank will check its level. If the surplus does not exceed 10 % of the annual average compensation, it will be carried forward to the next period and will be deducted from the amount of compensation due in that period, otherwise the borrower will reimburse the surplus.</p>	
<b>Transparency requirements.</b>	
The Polish authorities would inform you that the compensation in question does not exceed EUR 15 million. Given the relatively low amounts of the loans granted under the programme and hence the low level of compensation granted, it is highly unlikely that the situation referred to in Article 7 of the Commission's Decision of 2011 will arise.	
<b>Amount of aid granted</b>	
<b>Total amount of aid granted (in millions EUR) A+B+C</b>	
<b>2016</b>	<b>2017</b>
<b>1 469</b>	<b>6 630</b>
<b>A: Total amount of aid granted (in millions EUR) paid by national central</b>	

authorities	
2016	2017
1 469	6 630
<b>B: Total amount of aid granted (in millions EUR) paid by regional authorities.</b>	
2016	2017
0.0	0.0
<b>C: Total amount of aid granted (in millions EUR) paid by local authorities.</b>	
2016	2017
1 469	6 630
<b>Share of expenditure per aid instrument.</b>	
2016	2017
<b>Loan granted on preferential terms — 1 469</b>	<b>Loan granted on preferential terms — 6 630</b>
<b>Additional quantitative information.</b>	
2016	2017
→ 7 beneficiaries	→ 32 beneficiaries
→ average aid amount per beneficiary — EUR 0.210 million	→ average aid amount per beneficiary — EUR 0.207 million
→ average aid amount per loan contract — EUR 0.163 million	→ average aid amount per loan contract — EUR 0.166 million

#### Services entrusted by the City of Warsaw

<b>Clear and comprehensive description of how the respective services are organized in Poland</b>
<b>The range of services entrusted as SGEI.</b>
<p>The capital city of Warsaw has entrusted the municipal companies Towarzystwo Budownictwa Społecznego Warszawa Północ Sp. z o.o. and Towarzystwo Budownictwa Społecznego Warszawa Południe Sp. z o.o. (hereinafter ‘the TBSs’), which are fully controlled by the capital City of Warsaw, with providing SGEIs to meet social housing needs.</p> <p>The service consists of the construction and rental of dwellings which, owing to the compensation received by the TBSs, are then offered to residents at below-market rents. The aim is to ensure better availability of housing also for those residents who do not</p>

have sufficient income to rent accommodation on the market.	
<b>Forms of entrustment.</b>	
The provision of SGEI's is entrusted by the insertion of appropriate provisions in the company's contracts and contracts between the City and the TBS on participation in the costs of constructing residential premises for two specific investments under Article 29(1) and (2) of the Act of 26 October 1995 on certain forms of support for residential construction (Journal of Laws, 2015, item 2071, as amended).	
<b>Average duration of the entrustment.</b>	
The entrustment runs for a period exceeding 10 years. In this context, it should be clarified that the TBSs have the status of companies specifically established to implement the City's own tasks relating to the creation of the conditions to meet the housing needs of the local community. In carrying out these tasks, the TBSs construct residential premises. The depreciation period for buildings and dwellings is very long — under the tax rules the annual depreciation rate is 1.5 % (the basic depreciation period is 66 years and 8 months).	
<b>Exclusive or special rights.</b>	
The TBSs do not make use of any exclusive rights or special rights.	
<b>Aid instruments.</b>	
Compensation takes the form of grants.	
<b>Compensation mechanism.</b>	
The amount of the compensation is determined on the basis of the cost allocation method.	
<b>Arrangements for avoiding and repaying any overcompensation.</b>	
Compensation is paid in connection with the implementation of individual investments in residential premises (buildings). A detailed cost estimate is established for each investment. After completion of each investment, a settlement is carried out between the TBSs and the City.	
<b>Transparency requirements.</b>	
The Polish authorities would inform you that the compensation in question does not exceed EUR 15 million.	
<b>Amount of aid granted</b>	
<b>Total amount of aid granted (in millions EUR) A+B+C</b>	
<b>2016</b>	<b>2017</b>
<b>13 990</b>	<b>7 687</b>

<b>A: Total amount of aid granted (in millions EUR) paid by national central authorities</b>	
<b>2016</b>	<b>2017</b>
<b>0.0</b>	<b>0.0</b>
<b>B: Total amount of aid granted (in millions EUR) paid by regional authorities.</b>	
<b>2016</b>	<b>2017</b>
<b>0.0</b>	<b>0.0</b>
<b>C: Total amount of aid granted (in millions EUR) paid by local authorities.</b>	
<b>2016</b>	<b>2017</b>
<b>13 990</b>	<b>7 687</b>
<b>Share of expenditure per aid instrument.</b>	
<b>2016</b>	<b>2017</b>
Capital injection - 8.752	Capital injection - 7.687
Direct grant – 5.237	
<b>Additional quantitative information.</b>	
Not applicable.	

**Service entrusted by the city of Wrocław.**

<b>Clear and comprehensive description of how the respective services are organized in Poland</b>
<b>The range of services entrusted as SGEL.</b>
The Municipality of Wrocław has entrusted the company Wrocławskie Mieszkania with carrying out its own social housing tasks under the Local Government Act. The scope of the entrustment covers tasks serving the ongoing and continuous fulfilment of the collective needs of the community relating to the governance and management of municipal resources in the area of social policy and social assistance.
<b>Forms of entrustment.</b>
The act of entrustment of the governance and management of municipal resources is contained in the following documents: <ul style="list-style-type: none"> <li><i>Order No 6355/12 of the Mayor of Wrocław of 21 December 2012 amending Order No 2387/08 of the Mayor of Wrocław of 2 January 2008 on the rules on outsourcing and accounting for the entrusted tasks to be carried out by</i></li> </ul>

<p><i>Wrocławskie Mieszkania Sp. z o.o., with its registered office in Wrocław;</i></p> <ul style="list-style-type: none"> <li>• <i>Rules on outsourcing and accounting for entrusted tasks to be carried out by Wrocławskie Mieszkania Sp. z o.o., with its registered office in Wrocław (Annex to Order No 6355/12),</i></li> <li>• <i>Implementation outline (template set out in the above-mentioned Rules on outsourcing and accounting for the entrusted tasks),</i></li> <li>• <i>Contract with Wrocławskie Mieszkania Sp. z o.o. dated 2 October 2007 (Register A No 4798/2007), laying down the specific conditions for the implementation of the entrusted tasks.</i></li> </ul>
<b>Average duration of the entrustment.</b>
The entrustment runs for a period of 10 years.
<b>Exclusive or special rights.</b>
No exclusive or special rights have been granted to the service providers.
<b>Aid instruments.</b>
Compensation takes the form of grants.
<b>Compensation mechanism.</b>
<p>The method of determining the compensation and payment deadlines is laid down in the document <i>Rules on outsourcing and accounting for entrusted tasks to be carried out by Wrocławskie Mieszkania Sp. z o.o., with its registered office in Wrocław</i>. Under these rules, each year the Company presents a calculation of the compensation for management activities relating to municipal resources planned for the following year, the cost of the planned investments, and information on the planned remuneration due to the Contractors during that period, estimated on the basis of contracts concluded.</p> <p>This calculation is subject to negotiation and analysis and evaluation by specifically appointed registered auditors.</p> <p>Compensation for the implementation of entrusted tasks is paid on a monthly basis.</p>
<b>Arrangements for avoiding and repaying any overcompensation.</b>
<p>Compensation is paid strictly for activities relating to the governance and management of municipal resources and is settled on the basis of the <i>implementation outline adopted for a given year</i>. The implementing conditions and the amount of compensation are subject to annual scrutiny. Each year the Company reports the amount of total compensation received for the SGEI, the revenues generated from other activities and the level of costs incurred. On the basis of the report received, the entrusting authority determines whether the Company has received the level of compensation due in accordance with the provisions of the Commission Decision.</p> <p>If the compensation paid in the previous year for the SGEI exceeds the maximum level</p>

by more than 10 %, the amount of overcompensation is reimbursed in full. If the overcompensation determined does not exceed 10 % of the adopted value of the average annual compensation accepted, the excess is credited towards the payment for the next accounting period.

If the annual report is not received from the Company by the deadline set, the entrusting authority will suspend payment of compensation in the next accounting period.

#### **Transparency requirements.**

The compensation in question does not exceed EUR 15 million.

#### **Amount of aid granted**

##### **Total amount of aid granted (in millions EUR) A+B+C**

<b>2016</b>	<b>2017</b>
<b>2 978</b>	<b>2 846</b>

##### **A: Total amount of aid granted (in millions EUR) paid by national central authorities**

<b>2016</b>	<b>2017</b>
<b>0.0</b>	<b>0.0</b>

##### **B: Total amount of aid granted (in millions EUR) paid by regional authorities.**

<b>2016</b>	<b>2017</b>
<b>0.0</b>	<b>0.0</b>

##### **C: Total amount of aid granted (in millions EUR) paid by local authorities.**

<b>2016</b>	<b>2017</b>
<b>2 978</b>	<b>2 846</b>

##### **Share of expenditure per aid instrument.**

<b>2016</b>	<b>2017</b>
<b>Direct grant – 2 978</b>	<b>Direct grant – 2 846</b>

##### **Additional quantitative information.**

**Not applicable.**

- **Waste management**

<b>Clear and comprehensive description of how the respective services are organized in Poland</b>
<b>The range of services entrusted as SGEL.</b>
<p>The Polish authorities would clarify that the <i>Local Government Act of 8 March 1990 (Journal of Laws 2016, item 446)</i> imposes an obligation on municipalities to fulfil the collective needs of their residents in terms of, <i>inter alia</i>, maintaining cleanliness and order. The specific powers and responsibilities of municipalities in this respect are defined in:</p> <ul style="list-style-type: none"> <li>• <i>the Waste Act of 14 December 2012 (Journal of Law 2013, item 21, as amended);</i></li> <li>• <i>the Act of 13 September 1996 on the maintenance of cleanliness and order (Journal of Law 2017, item 1289, as amended).</i></li> </ul> <p>Compliance with the obligations set out in these Acts is designed to meet the needs of the local community by <i>inter alia</i>: ensuring cleanliness and order on their territory and creating the necessary conditions for their maintenance, such as: establishing a waste management system, including waste collection from generators, transport, recovery and disposal.</p> <p>At the same time, under the Polish provisions, local government tasks also include the creation and management of regional municipal waste treatment installations and municipal selective waste collection points.</p> <p>In the light of the above, local authorities grant compensation for the provision of services relating to the management of municipal waste; in particular for organizing and operating a municipal waste collection system, including a system of municipal selective waste collection, and by maintaining and operating installations and equipment for recovering or disposing of municipal waste. Under the Act on the maintenance of cleanliness and order in municipalities, services to ensure the maintenance and operation of regional waste treatment facilities and services for the collection of municipal waste from property owners or for the collection and handling of this kind of waste are in principle entrusted separately (the entrustment of these services is regulated according to two separate legal bases).</p>
<b>Forms of entrustment.</b>
<p>Local government's waste management tasks are, for the most part, implemented by municipal companies in the form of internal entities (the sole owner being a local authority, i.e. a municipality). A municipal company can also be formed by more than one municipality, in which case each of the municipalities which are shareholders in that company is its parent municipality. The tasks of meeting the needs of residents of the parent municipality are entrusted and the rules on financing the company's activities are determined in a resolution of the municipal entrusting body, i.e. the municipal council (or municipal council resolutions where the company is to manage the waste of several municipalities owning it jointly) and the company's constituent act (i.e. the contract or</p>

statutes of the municipal company).

In a few cases, an entity belonging to only one municipality is entrusted with managing waste from several municipalities. This is done on the basis of inter-municipality contracts, in which the municipality which owns the municipal company assumes the other municipalities' obligation to dispose of waste from their territory and obliges the company to dispose of the waste from its own land and the municipalities with which the contract has been concluded.

All the detailed arrangements specifying the terms of service and compensation (its grant, components and rules for avoiding overcompensation) are most commonly specified in implementing contracts or the relevant internal company act (such as a plan or regulations) adopted by the shareholders' meeting. These documents contain provisions consistent with the guidelines issued by the Minister for Infrastructure and Development *on the rules on the co-financing of entities' operational programmes for the provision of services of general economic interest in the context of a Municipality's own municipal waste management tasks*<sup>3</sup>.

According to these Guidelines: 'an obligation to provide a service of general economic interest on a municipal company is imposed by means of a resolution of the municipal council on the establishment of or accession to a company, in which it must be stated that the purpose of the municipal company's activities will be to perform a task of the municipality relating to meeting the population's needs in respect of a specific own task of the municipality. In addition, the contract (statutes) of the municipal company should indicate that the purpose of the company is to carry out a specific own task of the municipality. The purpose of the activities of the municipal company should be reflected in the detailed description of its business activities.'

Local government units may also entrust the implementation of waste management tasks to entities that are local-government budgetary institutions. A service in the general economic interest is also entrusted by means of a resolution of the municipal council.

The scope of the service of general economic interest imposed on a local-government budgetary institution may be defined in detail in the statutes or regulations adopted by the municipal council. Alternatively, the municipal council may entrust the mayor with defining in detail the scope of the provision of an SGEI by a local-government budgetary institution.

#### **Average duration of the entrustment.**

The average duration in the waste management sector is around 20 years. Entrustments exceeding 10 years account for 54 % of all cases. These periods are so long because the performance of the entrusted services requires substantial investment (relating mainly to the construction of regional municipal waste facilities) which need to be amortised over a longer period and for which the life cycle can be as long as 30 years.

#### **Exclusive or special rights.**

Under the Act on the maintenance of cleanliness and order in municipalities and the

<sup>3</sup> [https://www.funduszeuropejskie.gov.pl/media/10377/wytyczne\\_odpady\\_221015.pdf](https://www.funduszeuropejskie.gov.pl/media/10377/wytyczne_odpady_221015.pdf)

Waste Act, the municipality is the owner of waste generated in its territory. This relates to the following categories of waste:

- mixed municipal waste,
- green waste,
- residues from the sorting of municipal waste sent for disposal.

By means of a resolution municipalities entrusting waste management tasks have undertaken to direct the waste flow to regional waste treatment facilities located within the municipality (region), which have exclusive control over their development. Remaining waste is shipped to other plants.

#### **Aid instruments.**

Given the need to incur significant financial outlays to cover the costs of building new infrastructure or expanding and adapting existing infrastructure at the beginning of an SGEI waste management period, local government entities require help to partially finance such investments. The main components of compensation are therefore: grants, capital injections and preferential loans and guarantees covering investment costs.

In some cases, an additional grant may also be paid out every year to cover any current losses.

#### **Compensation mechanism.**

In most cases, companies entrusted with an SGEI do not perform any other activity, and all their costs and revenues are therefore taken into account in calculating the amount necessary to cover the net cost incurred by them in providing the SGEI. In cases where the company performs activities in addition to the entrusted SGEI, separate accounting records must be kept for the SGEI.

In the bulk of cases, the cost-allocation method has been adopted to determine the amount of compensation not exceeding the amount necessary to cover the net cost of discharging the entrusted services, including a reasonable profit.

#### **Typical arrangements for avoiding and repaying any overcompensation.**

A typical arrangement to ensure that overcompensation is avoided is the provision (most often set out in implementing contracts) that the compensation granted cannot lead to the company being obliged to provide an SGEI at a profit exceeding a 'reasonable profit'. In 2016-2017, the internal rate of return (IRR) was used as the measure of return on capital, and its value corresponding to 'reasonable profit' was determined as the appropriate average swap rate from the last quarter of the year preceding the year of the execution of the contract, increased by 100 basis points.

In order to avoid overcompensation, each year the local government unit entrusting the SGEI verifies the amount of compensation due by calculating the IRR indicator for the entire entrustment period. In order to verify the IRR at the beginning of the commitment period for the provision of the SGEI, data from the forecast for the entire period of

entrustment are used. If the IRR for the entire period of the provision of services is below the 'reasonable profit' limit, then no adjustment is made. If the 'reasonable profit' is exceeded, the company providing the SGEI reimburses the excess, i.e. the amount giving rise to overcompensation.

When the annual verification is carried out, it is also established whether the total compensation granted to the beneficiary for performing the SGEI in question will not, on a yearly average, exceed EUR 15 million for the whole period of entrustment.

In order to avoid irregularities in calculating and verifying the amount of compensation, some local authorities outsource these tasks or have an interim audit carried out as part of the checks.

#### **Transparency requirements.**

In 2016-2017, there was no need to publish information in order to meet the transparency requirement - in the vast majority of cases companies entrusted with SGEI in the field of waste management did not perform any other activity, and in any case the amount of compensation granted did not exceed EUR 15 million on a yearly average.

#### **Amount of aid granted**

##### **Total amount of aid granted (in millions EUR) A+B+C**

<b>2016</b>	<b>2017</b>
<b>13 360</b>	<b>26 959</b>

##### **A: Total amount of aid granted (in millions EUR) paid by national central authorities**

<b>2016</b>	<b>2017</b>
<b>0.0</b>	<b>0.0</b>

##### **B: Total amount of aid granted (in millions EUR) paid by regional authorities.**

<b>2016</b>	<b>2017</b>
<b>0.0</b>	<b>0.0</b>

##### **C: Total amount of aid granted (in millions EUR) paid by local authorities.**

<b>2016</b>	<b>2017</b>
<b>13 360</b>	<b>26 959</b>

##### **Share of expenditure per aid instrument.**

<b>2016</b>	<b>2017</b>

<b>Additional quantitative information.</b>	
<b>2016</b>	<b>2017</b>

- 'Milk bars' (subsidised canteens)

<b>Clear and comprehensive description of how the respective services are organized in Poland</b>
<p><b>The range of services entrusted as SGEL.</b></p> <p>Subsidies for meals sold in 'milk bars' form part of the State's social policy. Under this policy, the Polish authorities provide access to relatively cheap, healthy means to persons and families at risk of poverty, marginalisation and social exclusion. Typical market-oriented catering companies which apply high margins in search of profit do not pursue this objective. In the light of the above, an instrument was adopted with the aim of facilitating access to low-cost meals. It is implemented by the operators of self-service, alcohol-free, bulk catering establishments selling all-day dairy/vegetarian meals which are accessible to all (Article 6(17) of the <i>Social Assistance Act of 12 March 2004</i> (Journal of Laws, 2017, item 1769, as amended), i.e. in 'milk bars'. This definition of the conditions governing eligibility for subsidies is designed to facilitate access to catering services by lower-income customers. To encourage operators to take on this task, Article 7a of the Social Aid Act provides for specific subsidies for meals sold in 'milk bars'.</p>
<p><b>Forms of entrustment.</b></p> <p>The conditions for providing assistance in the period 1 January 2016 to 31 March 2017 were defined in the <i>Regulation of the Minister for Finance of 30 March 2015 on specific subsidies for meals sold in 'milk bars'</i> (Journal of Laws, item 461, as amended). The entrustment must always take the same form for all interested parties (it is not possible to negotiate). After the trader has submitted an application as referred to in the above-mentioned Regulations of the Minister for Finance to the Director of the Revenue Administration Office, and after agreeing how the subsidy will be recorded, the trader is entitled to receive the subsidy according to the Regulation of the Minister for Finance (the Director of the Revenue Administration Department does not conclude a contract or issue a decision, etc.) if they meet all the conditions set out in this Regulation. The decisions of the Director of the Revenue Administration Office refer to the accounts of the subsidised services carried out in a given month by the trader concerned and to the payment or refusal of payment of funds.</p>
<p><b>Average duration of the entrustment.</b></p> <p>The service in question is entrusted for a period not exceeding one year. It should be pointed out in this context that, under Article 7a of the Social Assistance Act, subsidies for meals sold in 'milk bars' may be granted at the trader's request until the funds earmarked for this purpose in the budget act for a given year are exhausted. Consequently, the duration of the entrustment for each operator may not exceed one year (it may be shorter if there is a shortfall in the budget available). The entrustment</p>

period will be renewed in the following financial year provided the trader submits an appropriate application.
<b>Exclusive or special rights.</b>
The Polish authorities do not grant any exclusive or special rights to operators of 'milk bars'.
<b>Aid instruments.</b>
Compensation is paid out in the form of a grant from the State budget.
<b>Compensation mechanism.</b>
<p>In accordance with the <i>Regulation of the Minister for Finance of 30 March 2015 on specific subsidies for meals sold in 'milk bars'</i>, the trader must, by 30 November of the year preceding the year in which they intend to sell subsidised meals, notify the Director of the Revenue Administration Office of their intention to perform the subsidised activities and is required to decide with the Director of the Revenue Administration Office how they intend to keep records of the quantity and value of the meals sold and to prepare and collect recipe cards for subsidised meals. Likewise, by the 10th day of the month preceding the month in which the subsidy is to be paid, the trader must submit information to the Director of the Revenue Administration Office on the projected grant amount for the following month, and the Director must confirm the projected grant amount in the same month (data available in the Public Information Bulletin of the revenue office in question).</p> <p>At the end of the month in which the trader has sold subsidised meals, they must submit a request for payment of the grant for the preceding month, together with the accounts, to the head of the tax office. The head of the tax office checks the correctness of the calculation of the grant and transmits the application to the Director of the Revenue Administration Office, and the Director of the Revenue Administration Office decides on the award of the grant.</p> <p>In this context, please note that any trader operating a milk bar may apply for a subsidy. Grants are provided for meals produced from the raw materials listed in the Annex to the aforementioned Regulation of the Minister for Finance. The rate of subsidy is equal to 40 % of the value of the raw materials purchased, plus the catering mark-up, whereby the value of natural losses and raw materials purchased for the preparation of meals other than for consumers eating meals of the 'milk bar' are excluded. At the same time, a 'milk bar' operator is obliged to apply a low catering margin (which ensures a low price for the subsidised meal; market margins are significantly higher). Moreover, operators are required to keep records of the quantity and value of the raw materials used to make the meals in 'milk bars' so as to allow the value and quantity of raw materials used and the amount of subsidy payable to be determined; these records must be approved by the operator and the Director of the Revenue Administration Office (thereby ensuring transparency of subsidies).</p>
<b>Arrangements for avoiding and repaying any overcompensation.</b>
The Polish authorities wish to clarify that every month the head of the tax office verifies

the amount of the subsidy on the basis of the accounts presented by the trader. Each trader has to keep records of the quantity and value of the raw materials used to prepare subsidised meals and to prepare and collect recipe cards. Before the subsidised raw materials are sold, the trader must agree on the above-mentioned records with the Director of the Revenue Administration Office to ensure that the amount of the subsidy and the absence of any overcompensation are correctly established. Any adjustments to the quantity or value of raw materials used results in a subsidy correction, and any excess amount of subsidy collected or any misappropriated amount (discovered during inspections) must be repaid with interest.

#### **Transparency requirements.**

The Polish authorities would inform you that no compensation above EUR 15 million is granted under this scheme.

#### **Amount of aid granted**

##### **Total amount of aid granted (in millions EUR) A+B+C**

<b>2016</b>	<b>2017</b>
<b>2 941</b>	<b>3 337</b>

##### **A: Total amount of aid granted (in millions EUR) paid by national central authorities**

<b>2016</b>	<b>2017</b>
<b>2 941</b>	<b>3 337</b>

##### **B: Total amount of aid granted (in millions EUR) paid by regional authorities.**

<b>2016</b>	<b>2017</b>
<b>0.0</b>	<b>0.0</b>

##### **C: Total amount of aid granted (in millions EUR) paid by local authorities.**

<b>2016</b>	<b>2017</b>
<b>0.0</b>	<b>0.0</b>

##### **Share of expenditure per aid instrument.**

<b>2016</b>	<b>2017</b>
<b>direct grant – 2 941</b>	<b>direct grant – 3 337</b>

##### **Additional quantitative information.**

<b>2016</b>	<b>2017</b>
In 2016, 79 companies received grants.	In 2017, 81 companies received grants.

- **Management of municipal assets.**

<b>Clear and comprehensive description of how the respective services are organized in Poland</b>
<b>The range of services entrusted as SGEL.</b>
The Municipality of Wrocław entrusts a public-interest task serving the ongoing and continuous fulfilment of the collective needs of the community relating to the management and implementation of the construction of municipal buildings, roads, streets, civil-engineering structures, car parks, squares, stadiums and other sports facilities and the organisation of road traffic to the company Wrocławskie Inwestycje (hereinafter 'WI' or 'the Company'). The task in question was defined in the Annex to Order No 2170/15 of the Mayor of Wrocław of 4 September 2015 amending Order No 2888/08 of the Mayor of Wrocław of 7 March 2008 on the rules on outsourcing and accounting for entrusted tasks to be carried out by Wrocławskie Inwestycje Sp. z o.o., with its registered office in Wrocław <sup>4</sup> .
<b>Forms of entrustment.</b>
<p>The act of entrustment is set out in the following documents:</p> <ul style="list-style-type: none"> <li>• <i>Order No 2170/15 of the Mayor of Wrocław of 4 September 2015 amending Order No 2888/08 of the Mayor of Wrocław of 7 March 2008 on the rules on outsourcing and accounting for entrusted tasks to be carried out by Wrocławskie Inwestycje Sp. z o.o., with its registered office in Wrocław (hereinafter Order No 2170/15).</i></li> <li>• <i>Rules on outsourcing and accounting for entrusted tasks to be carried out by Wrocławskie Inwestycje Sp. z o.o., with its registered office in Wrocław (Annex to Order No 2170/15),</i></li> <li>• <i>implementation outline (template set out in the above-mentioned Rules on outsourcing and accounting for entrusted tasks).</i></li> </ul>
<b>Average duration of the entrustment.</b>
The entrustment runs until 31 December 2023 and does not exceed 10 years.
<b>Exclusive or special rights.</b>
No exclusive or special rights have been granted to service providers.
<b>Aid instruments.</b>
Compensation takes the form of grants.
<b>Compensation mechanism.</b>
The method of determining the compensation and payment deadlines is laid down in the document <i>Rules on outsourcing and accounting for entrusted tasks to be carried out by</i>

<sup>4</sup> [http://wrossystem.um.wroc.pl/beta\\_4/webdisk/179660/2170zp15.pdf](http://wrossystem.um.wroc.pl/beta_4/webdisk/179660/2170zp15.pdf)

*Wrocławskie Inwestycje Sp. z o.o., with its registered office in Wrocław.* Under the rules, each year the Company calculates the compensation for the following year for the activities carried out under the entrustment and any planned remuneration due to the Contractors during the period, estimated on the basis of continued contracts and proposals for new tasks. The calculation includes a list of operational and financial costs incurred in implementing the SGEI and must be justified in the light of market conditions. This calculation is subject to negotiation and to analysis and evaluation by specifically appointed auditors.

#### **Arrangements for avoiding and repaying any overcompensation.**

Compensation for the implementation of the task entrusted is paid strictly for the work carried out. The implementing conditions and the amount of compensation are subject to annual scrutiny. Each year the Company reports the amount of total compensation received for the SGEI, the revenues generated from other activities and the level of costs incurred. On the basis of the report received, the entrusting authority carries out an analysis and assessment of the expenditure, in terms of their purpose and amount, in relation to the scope of the tasks carried out and specifies whether the company has been compensated in accordance with the provisions of the European Commission Decision.

If the compensation paid in the previous year for the SGEI exceeds the maximum level by more than 10 %, the amount of overcompensation is reimbursed in full. If the overcompensation determined does not exceed 10 % of the adopted average value of annual compensation accepted, the excess is counted towards the payment for the next accounting period.

If this annual report is not received from the Company by the required deadline, the entrusting authority will suspend payment of compensation in the next accounting period.

#### **Transparency requirements.**

Not applicable. The amount of compensation granted in respect of the SGEI for the IP has not exceeded EUR 15 million as a yearly average.

#### **Amount of aid granted**

##### **Total amount of aid granted (in millions EUR) A+B+C**

<b>2016</b>	<b>2017</b>
<b>2 378</b>	<b>3 328</b>

##### **A: Total amount of aid granted (in millions EUR) paid by national central authorities**

<b>2016</b>	<b>2017</b>
<b>0.0</b>	<b>0.0</b>

##### **B: Total amount of aid granted (in millions EUR) paid by regional authorities.**

<b>2016</b>	<b>2017</b>
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<b>0.0</b>	<b>0.0</b>
<b>C: Total amount of aid granted (in millions EUR) paid by local authorities.</b>	
<b>2016</b>	<b>2017</b>
<b>2 378</b>	<b>3 328</b>
<b>Share of expenditure per aid instrument.</b>	
<b>2016</b>	<b>2017</b>
direct grant – <b>2 378</b>	direct grant – <b>3 328</b>
<b>Additional quantitative information.</b>	
<b>2016</b>	<b>2017</b>
Not applicable.	

- **Regeneration**

<b>Clear and comprehensive description of how the respective services are organized in Poland</b>
<b>The range of services entrusted as SGEL.</b>
<p>Pursuant to the <i>Local Government Act of 8 March 1990</i> (Journal of Laws 2013, item 594, as amended), the Municipality of Wrocław entrusts Wrocławska Rewitalizacja with the Municipality's own tasks that are important to the development of the City of Wrocław and that serve the purpose of the preparation and implementation of regenerating Wrocław, a process consisting of a comprehensive, coordinated and long-term process of spatial, technical, social and economic transformation within a specific area for the purpose of rescuing the area in question from a state of crisis by giving it a new functional quality and creating conditions for its development, on the basis of its characteristic endogenous conditions.</p> <p>The scope of the entrustment includes in particular activities in the area of:</p> <ul style="list-style-type: none"> <li>• continuous monitoring of regeneration problems,</li> <li>• the development of the concept of the regeneration process,</li> <li>• preparation for the regeneration process,</li> <li>• the implementation of the regeneration process,</li> </ul>
<b>Forms of entrustment.</b>
<p>The act of entrustment is set out in the following documents:</p> <ul style="list-style-type: none"> <li>• <i>Order No 4486/12 of the Mayor of Wrocław of 8 May 2012 on the rules on outsourcing and accounting for entrusted tasks to be carried out by Wrocławska</i></li> </ul>

<p><i>Rewitalizacja Sp. z o.o., with its registered office in Wrocław;</i></p> <ul style="list-style-type: none"> <li>• <i>Rules on outsourcing and accounting for entrusted tasks to be carried out by Wrocławska Rewitalizacja Sp. z o.o., with its registered office in Wrocław</i>(Annex to the Order of the Mayor of Wrocław),</li> <li>• <i>implementation outline</i> (template set out in the above-mentioned <i>Rules on outsourcing and accounting for entrusted tasks</i>),</li> <li>• <i>Contract with Wrocławskie Mieszkania Sp. z o.o. dated 2 October 2017</i> (Register A No 1066/2007).</li> </ul>
<b>Average duration of the entrustment.</b>
The entrustment runs for a period of 10 years.
<b>Exclusive or special rights.</b>
No exclusive or special rights have been granted to service providers.
<b>Aid instruments.</b>
Compensation takes the form of grants.
<b>Compensation mechanism.</b>
<p>The method of determining the compensation and payment deadlines is laid down in the document <i>Rules on outsourcing and accounting for entrusted tasks to be carried out by Wrocławska Rewitalizacja Sp. z o.o., with its registered office in Wrocław</i>. Under these Rules, each year the Company calculates the compensation for the following year for the activities carried out under the entrustment and any planned remuneration due to the Contractors during the period, estimated on the basis of continued contracts and proposals for new tasks. This calculation is subject to negotiation and to analysis and evaluation by specifically appointed auditors.</p>
<b>Typical arrangements for avoiding and repaying any overcompensation.</b>
<p>Compensation for the implementation of revitalisation tasks is paid strictly for the work carried out. Compensation for specific tasks and the payment deadline is determined in the implementation outline, and payment is made on the basis of VAT invoices after the acceptance report has been signed. The implementing conditions and the amount of compensation are subject to annual scrutiny. Each year the Company reports the amount of total compensation received for the SGEI, the revenues generated from other activities and the level of costs incurred. On the basis of the report received, the entrusting authority carries out an analysis and assessment of the expenditure, in terms of its purpose and amount, in relation to the scope of the tasks carried out and specifies whether the company has been compensated in accordance with the provisions of the European Commission Decision.</p> <p>If the compensation paid in the previous year for the SGEI exceeds the maximum level by more than 10 %, the amount of overcompensation is reimbursed in full. If the</p>

overcompensation determined does not exceed 10 % of the adopted average value of annual compensation accepted, the excess is counted towards the payment for the next accounting period.

If this annual report is not received from the Company by the required deadline, the entrusting authority will suspend payment of compensation in the next accounting period.

#### **Transparency requirements.**

Not applicable. The amount of compensation granted in respect of the SGEI to Przedsiębiorstwo Wrocławska Rewitalizacja Sp. z o.o. has not exceeded EUR 15 million as a yearly average.

#### **Amount of aid granted**

##### **Total amount of aid granted (in millions EUR) A+B+C**

<b>2016</b>	<b>2017</b>
<b>0.326</b>	<b>0.476</b>

##### **A: Total amount of aid granted (in millions EUR) paid by national central authorities**

<b>2016</b>	<b>2017</b>
<b>0.0</b>	<b>0.0</b>

##### **B: Total amount of aid granted (in millions EUR) paid by regional authorities.**

<b>2016</b>	<b>2017</b>
<b>0.0</b>	<b>0.0</b>

##### **C: Total amount of aid granted (in millions EUR) paid by local authorities.**

<b>2016</b>	<b>2017</b>
<b>0.326</b>	<b>0.476</b>

#### **Share of expenditure per aid instrument.**

<b>2016</b>	<b>2017</b>
direct grant – 0.326	direct grant – 0.467

#### **Additional quantitative information.**

<b>2016</b>	<b>2017</b>
Not applicable.	

- **Management of car parks.**

<b>Clear and comprehensive description of how the respective services are organized in Poland</b>
<b>The range of services entrusted as SGEL.</b>
<p>The Municipality of the City of Kraków entrusts the company Miejska Infrastruktura Sp. z o.o. with implementing own tasks of public interest consisting in the implementation of the parking policy of the entrusting authority and operating a paid parking zone. The services entrusted include in particular:</p> <ul style="list-style-type: none"> <li>• the provision of comprehensive services relating to the management of paid parking zones;</li> <li>• the provision of comprehensive services relating to the management of P&amp;R car parks.</li> </ul>
<b>Forms of entrustment.</b>
<p>The act of entrustment is set out in the following documents:</p> <ul style="list-style-type: none"> <li>• <i>Resolution No XCIV/1392/13 of Kraków City Council of 18 December 2013 on the establishment of a single-member private limited liability company (the scope of the service is defined in this document) ,</i></li> <li>• <i>Resolution No LIII/723/12 of Kraków City Council of 29 August 2012 on the adoption of a parking plan for the City of Kraków and the management of a paid parking zone (the scope of the service is defined in this document) ,</i></li> <li>• <i>contract of 2 June 2014 on the provision of public services consisting of the management of a paid parking zone and the implementation of a parking plan;</i></li> <li>• <i>contract of 27 July 2016 on the provision of public services.</i></li> </ul>
<b>Average duration of the entrustment.</b>
The entrustment runs for a period of 10 years.
<b>Exclusive or special rights.</b>
No exclusive or special rights have been granted to service providers.
<b>Aid instruments.</b>
Compensation takes the form of grants.
<b>Compensation mechanism.</b>
The cost allocation method is applied. Separate accounting records are submitted for SGEIs and other activities carried out by the service provider.

<b>Arrangements for avoiding and repaying any overcompensation.</b>	
<p>In order to avoid overcompensation, the services provided under the entrustment are accounted for annually. The amount of compensation is therefore subject to an annual audit. The entrusting authority determines on the basis of the audit report whether the amount of compensation granted to the company is consistent with the Commission Decision of 2011.</p> <p>If the result of entrusted activities in a given year exceeds the maximum reasonable profit by not more than 10 %, the excess amount obtained is carried forward to the following period. If the audit shows that the compensation paid exceeds the maximum level by more than 10 %, the Company is obliged to reimburse the entire overcompensation to the organiser's budget.</p>	
<b>Transparency requirements.</b>	
Not applicable. The amount of compensation granted in respect of the SGEI to Miejska Infrastruktura Sp. z o.o. has not exceeded EUR 15 million as a yearly average.	
<b>Amount of aid granted</b>	
<b>Total amount of aid granted (in millions EUR) A+B+C</b>	
<b>2016</b>	<b>2017</b>
<b>7 056</b>	<b>19 581</b>
<b>A: Total amount of aid granted (in millions EUR) paid by national central authorities</b>	
<b>2016</b>	<b>2017</b>
<b>0.0</b>	<b>0.0</b>
<b>B: Total amount of aid granted (in millions EUR) paid by regional authorities.</b>	
<b>2016</b>	<b>2017</b>
<b>0.0</b>	<b>0.0</b>
<b>C: Total amount of aid granted (in millions EUR) paid by local authorities.</b>	
<b>2016</b>	<b>2017</b>
<b>7 056</b>	<b>19 581</b>
<b>Share of expenditure per aid instrument.</b>	
<b>2016</b>	<b>2017</b>
Capital injection — 0.002	Capital injection — 8
Direct grant – 7 054	Direct grant – 11 581

<b>Additional quantitative information.</b>	
<b>2016</b>	<b>2017</b>
Not applicable.	

### **3. DESCRIPTION OF THE APPLICATION OF THE 2012 SGEI FRAMEWORK**

**The Polish authorities have not provided aid under this framework in the period covered by the report.**

### **4. COMPLAINTS BY THIRD PARTIES**

The Office for Competition and Consumer Protection has no information suggesting that legal proceedings were initiated in 2016-2017 in connection with third party complaints concerning the provision of an SGEI.

### **5. MISCELLANEOUS QUESTIONS**

#### **A.**

The Polish authorities would like to point out that, in individual cases, service providers have reported problems linked to the correct definition of the service (the distinction between public service and SGEI is problematic). Moreover, some of the entities organising a service had doubts as to whether the payment they made to the SGEI provider should be treated as remuneration (revenue reducing the value of the compensation) or whether it should be regarded as a component of the compensation. In the absence of a detailed explanation on this point, the Polish authorities would point out that there is a need to clarify whether and under what conditions remuneration for a service should be regarded as a component of the compensation.

Moreover, the Polish authorities had difficulties determining a reasonable level of profit for the social housing scheme implemented by the BGK. Owing to the 30-year duration of the SGEI entrustment period, it was difficult in the case of this scheme to obtain the appropriate interest rate to determine reasonable profit. The regulation regulating the terms of use of the scheme did not initially decide to use the IRS rates published by the European Commission on the website with regard to compensation for the provision of services of general economic interest because the Commission calculates swap prices for up to 10 years on the basis of Bloomberg data. At the stage of drawing up the legislation, this was regarded as not being a suitable period in the light of the duration of entrustment of the public service for the social housing scheme (as a general rule 30 years). The average IRS quotation for the longest period available on the financial market, i.e. 20 years, was used to calculate a reasonable profit. This was established on the basis of data published by the Financial Markets Association ACI Polska.

In October 2016, the number of banks participating in the FRA, IRS and OIS transaction fixing system fell below the required minimum, as a result of which the ACI Polska portal suspended quoting of the derivatives transactions in question. The Ministry of Infrastructure and Construction (currently the Ministry of Investment and Development), acting in cooperation with BGK and the Office for Competition and Consumer Protection, considered applying the IRS rates obtained by the BGK from several major banks in Poland or the yields of Treasury bonds issued for the longest period (30 years). However, it eventually abandoned this solution owing to the purely theoretical and indicative nature of the IRS quotations that would be obtained from banks and the fact that up-to-date data on debt yields was not always available plus the fact that often their yield curve does not reflect the reality of the swap market. The summer IRS rates published by the European Commission are therefore currently

being used to calculate reasonable profit, but it should be pointed out that the reasonable profit of the investor receiving the compensation may be understated.

**B.**

The Polish authorities would inform you that no aid was granted under the 2012 SGEI Framework during the reporting period.

**C.**

The Polish authorities do not wish to comment.