



**MINISTRY OF INDUSTRY, BUSINESS
AND FINANCIAL AFFAIRS**

**REPORT ON DENMARK'S
APPLICATION OF THE COMMISSION
DECISION OF 20 DECEMBER 2011 ON
SERVICES OF
GENERAL ECONOMIC
INTEREST AND THE 2012 SGEI
FRAMEWORK**

August 2020

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Introduction

On the basis of the Commission Decision of 20 December 2011 on services of general economic interest and the 2012 SGEI framework, each Member State must submit a biennial report to the Commission on the application of the Decision and the framework containing a description of how these are being applied in the sectors covered.

With a view to obtaining the necessary information, the Danish Ministry of Industry, Business and Financial Affairs asked the relevant ministries to submit contributions on the compensation schemes that the individual authorities administer and that they consider fall within the scope of the decision.

This report is a follow-up to the report that Denmark sent to the Commission in June 2018 and is to be compared with that report.

On the basis of the above, the following contributions have been prepared for the report:

- Public service compensation granted to hospitals (**Ministry of Health and the Elderly**)
- Public service compensation granted to social housing corporations (**Ministry of Transport and Housing**)
- Public service compensation in the form of pilotage in certain Danish ports (**Ministry of Industry, Business and Financial Affairs**)
- Public service compensation in the form of the capacity obligation concerning destruction of hazardous waste in Denmark (**Ministry of Climate, Energy and Utilities**)
- Public service compensation granted to maritime links to islands (**Ministry of Transport and Housing**)
- Public service compensation granted to airports (**Ministry of Transport and Housing**)

Expenditure overview

Total SGEI government expenditure by legal basis (millions EUR)		
	2018	2019
<i>Compensation for Services of General Economic Interest (I+2)</i>	167.68	138.85
(1) Compensation granted on the basis of the SGEI Decision	164.20	135.41
(2) Compensation granted on the basis of the SGEI Framework	3.48	3.44

Non-compulsory: If your Member State has not granted State aid for the provision of SGEI in certain sectors on the basis of the SGEI Decision or the SGEI Framework, information regarding other instruments to ensure the provision of those services would be very useful. If available, please provide a brief description of these instruments (e.g. direct aid to users, compensation complying with all four Altmark criteria, SGEI de minimis aid...) and the sectors in which they are used.

See section on public service compensation granted to hospitals and public service compensation granted to maritime links to islands

Description of the application of the 2012 SGEI Decision

Public service compensation granted to hospitals

Introductory remarks

It is the understanding of the Danish authorities that there are no schemes under the Danish hospitals service falling within the scope of the Communication. The basis for this assumption is that the Danish healthcare service is under public control, and the public expenditure for healthcare is financed through taxes. An individual citizen's financial status, relationship with the labour market or personal insurance circumstances is immaterial in terms of access to the services of the public healthcare service.

Hospital services are offered free of charge to persons resident in Denmark. Persons not resident in Denmark are offered emergency and continuing hospital treatment during a temporary stay in the case of accident, sudden illness, childbirth or worsening of a chronic illness, etc. Payment is required for emergency and continuing hospital treatment from certain people not resident in Denmark.

Certain persons not resident in Denmark may purchase planned hospital services in accordance with Directive 2011/24/EU on the application of patients' rights in cross-border healthcare. Thus, pursuant to Section 78a, the regional council provides patients from other EU/EEA countries with hospital treatment in return for payment. Persons from the Danish Realm (the Faroes and Greenland) who are not resident in Denmark are placed on the same footing. More detailed rules on this are laid down in Order No 657 of 28 June 2019 on entitlement to hospital treatment, etc. In accordance with Section 6 of the Order, a regional council can provide treatment and demand payment for non-emergency hospital treatment from persons who have a connection to an EU/EEA country, Greenland or the Faroes and who are not entitled to treatment under the rules of Directive 2011/24/EU on cross-border healthcare services and Regulation (EC) No 883/2004 on the coordination of social security systems, provided the hospital treatment can be provided within the existing capacity and provided there are no private companies that can cover the demand for these services in the region concerned.

The main features of the Danish health service are described below, followed by a few observations in relation to the Commission Decision of 20 December 2011.

2. The Danish health service in brief

Denmark's public health service consists of the primary and secondary health sectors.

The primary health sector consists of:

- Healthcare professionals in private practice within the public health service (general practitioners, specialists in private practice, physiotherapists, etc.).
- Local-authority healthcare schemes: home nursing, local-authority dental care and preventive health schemes.

The secondary health sector consists of the hospital service.

The Danish public health service is financed via taxation. An individual citizen's financial status, connection to the labour market and personal insurance situation have no relevance for access to the services of the health service. The State is responsible at the national level for setting the overall health policy values and targets for the public health service. On this basis, the Folketing (Danish Parliament) provides the regulatory framework for the health service in the form of legislation, etc., and the finances of the sector are subject to overall social control through annual financial agreements. In addition, the State authorities, together with the regions, municipalities and other partners in the area, exercise influence over the development of the health service through agreements, advice, information activities, etc.

The regions are responsible for the operation of the health service and the administration of public health insurance. The regions are therefore responsible for the bulk of the activities within the overall public health service. The individual regional councils prioritise efforts and determine the local service level within the framework laid down in legislation, etc. In the area of health, the municipalities are responsible, for example, for home nursing care, healthcare, prevention, dental care for children and young people, special dental care and dental care for persons with disabilities. The municipalities also perform a number of administrative tasks for the health insurance scheme, such as issuing health insurance certificates. The individual municipal councils also prioritise efforts and determine the local service level within the framework laid down in legislation, etc.

Operationally, the health service is organised either as public institutions and clinics or as professions that operate with public subsidies under agreements with the public authorities. The hospital service consists largely of regionally owned hospitals. Under the Hospital Act, the regions must provide treatment via their hospital services free of charge. In addition to the regions' own hospitals, free treatment is provided at some private, non-profit specialist hospitals; see Section 79(2) of the Health Act. As part of the fulfilment of its tasks, a region may cooperate with other regions and enter into agreements with private institutions; see Section 75(1) and (2) of the Health Act. In some cases permission may also be granted for free treatment abroad.

On the other hand, providers in the primary sector – medical practitioners, physiotherapists, etc. – own and operate their own clinics, but they are financed to varying degrees by the regions under agreements between the public health insurance scheme and the various professional organisations. These health professionals are thus private businesses that, in accordance with collectively negotiated agreements, are paid by the regions for providing a substantial part of the regional health service. The public health insurance scheme provides free medical assistance from general practitioners and specialists and subsidises a number of other services. The only exemption from this is the limited number of persons who have chosen the special insurance scheme (health insurance group 2).

There is no definition or clear understanding either in Danish health legislation or in the EU of what treatment should take place in hospital. The hospital service in Denmark is organised into main functions (basic functions) and specialised functions, which, in turn, are divided into regional functions and highly specialised functions. They all provide both inpatient and outpatient services. This organisation is achieved through special planning, which is aimed at ensuring high-quality professional treatment, end-to-end patient pathways and the best use of resources. The special planning must also promote the necessary building up and maintenance of expertise, research and

development to ensure the best treatment of patients. At the same time, the special planning must ensure planning, coordination and cooperation between the actors in the health service.

It is a constant principle underlying the planning of the Danish health service that its services are delivered at the lowest effective cost (lowest effective cost principle). Continuous consideration is therefore given to, and planning is based on, whether, taking into account the maintenance of high quality and the other aspects mentioned, a particular service or treatment can be provided in, for example, specialist practice, which in Denmark generally charges less and requires less planning than the hospital service. More treatments may therefore be allocated to specialist practice in line with developments.

As far as hospital services are concerned, they will therefore typically be characterised by the fact that an implicit decision has been taken that a case requires a course of treatment requiring hospitalisation, services that require special expertise or equipment, and services that have particular planning requirements, including in relation to treatment pathways and training. In general, in accordance with modern medical knowledge and technological developments, emphasis is placed on operating the hospital service as efficiently as possible and keeping the number of hospitalisations as low as possible and their length as short as possible.

Overall, the division of labour therefore means that less complicated health services are provided outside the hospital service, while more difficult and more complicated services, including outpatient services, are provided within the hospital service, where it is possible to ensure the volume, quality and safety of such services, to make sufficient skills available and to provide patients with access to the services, even outside normal working hours.

Outpatient treatment courses within the hospital service will therefore typically be characterised, for each patient, by a need to involve several specialists, possibly organised in multi-disciplinary teams, as is seen, for example, in the area of cancer. Such a set-up places particular demands on planning, both with regard to ensuring sufficient capacity, including in terms of equipment, and ensuring efficient use of resources, including both financial resources and expertise.

1. Observations relating to the Commission Decision

It is the opinion of the Danish authorities that the financing of public hospitals in Denmark concerns services that cannot be regarded as covered by the State aid rules in Article 107. Consequently, it is considered that the *Altmark Trans* judgment and the Commission Decision of 20 December 2011 do not concern circumstances that correspond to the financing and organisation of the public hospital service in Denmark.

In Denmark, hospitals are predominantly financed through taxation and operated by the public sector within the regional system. As mentioned, hospital services are offered free of charge to persons resident in Denmark, since the consumer (the patient) does not pay consideration in the form of a user fee.

The regional hospitals belong to the regions and the financing of their operation comes directly from the budget of the individual region. It is not a case of economic resources being transferred from one legal person to another, and the budget appropriation for hospital operation cannot be regarded as compensation.

On the income side, the regional budgets include grants from the State in the form of block grants. These go to the respective regions as such and not to the regional hospitals as State aid earmarked for hospital operation. The Commission Decision refers, among other things, to the calculation of the 'amount of compensation', 'reasonable profit' and 'control of overcompensation'. According to this, weight should be given to a reasonable return on (own) capital. However, these terms have no meaning in the Danish context, whether in relation to the regional hospitals or in relation to the regions as such, because none of them has any (own) capital which requires a return in relation to hospital operation, and because the financing of the operation of hospitals is not regarded as compensation. The Ministry of Health and the Elderly would also point out that, according to Article 168 of the EC Treaty, Member States are responsible for the organisation and delivery of health services and medical treatment.

In the light of the above observations, it is Denmark's opinion that, in Denmark, there are no public service compensation schemes granted to hospitals that are covered by the Commission Decision of 20 December 2011.

<i>Clear and comprehensive description of how the respective services are organized in your Member State¹</i>
<i>Explanation of what kind of services in the respective sector have been defined as SGEI in your Member State. Please list the contents of the services entrusted as SGEI as clearly as possible.</i>
It is the understanding of the Danish authorities that there are no schemes under the Danish hospitals service falling within the scope of the Communication.
<i>Explanation of the (typical) forms of entrustment. If standardised templates for entrustments are used for a certain sector, please attach them.</i>
It is the understanding of the Danish authorities that there are no schemes under the Danish hospitals service falling within the scope of the Communication.

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

<i>Average duration of the entrustment (in years), and the proportion of entrustments that are longer than 10 years (in%) per sector. Specify in which sectors SGEI were entrusted with a duration exceeding 10 years and explain how this duration is justified.</i>
It is the understanding of the Danish authorities that there are no schemes under the Danish hospitals service falling within the scope of the Communication.
<i>Explanation whether (typically) exclusive or special rights are assigned to the undertakings.</i>
It is the understanding of the Danish authorities that there are no schemes under the Danish hospitals service falling within the scope of the Communication.
<i>Which aid instruments have been used (direct subsidies, guarantees, etc.)?</i>
It is the understanding of the Danish authorities that there are no schemes under the Danish hospitals service falling within the scope of the Communication.
<i>Typical compensation mechanism as regards the respective SGEI services and whether a methodology based on cost allocation or the net avoided cost methodology is used.</i>
It is the understanding of the Danish authorities that there are no schemes under the Danish hospitals service falling within the scope of the Communication.
<i>Typical arrangements for avoiding and repaying any overcompensation.</i>
It is the understanding of the Danish authorities that there are no schemes under the Danish hospitals service falling within the scope of the Communication.
<i>A short explanation of how the transparency requirements (see Article 7 of the 2012 SGEI Decision) for the aid above EUR 15 million to undertakings that also have activities outside the scope of the SGEI are being complied with. In your answer please also include some relevant examples of information published for this purpose (e.g. some links to websites or other references), indicate whether you have a central website on which you publish this information for all aid measures concerned in your Member State (and if so provide the link to this website), or alternatively explain if and how the publication takes place at the level granting the aid (e.g. central, regional or local level).</i>

It is the understanding of the Danish authorities that there are no schemes under the Danish hospitals service falling within the scope of the Communication.	
Aid amount	
Total amount of aid granted (in millions EUR)². This includes all aid granted in your territory, including aid granted by regional and local authorities. (A+B+C)	
2018	2019
A: Total amount of aid granted (in millions EUR) paid by national central authorities³	
2018	2019
B: Total amount of aid granted (in millions EUR) paid by regional authorities⁴	
2018	2019
C: Total amount of aid granted (in millions EUR) paid by local authorities⁵	
2018	2019
Share of expenditure per aid instrument (direct subsidies, guarantees, etc.) (if available)	
2018	2019
Additional quantitative information (e.g. number of beneficiaries per sector, average aid amount, size of the undertakings)⁶	
2018	2019

² As stipulated in Article 9 b) of the 2012 SGEI Decision.

³ If the aid amount cannot be split between central, regional and local authorities, only the total amount of aid granted for all authorities should be reported.

⁴ See footnote **Error! Bookmark not defined..**

⁵ See footnote **Error! Bookmark not defined..**

⁶ The Commission would welcome any data that you might have on aid granted under the 2012 SGEI Decision, for example the number of beneficiaries per sector, average amount of aid, amount per aid instrument (direct subsidies, guarantees, etc.), size of the undertakings, etc. Should such other quantitative information data not be readily available in your Member State, they can of course be presented in a more aggregated and/or estimated way. In that case please indicate that estimations have been used as well as the type of aggregation made.

Public service compensation granted to social housing corporations

<i>Clear and comprehensive description of how the respective services are organized in your Member State⁷</i>
<i>Explanation of what kind of services in the respective sector have been defined as SGEI in your Member State. Please list the contents of the services entrusted as SGEI as clearly as possible.</i>
<p>Undertakings with responsibility for ‘social housing construction’ in Denmark are primarily housing organisations and certain independent institutions.</p> <p>In addition to these, there are local authorities and regions that can set up social housing for the elderly, including nursing homes. Social housing for the elderly has, however, been deemed to be a non-economic activity and is not therefore included in this report.</p> <p>The social housing organisations and the independent institutions mentioned are subject – in return for public aid – to a detailed set of rules with respect to both the construction of buildings and subsequent operation.</p> <p>The following description is based solely on the rules that apply to social housing organisations, as only an extremely limited number of social housing dwellings owned by independent institutions are built. In addition, the rules relating to these dwellings follow more or less the same set of rules as for social housing organisations.</p> <p>The principal purpose of the housing organisations, according to the Social Housing Act, is to construct, let, manage, maintain and modernise housing that is covered by the Social Housing Act (or earlier laws on subsidised housing construction).</p> <p>One of the key concerns behind this legislation is to ensure that the housing organisations make a sufficient number of dwellings of appropriate quality available at a rent that is reasonable for population groups that would otherwise find it difficult to obtain housing on market terms.</p> <p>Under the Act, social housing organisations have to let <i>social housing for families</i> to housing applicants who need a dwelling of the type in question.</p>

⁷ If in a certain sector only a small number of individual SGEIs exist in your Member State, we appreciate a detailed description of those services. If a large number of services are entrusted in a specific sector in your Member State (for example, because the competence lies with regional or local authorities), individual details of the entrustments would be disproportionate, but a clear and concise general description of the way the sector is organised including the common features of the individual entrustments remains crucial.

Social family dwellings are, in principle, let on the basis of a waiting list that is open to all housing applicants regardless of income. The waiting-list system was introduced to ensure an open and objective system of allocation.

A desire to ensure a broad-based resident population in social housing areas explains why all housing applicants can be considered for social housing for families. It has been a key concern in Danish housing policy for more than 60 years to avoid housing with a narrow-based resident population becoming stigmatised, because this has a number of unfortunate repercussions.

It is also this concern that currently underpins the initiative to eradicate social and ethnic ghettos in social housing areas.

Socially less advantaged groups that are unable, for financial or other reasons, to obtain housing on market conditions make up the vast majority of residents in the social housing sector, and this part of the population is also, as mentioned above, the key target group for the sector.

It is mandatory for the housing organisations – unlike private landlords – to give the local authority the right to allocate at least 25% of vacant social family dwellings with a view to fulfilling social housing tasks in the local authority area. A local-authority right of allocation of up to 100% can be agreed, as has happened in some local authority areas. The local-authority right of allocation represents an exception to the waiting-list system, under which local authorities assign vacant housing in accordance with an assessment of the housing applicant's particular needs.

Social housing for young people is to be let to young students and other young people requiring such housing. Here again, these dwellings are not let on the basis of a waiting list but on the basis of an assessment of needs in each individual case. The local authority has a right of allocation for social housing for young people to the same extent as for social housing for families.

The above-mentioned legislation also contains a number of detailed rules/obligations concerning the operation of organisations, including fixing of rents, finances, filing of accounts and resident influence, etc.

The fixing of rents is determined in particular by cost, i.e. rent in excess of the costs incurred in the operation of the dwellings (balance rent) must not be charged. Organisations cannot make a profit from letting dwellings and cannot budget for a surplus (non-profit undertaking).

Housing organisations' compliance with the prescribed rules is supervised by the public authorities. This supervision is carried out by the local authority where the housing organisation or division is located. The local authority may instruct the housing organisation to raise or lower the rent to ensure that the rules on balance rent are complied

with. The local authority may also, where it is deemed necessary, place the housing organisations wholly or partially under administration.

*Explanation of the (typical) forms of **entrustment**. If standardised templates for entrustments are used for a certain sector, please attach them.*

The purpose and activities of housing organisations are governed by legislation (Social Housing Act, etc.) and by administrative regulations issued pursuant to this law.

Services of general economic interest can be transferred to:

- social housing organisations (which own social housing for families and young people)
- independent institutions (which own social housing for young people).

Section 2 of the Order on the operation of social housing, etc. states that, in approving new housing organisations or independent institutions that intend to establish social housing for young people, the local authority must ensure that the approval contains information to the effect that the undertaking has been entrusted with carrying out housing activities under the Commission Decision of 20 December 2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest.

*Average duration of the **entrustment (in years)**, and the proportion of entrustments that are **longer than 10 years (in%)** per sector. Specify in which sectors SGEI were entrusted with a duration exceeding 10 years and explain how this duration is justified.*

Housing organisations and independent institutions are basically to operate and let the supported housing on a permanent basis. The housing organisation or the independent institution cannot sell or close down the housing without the approval of the local authority and of the Minister for Housing. Practice is restrictive, and approval is basically given only when the housing division cannot be maintained as a result of difficulties in letting housing or of construction damage that cannot be remedied in a cost-effective way. In addition, approval has to be given for selling and closing down housing in socially disadvantaged neighbourhoods in so far as there is a requirement or need to reduce the proportion of social housing.

*Explanation whether (typically) **exclusive or special rights** are assigned to the undertakings.*

There is a very long tradition of granting public aid to ‘social housing construction’ in Denmark. The principal features of the present-day system of aid have applied since the mid-1960s.

Public aid for new construction projects is granted with a view to achieving the objective mentioned above and, in particular, to make it possible for suitable housing to be let at a rent the target groups of the construction project can afford.

In addition, there are some supplementary operating aid schemes that serve the same aim, i.e. to ensure an appropriate standard of housing at a reasonable rent. The schemes concerned are primarily administered by the National Building Fund (*Landsbyggefonden*), which is considered to be an independent State institution.

Both aid for new construction projects and operating aid are time-limited schemes for the individual housing organisation.

In addition to the aid mentioned above, organisations with responsibility for ‘social housing construction’ are exempt from payment of corporation tax. This scheme, which has also applied for many years, is a counterpart, like the other elements of aid, to the special obligations on the housing organisations, including the prohibition on receiving a profit from letting. Exemption from tax is not limited in time.

*Which **aid instruments** have been used (direct subsidies, guarantees, etc.)?*

Receipt of public aid is conditional on the housing organisation or the independent institution concerned being approved by the local authority to carry out social housing activities under the terms of the Social Housing Act, etc.

The aid schemes principally consist of the following elements:

New-build:

- Local authority loans on particularly favourable terms to finance construction – base capital loans.
- State and local authority guarantees for loans raised at a credit institution to finance construction.
- Aid from the State to pay a proportion of capital expenditure on the loan at the credit institution – loan repayment subsidy.
- Aid from the State and local government to reduce rents for housing for young people – young people’s housing subsidy.

These elements of aid apply to social housing for both families and young people, apart from the young people’s housing subsidy, which is granted only for young people’s housing.

The extent of subsidised construction (the number of commitments and dwellings) is decided locally by local authorities on the basis of an assessment of local housing needs among the target groups for housing construction.

Public aid for new construction reflects the costs incurred in construction (acquisition price). The general rule is that the acquisition price must not exceed specified expenditure limits (a maximum sum per m² of floor area).

The acquisition price is financed as follows:

- Local authority base capital loan (14%).
- Annuity loan raised at a credit institution (84%).
- Resident's deposit (2%).

However, the local authority base capital loan has been reduced to 10% and the annuity loan raised to 88% until the end of 2020.

To promote smaller social housing for families, differentiated base capital applies for a two-year period to newly built social housing for families based on the average construction size.

The base capital is differentiated for social housing for families at 8, 10 or 12%. For family housing with an average size of less than 90 m², the local authority base capital is reduced to 8%, for family housing with an average size of between 90 m² and 105 m² the local authority base capital is reduced to 10%, and for family housing with an average size of 105 m² or more, it is reduced to 12% of the acquisition price of the building until the end of 2020.

The local authority lends the *base capital* to the National Building Fund, which in turn lends it to the organisation/housing division concerned.

The base capital loan is interest-free. It is paid in instalments when, in the opinion of the Fund, the economic situation of the property so allows, including when the finances of the property can be improved by reprioritisation or when changed circumstances relating to the construction project favour so doing, for example a rise in the general level of rents.

The State pays a *loan repayment subsidy* for the partial financing of capital expenditure on the loan raised by the housing organisation at a credit institution. The loan is raised on general market terms.

The State provides a 100% guarantee for mortgage loans during the duration of the loans. In return, the mortgage credit institutions pay regular fees to the State. The guarantee fee is set at 0.12% of the principal and corresponds to the value of the State guarantee.

In addition, in order to ensure quality lending, a 'remuneration fee' has been introduced. Mortgage credit institutions pay 0.03% of the principal to the State. If the State in a given

year suffers losses from the guarantees provided, it retains all or part of that year's paid remuneration fee.

The local authority additionally provides a *guarantee* for the part of the credit institution loan secured by a mortgage exceeding 60% of the value of the property. The guarantee is provided as a counter guarantee in respect of the State guarantee. The guarantee is not provided on market terms.

Finally all new tenants pay a *cash deposit* totalling 2% of the acquisition price on moving in. This sum is repaid when the tenant moves out.

The State loan repayment subsidy is calculated as follows:

Residents annually pay a sum equivalent to 2.8% per annum of the acquisition price of the building as repayment on the annuity loan. The remainder of the repayment of the loan comes from the State as a loan repayment subsidy. This subsidy is paid directly to the lending credit institution. The residents' payments are index-linked at the prevailing inflation rate for 20 years and, subsequently, at three-quarters of this rate for the next 25 years. The residents' payments are thus index-linked for 45 years. This means that the residents' payments are independent of the actual loan instalments and, all other things being equal, the public aid falls in line with the indexing of residents' payments. If the residents' payments exceed the loan instalments, the surplus accrues to the State during the first 40 years after the loans have been taken out.

Rent is not reduced when the loan expires, and a proportion of the revenue continues to be paid into the National Building Fund. The National Building Fund is an independent State institution governed by law, and the resources of the National Building Fund are used among things to reimburse State expenditure on repayment subsidies for new construction (25% of this is reimbursed at present), whereby part of the subsidy can be said to be repaid to the State over time. The National Building Fund additionally uses incoming revenue to finance various operating aid schemes in favour of housing divisions facing problems. The remaining revenues have to be paid into a cash reserve fund in the housing organisation. The funds in the cash reserve fund are used under current rules for purposes corresponding to those for which the National Building Fund provides financial assistance.

The State has statutory authority to require that the repayment subsidy be wholly or partially discontinued if the financial position of the property improves or changed circumstances relating to the construction project favour so doing, including a rise in the general level of rents. This option has, however, never been used to date.

For housing for young people, the State and local government can also provide a special grant to reduce rent in new-build housing for young people – young people's housing subsidy. This subsidy, which is not limited in time, is paid at a fixed annual sum per m² of gross floor area.

The State may, on terms equivalent to those applicable to the repayment subsidy, wholly or partially discontinue payment of the young people's housing subsidy.

In addition to the subsidy schemes mentioned above there are the following operating aid schemes:

- Tax exemption – social housing organisations are generally exempt from payment of corporation tax.
- Aid from the National Building Fund in the form of grants and loans on non-market terms to bring rents down in housing divisions facing problems.
- Aid from the local authority in the form of grants, as well as loans and guarantees, on non-market terms for purposes similar to those for which the Fund provides aid.

The above-mentioned aid applies to social housing both for families and for young people.

The tax exemption applies universally to the organisations mentioned, and is not limited in time.

The National Building Fund's operating aid schemes are to contribute to rectifying housing divisions that have faced problems of a financial, social or other nature. The schemes are regulated in more detail in legislation and in administrative regulations issued pursuant thereto. Aid is provided in the form of loans, grants and repayment subsidies on the annuity loan raised by the housing organisation at a credit institution. Generally speaking, the aid is provided for purposes which would otherwise be fully financed by residents through their rent payments. The housing organisation cannot use the operating aid for purposes other than those for which the aid is provided.

The local authority operating aid schemes principally consist in co-financing of the purposes for which the National Building Fund provides aid.

*Typical **compensation mechanism** as regards the respective SGEI services and whether a methodology based on cost allocation or the net avoided cost methodology is used.*

Public aid for new construction is calculated on the basis of costs incurred in construction (acquisition price).

The general rule is that the acquisition price must not exceed specified expenditure limits (a maximum sum per m² of floor area).

Public aid consists of the following elements: Repayment subsidy to reduce repayments on the annuity loan the housing organisations raise to finance the acquisition price of the construction project, a guarantee in respect of part of the loan as mentioned and a special loan free of payment of interest and principal (base capital loan), which is also raised to

finance the acquisition price. The last part of the acquisition price is paid by the residents themselves in the form of residents' cash deposits.

Residents' payments on the annuity loan are laid down in the legislation as a percentage of the total acquisition price. The public aid for the loan accordingly represents the difference between fixed residents' payments and the remaining payment on the loan.

Residents' own payments – and consequently public aid – is fixed from the outset at a level judged to be appropriate in terms of the housing organisations being able to let the dwellings to the target groups for housing construction.

Residents' own payments are automatically index-linked according to specified rules. Public aid is matched to these payments. The residents' payments are index-linked for 45 years.

If public aid was not available, residents would have to repay in full from the outset the loans raised to finance the housing construction. This would lead to rents of such a level that it would not be possible for the apartments to be let to the target groups mentioned. Aid is, therefore, 'earmarked' to reduce rent for residents.

After 40 years, when the raised loan has matured, residents' payments are not reduced. Two-thirds of the revenue gained in this way are returned to the National Building Fund/the State, covering part of the State repayment subsidy for new building construction and otherwise subsidising the public sector, as the funds are retained in the sector.

The special (supplementary) operating aid mentioned above, primarily granted by the National Building Fund, is to be regarded as specific 'emergency assistance' for organisations that have faced, or are judged likely to face, substantial economic and/or social problems resulting in difficulties in letting housing that are so serious that they threaten the continued existence of the housing division. This aid is also 'earmarked' to reduce rent for residents.

This 'earmarking' also means that housing organisations cannot use this public aid for other purposes.

In the case of the repayment subsidy, the State pays the aid directly to the lending credit institution. The credit institution typically has security in the property and pays the loan as the housing construction progresses.

From the point of view of the base capital loan, the housing organisation's auditor checks when auditing the accounts that the amount of the loan has been used to cover the costs incurred by the construction of the housing. The housing organisation accounts, which are to contain all expenditure and revenue in connection with housing construction, have to

be submitted, duly signed by the auditor, to the local authority that has made the commitment to provide public aid.

Typical arrangements for avoiding and repaying any overcompensation.

Aid for new housing construction is arranged in such a way that the construction project is from the outset 'born with a subsidy', helping to reduce residents' payments on the loans raised to finance construction. The aid is thus from the outset 'earmarked' for reductions in rent for residents. At the same time, this public aid is automatically reduced over time and ceases completely after a number of years equivalent to the term of the raised loan.

Regular adjustments are made to the general level of aid for social housing construction. However, the adjustment mentioned does not take place pursuant to actual auditing provisions in the legislation.

The legislative follow-up referred to helps to ensure that only that aid which is necessary and sufficient to fulfil the purpose of the housing organisations and particular obligations is granted.

There are requirements in the legislation that the social housing organisations must operate the housing in a sound and effective manner. There are also requirements that the administrative costs must be kept to the lowest possible level, while at the same time meeting the interests of residents. In addition to the general auditing of its accounts, the housing organisation is subject to special rules on self-monitoring and administrative review.

The auditor of the housing organisation checks, when auditing the housing organisation's accounts, that these special obligations have been fulfilled. Accounting records are submitted annually for examination by the supervisory local authority.

These rules help to prevent housing organisations from facing economic problems and thereby ensure that the aid granted continues to fulfil its purpose. At the same time, there is less of a need for special operating aid from the National Building Fund. It should be noted in this respect that the National Building Fund normally only grants operating aid if there are serious economic problems and if the supervisory local authority makes a financial contribution.

As public aid for new social housing construction is, as mentioned above, fixed from the outset at a level deemed necessary and sufficient for the housing organisations to be able to let the dwellings to the target groups for housing construction, as the aid is also tied to a single cost element – namely the acquisition price of the housing construction – and as the aid is continuously scaled down until it ceases completely, issues of 'overcompensation' and consequently also of repayment of aid do not arise.

There is statutory authority for the regular payments of aid (repayment subsidy) to be wholly or partially discontinued if the financial position of the property improves or changed circumstances for the construction projection so dictate, including a rise in the general level of rents. Similarly, it may be required that repayment of the loan free of payment of interest and principal, granted in connection with construction of the housing (base capital loan), starts earlier than anticipated. This provision for adjusting aid conditions has not as yet been utilised in practice, partly because of the automatic scaling-down of the repayment subsidy mentioned above and partly because older housing construction projects typically have greater renovation and maintenance needs than new projects, and this work has to be paid for by residents through increases in their rent payments.

The fact that residents' rent payments are not reduced when the annuity loan has been paid off (has matured) is also part of the overall picture. Instead, two-thirds of the revenue acquired is paid to the National Building Fund.

*A short explanation of how the **transparency requirements** (see Article 7 of the 2012 SGEI Decision) for the aid above EUR 15 million to undertakings that also have activities outside the scope of the SGEI are being complied with. In your answer please also include some relevant examples of information published for this purpose (e.g. some links to websites or other references), indicate whether you have a central website on which you publish this information for all aid measures concerned in your Member State (and if so provide the link to this website), or alternatively explain if and how the publication takes place at the level granting the aid (e.g. central, regional or local level).*

The principal purpose of the housing organisations is to construct, let, manage, maintain and modernise housing that is covered by the Social Housing Act (or earlier laws on subsidised housing construction).

In addition, under the above-mentioned law, housing organisations may carry out limited activities that are naturally linked to housing and management of housing, or that are based on the knowledge the housing organisation has accumulated from its activities (secondary activities).

A set of rules has been issued that exhaustively describes the ancillary (secondary) activities housing organisations can undertake in addition to their principal undertaking.

A number of secondary activities have to take place in special secondary activity divisions which are economically independent of the housing organisation and the housing divisions. Separate accounts have to be submitted for these divisions, and a number of special rules have been laid down for these secondary activity divisions. The principal purpose is to ensure that financial dealings between the housing organisation and the divisions mentioned take place on market terms.

In the case of certain secondary activities there are more stringent rules which dictate that these must be undertaken only in independent companies (a public limited company or a

private limited company), which are liable to tax. The housing organisations' investments in these companies have to be made according the principles of market economics with a view to obtaining a normal rate of return on the funds invested. These companies are fully liable for tax. The principal aim of these rules is to prevent any distortion of competition.

In the case of a few secondary activities which are either very closely linked to the core activities (principal object) of the housing organisation, but are not core activities, or are very limited in extent, there is no requirement to set up a separate division of the housing organisation or an independent company liable to tax.

Both the supervisory local authority and the housing organisation's auditor have to check that the housing organisation does not carry out activities other than the permitted principal and secondary activities and complies with the special rules on economic separation of secondary activities which are predominantly of a commercial nature.

Aid amount

Total amount of aid granted (in millions EUR)⁸. This includes all aid granted in your territory, including aid granted by regional and local authorities. (A+B+C)

2018	2019
Current exchange rate: EUR 100 = DKK 745.00	Current exchange rate: EUR 100 = DKK 745.00
DKK 1 193.5 million/7.45 = EUR 160.2 million (municipal authorities and governmental authorities)	DKK 979.0 million/7.45 = EUR 131.4 million (municipal authorities and governmental authorities)
<i>A: Total amount of aid granted (in millions EUR) paid by national central authorities⁹</i>	
2018	2019
72.2	62.8
<i>B: Total amount of aid granted (in millions EUR) paid by regional authorities¹⁰</i>	
2018	2019
0.0	0.0
<i>C: Total amount of aid granted (in millions EUR) paid by local authorities¹¹</i>	
2018	2019

⁸ As stipulated in Article 9 b) of the 2012 SGEI Decision.

⁹ If the aid amount cannot be split between central, regional and local authorities, only the total amount of aid granted for all authorities should be reported.

¹⁰ See footnote **Error! Bookmark not defined..**

¹¹ See footnote **Error! Bookmark not defined..**

88.0	82.3
<i>Share of expenditure per aid instrument (direct subsidies, guarantees, etc.) (if available)</i>	
2018	2019
Local authority base capital loan: EUR 88.0 million State loan repayment subsidy: EUR 72.2 million	Local authority base capital loan: EUR 82.3 million State loan repayment subsidy: EUR 62.8 million
<i>Additional quantitative information (e.g. number of beneficiaries per sector, average aid amount, size of the undertakings)¹²</i>	
2018	2019
-	-

¹² The Commission would welcome any data that you might have on aid granted under the 2012 SGEI Decision, for example the number of beneficiaries per sector, average amount of aid, amount per aid instrument (direct subsidies, guarantees, etc.), size of the undertakings, etc. Should such other quantitative information data not be readily available in your Member State, they can of course be presented in a more aggregated and/or estimated way. In that case please indicate that estimations have been used as well as the type of aggregation made.

Public service compensation in the form of pilotage in certain Danish ports

<i>Clear and comprehensive description of how the respective services are organized in your Member State¹³</i>
<i>Explanation of what kind of services in the respective sector have been defined as SGEI in your Member State. Please list the contents of the services entrusted as SGEI as clearly as possible.</i>
<p>The Danish pilotage market is primarily divided into transit pilotage and regional pilotage (see Section 3 of Act No 352 of 12 April 2016 – the Pilotage Act). Transit pilotage is pilotage that passes through Danish waters without visiting Danish ports, while regional pilotage either commences or terminates in a Danish port. The market for transit pilotage is the larger of the two by turnover, which is due to the fact that the largest ships are in this market and they pay the highest rates (see below).</p> <p>The largest actor in the Danish pilotage market is the state-owned pilotage company DanPilot. In 2019 the state-owned pilotage service performed around 22 000 pilotage operations and had an annual turnover of around DKK 480 million. Until 2014, DanPilot had an exclusive right to perform transit pilotage. From 2014 to 1 January 2020 DanPilot's exclusive right to perform transit pilotage was gradually phased out, with full open competition by 2020. There has been open competition in the area of regional pilotage since 2006.</p> <p>There is mandatory pilotage for ships with hazardous cargo, etc. Under international agreements DanPilot cannot impose mandatory pilotage on ships sailing through Danish waters. The mandatory pilotage for ships with hazardous cargo is thus only relevant to regional pilotage services. However, the International Maritime Organisation (IMO) recommends that in certain circumstances (depending on cargo, draught, etc.) ships use a pilot when passing through Danish waters, and the majority of ships comply with this recommendation.</p> <p>Fares</p> <p>DanPilot's pilotage fares for mandatory regional pilotage are laid down by regulation. The fare is calculated on the basis of a basic amount, the ship's length, width and draft, a mileage fee and travel expenses based on the first three amounts. The fares vary, then, which is why it is, for example, more expensive for large ships to use pilots and/or for lengthy pilotage.</p>

¹³ If in a certain sector only a small number of individual SGEIs exist in your Member State, we appreciate a detailed description of those services. If a large number of services are entrusted in a specific sector in your Member State (for example, because the competence lies with regional or local authorities), individual details of the entrustments would be disproportionate, but a clear and concise general description of the way the sector is organised including the common features of the individual entrustments remains crucial.

Universal service obligation

Under Section 19 of the Pilotage Act, DanPilot is obliged to provide pilotage to ships that may want it or are subject to mandatory pilotage. This universal service obligation may entail additional costs for DanPilot, as the necessary capacity must be maintained.

Compensation

A public service contract has been entered into between the Danish State (the Ministry of Industry, Business and Financial Affairs) and DanPilot, laying down the framework for how DanPilot may be compensated for costs relating to the universal service obligation. A condition for DanPilot's being able to receive compensation for the universal service obligation is that DanPilot can substantiate net costs associated with it. The compensation scheme has not yet been applied.

The public service contract has been entered into in accordance with EU rules on services of special economic interest.

*Explanation of the (typical) forms of **entrustment**. If standardised templates for entrustments are used for a certain sector, please attach them.*

DanPilot was entrusted with provision of the pilotage service, as the State pilotage service was legally converted into an independent public company, DanPilot, which took over the existing duties of the pilotage service under the Pilotage Act.

***Average duration of the entrustment (in years)**, and the proportion of entrustments that are **longer than 10 years** (in %) per sector. Specify in which sectors SGEI were entrusted with a duration exceeding 10 years and explain how this duration is justified.*

No duration for the entrustment is stated.

*Explanation whether (typically) **exclusive or special rights** are assigned to the undertakings.*

*Which **aid instruments** have been used (direct subsidies, guarantees, etc.)?*

No aid instruments have yet been used.

*Typical **compensation mechanism** as regards the respective SGEI services and whether a methodology based on cost allocation or the net avoided cost methodology is used.*

The compensation scheme has not yet been applied.

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

<p>A short explanation of how the transparency requirements (see Article 7 of the 2012 SGEI Decision) for the aid above EUR 15 million to undertakings that also have activities outside the scope of the SGEI are being complied with. In your answer please also include some relevant examples of information published for this purpose (e.g. some links to websites or other references), indicate whether you have a central website on which you publish this information for all aid measures concerned in your Member State (and if so provide the link to this website), or alternatively explain if and how the publication takes place at the level granting the aid (e.g. central, regional or local level).</p>	
<p>Aid amount</p>	
<p>Total amount of aid granted (in millions EUR)¹⁴. This includes all aid granted in your territory, including aid granted by regional and local authorities. (A+B+C)</p>	
2018	2019
0	0
<p>A: Total amount of aid granted (in millions EUR) paid by national central authorities¹⁵</p>	
2018	2019
<p>B: Total amount of aid granted (in millions EUR) paid by regional authorities¹⁶</p>	
2018	2019
<p>C: Total amount of aid granted (in millions EUR) paid by local authorities¹⁷</p>	
2018	2019
<p>Share of expenditure per aid instrument (direct subsidies, guarantees, etc.) (if available)</p>	
2018	2019

¹⁴ As stipulated in Article 9 b) of the 2012 SGEI Decision.

¹⁵ If the aid amount cannot be split between central, regional and local authorities, only the total amount of aid granted for all authorities should be reported.

¹⁶ See footnote **Error! Bookmark not defined..**

¹⁷ See footnote **Error! Bookmark not defined..**

<i>Additional quantitative information (e.g. number of beneficiaries per sector, average aid amount, size of the undertakings)¹⁸</i>	
<i>2018</i>	<i>2019</i>

¹⁸ The Commission would welcome any data that you might have on aid granted under the 2012 SGEI Decision, for example the number of beneficiaries per sector, average amount of aid, amount per aid instrument (direct subsidies, guarantees, etc.), size of the undertakings, etc. Should such other quantitative information data not be readily available in your Member State, they can of course be presented in a more aggregated and/or estimated way. In that case please indicate that estimations have been used as well as the type of aggregation made.

Public service compensation in the form of the capacity obligation concerning destruction of hazardous waste

Clear and comprehensive description of how the respective services are organized in your Member State ¹⁹
Explanation of what kind of services in the respective sector have been defined as SGEI in your Member State. Please list the contents of the services entrusted as SGEI as clearly as possible.
<p>This is aid not exceeding EUR 15 million per year for waste management (point 5 (iii))</p> <p>Section 49a of the Environmental Protection Act includes a provision that the Minister for Climate, Energy and Utilities may agree on a capacity obligation in return for payment with one or more undertakings to ensure that there is a capacity for the destruction of hazardous waste in Denmark.</p> <p>According to the explanatory notes, the intention is to conclude one or more capacity agreements requiring one or more undertakings to provide, in return for payment, a combined minimum capacity of approximately 100 000 tonnes of hazardous waste for disposal (destruction by incineration) annually. The capacity requirement is determined on the basis of an assessment of the maximum capacity necessary to ensure that the necessary capacity is available for the disposal of Danish hazardous waste for destruction by incineration in Denmark. However, this does not mean that capacity providers have an exclusive right to or are guaranteed treatment of this quantity of hazardous waste.</p> <p>The capacity requirement is assessed on the basis of information on, inter alia, quantities of hazardous waste disposed of by incineration at specialised and conventional incineration plants, information on exported quantities of notifiable waste to be disposed of and an estimate of response capacity for the handling of hazardous waste generated as a result of an accident.</p> <p>In the light of the provision in Section 49a of the Environmental Protection Act, two incineration plants have been contracted, in return for aid, to provide capacity for the incineration of hazardous waste, so that Denmark has national capacity for the incineration of hazardous waste. By concluding the contracts, Denmark is thus helping to solve the Community's need for hazardous waste treatment capacity, either by having capacity itself or by contributing to disposal.</p>

¹⁹ If in a certain sector only a small number of individual SGEIs exist in your Member State, we appreciate a detailed description of those services. If a large number of services are entrusted in a specific sector in your Member State (for example, because the competence lies with regional or local authorities), individual details of the entrustments would be disproportionate, but a clear and concise general description of the way the sector is organised including the common features of the individual entrustments remains crucial.

<p>A partial contract has been concluded for the destruction of large quantities (95 000 tonnes) and at least 10 different types of waste and a partial contract for the destruction of at least five specific fractions of hazardous waste (5 000 tonnes).</p> <p>Municipalities and undertakings are not obliged to use the plants, and the plants are not guaranteed to receive the quantity of waste in question for treatment. Capacity is not intended to be left unused and, in the case of excess capacity, the plants may use the capacity for other waste treatment or for the import of hazardous waste from abroad. However, hazardous waste from municipalities and companies in Denmark is given priority in the plant.</p>
<p>Explanation of the (typical) forms of entrustment. If standardised templates for entrustments are used for a certain sector, please attach them.</p>
<p>A contract was put out to tender to provide a capacity of 100 000 tonnes for the incineration of hazardous waste. Two bids were submitted, which together provided the capacity required, and an individual contract was signed with each plant, each providing two different quantities of waste. The aid to the plants will be paid according to the price the two plants offered for incinerating hazardous waste.</p>
<p>Average duration of the entrustment (in years), and the proportion of entrustments that are longer than 10 years (in %) per sector. Specify in which sectors SGEI were entrusted with a duration exceeding 10 years and explain how this duration is justified.</p>
<p>A contract was concluded for the payment of aid over a period of nine years starting in 2015, with two payments per year.</p>
<p>Explanation whether (typically) exclusive or special rights are assigned to the undertakings.</p>
<p>There are no exclusive or special rights.</p>
<p>Which aid instruments have been used (direct subsidies, guarantees, etc.)?</p>
<p>A subsidy is paid directly to the two incineration plants twice a year.</p>
<p>Typical compensation mechanism as regards the respective SGEI services and whether a methodology based on cost allocation or the net avoided cost methodology is used.</p>
<p>The subsidy to the two incineration plants is calculated on the basis of the cost allocation method.</p> <p>The aid for the two plants is calculated as the quantity multiplied by the price of incinerating hazardous waste per tonne as set out in the contracts concluded. The price is adjusted annually in line with the general price and wage index.</p>

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

It follows from the preparatory work to Section 49a of the Environmental Protection Act that:

‘As regards mechanisms for preventing overcompensation, the agreement must set out conditions which ensure that the payment is not higher than that permitted under EU State aid rules, including the Commission Decision of 20 December 2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest (2012/21/EU).’

It is clear from the contracts concluded that the two incineration plants must submit annually a separate account for the incineration of waste covered by the contract.

The separate account must:

- comply with the accounting requirements for undertakings which are required to keep separate accounts under Article 1(2) and Article 4 of Directive 2006/111/EC on the transparency of financial relations between Member States and public undertakings as well as on financial transparency within certain undertakings;
- be drawn up on the basis of the same principles as the capacity provider’s annual accounts and must be consistent with them;
- comply with the Commission Decision of 20 December 2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest;
- allocate costs and revenues between the activities covered by the contract and the plant’s other activities;
- be accompanied by an auditor’s opinion stating that the requirements and principles set out in the contract have been met and that the procedures and related checks have operated satisfactorily.

On the basis of the separate account for each plant, the Danish Energy Agency (Energistyrelsen) must assess whether:

- the aid was used for the quantity of hazardous waste to be incinerated under the contract, i.e. there was no overcompensation;

- the aid was exclusively allocated to quantities of hazardous waste to be incinerated under the contract and to the incineration of other waste so as to ensure that there was no cross-subsidisation.

The contracts state that the capacity in the contracts will be adjusted to the extent that the basis for calculation (generation of hazardous waste) changes significantly. The agreed capacity is increased or reduced by up to 10% per calendar year, subject to a maximum of 50% of the capacity originally agreed.

A short explanation of how the **transparency requirements** (see Article 7 of the 2012 SGEI Decision) for the aid above EUR 15 million to undertakings that also have activities outside the scope of the SGEI are being complied with. In your answer please also include some relevant examples of information published for this purpose (e.g. some links to websites or other references), indicate whether you have a central website on which you publish this information for all aid measures concerned in your Member State (and if so provide the link to this website), or alternatively explain if and how the publication takes place at the level granting the aid (e.g. central, regional or local level).

Not relevant, as the aid paid to both plants is under EUR 15 million.

Aid amount

Total amount of aid granted (in millions EUR)²⁰. This includes all aid granted in your territory, including aid granted by regional and local authorities. (A+B+C)

2018	2019
A: Total amount of aid granted (in millions EUR) paid by national central authorities ²¹	
2018	2019
EUR 4.003 million	EUR 4.005 million
B: Total amount of aid granted (in millions EUR) paid by regional authorities ²²	
2018	2019
C: Total amount of aid granted (in millions EUR) paid by local authorities ²³	
2018	2019

²⁰ As stipulated in Article 9 b) of the 2012 SGEI Decision.

²¹ If the aid amount cannot be split between central, regional and local authorities, only the total amount of aid granted for all authorities should be reported.

²² See footnote **Error! Bookmark not defined..**

²³ See footnote **Error! Bookmark not defined..**

Share of expenditure per aid instrument (direct subsidies, guarantees, etc.) (if available)	
2018	2019
Not relevant	Not relevant
Additional quantitative information (e.g. number of beneficiaries per sector, average aid amount, size of the undertakings) ²⁴	
2018	2019
2 plants	2 plants
Plant 1: EUR 3.794 million	Plant 1: EUR 3.794 million
Plant 2: EUR 0.209 million	Plant 2: EUR 0.211 million

²⁴ The Commission would welcome any data that you might have on aid granted under the 2012 SGEI Decision, for example the number of beneficiaries per sector, average amount of aid, amount per aid instrument (direct subsidies, guarantees, etc.), size of the undertakings, etc. Should such other quantitative information data not be readily available in your Member State, they can of course be presented in a more aggregated and/or estimated way. In that case please indicate that estimations have been used as well as the type of aggregation made.

Description of the application of the 2012 SGEI Framework

Public service compensation granted to maritime links to islands

The Danish Ministry of Transport and Housing is still unaware of there now being public service compensation State aid schemes in Denmark that are covered by Commission Decision 2012/21/EU or the SGEI Framework (2012/C 8/03).

The Ministry currently administers three contracts for services of general economic interest in the area of maritime transport:

- Contract of 24 June 2013 for ferry services between Bøjden and Fynshav
- Contract of 24 June 2013 for ferry services between Samsø and Kalundborg
- Contract for ferry services to and from Bornholm from 13 February 2009.
 - That contract ended on 31 August 2018.
- Contract for ferry services to and from Bornholm of 21 June 2016 starting operations on 1 September 2018.

It is the view of the Ministry of Transport and Housing that the compensation granted pursuant to these contracts is not covered by the Commission Decision or SGEI Framework because the Ministry considers that the compensation does not constitute State aid. This is because it fulfils all four of the conditions set out in Case C-280/00, *Altmark Trans GmbH and Regierungspräsidium Magdeburg v Nahverkehrsgesellschaft Altmark GmbH*. It should be particularly noted in this context that all three contracts were put out to EU-wide tender, and it is the Ministry's view that competition in connection with the tendering for the contracts has ensured that no overcompensation takes place.

The Ministry has, however, chosen to provide the information in the following table.

<i>Clear and comprehensive description of how the respective services are organized in your Member State²⁵</i>
<i>Explanation of what kind of services in the respective sector have been defined as SGEI in your Member State. Please list the contents of the services entrusted as SGEI as clearly as possible.</i>

²⁵ If in a certain sector only a small number of individual SGEIs exist in your Member State, we appreciate a detailed description of those services. If a large number of services are entrusted in a specific sector in your Member State (for example, because the competence lies with regional or local authorities), individual details of the entrustments would be disproportionate, but a clear and concise general description of the way the sector is organised including the common features of the individual entrustments remains crucial.

Ferry services and associated services such as ticket sales, etc.
<i>Explanation of the (typical) forms of entrustment. If standardised templates for entrustments are used for a certain sector, please attach them.</i>
Entrustments typically take place by means of contracts concluded following an EU-wide invitation to tender.
<i>Average duration of the entrustment (in years), and the proportion of entrustments that are longer than 10 years (in%) per sector. Specify in which sectors SGEI were entrusted with a duration exceeding 10 years and explain how this duration is justified.</i>
<p>The Ministry of Transport and Housing administers:</p> <ul style="list-style-type: none"> • Two contracts of ten years' duration with the option to extend the contracts by one year. • One contract of 10 years' duration with the option of one or two year's extension. The two-year option was exercised on 22 October 2019, which is why the contract for ferry services to and from Bornholm expires in 2030.
<i>Explanation whether (typically) exclusive or special rights are assigned to the undertakings.</i>
The relevant ferry berths may be reserved for the operators at those times laid down in the schedule applicable at the time.
<i>Which aid instruments have been used (direct subsidies, guarantees, etc.)?</i>
Monthly contractual payments.
<i>Typical compensation mechanism as regards the respective SGEI services and whether a methodology based on cost allocation or the net avoided cost methodology is used.</i>
Method: The size of the compensation in the Ministry's ferry contracts is based on the winning tenderer's bid. The individual tenderer decides for itself which calculation methodology to use to establish the bid price. The contract payment under the most recent contract for ferry services to and from Bornholm was established in the tender documents, according to which the tenderers should offer the largest reduction in ticket prices.

Typical arrangements for avoiding and repaying any overcompensation.	
<p>Method: The Ministry's ferry contracts were put out to EU-wide tender with a view to preventing overcompensation. The procedure for the Ministry's ferry contracts was such that from 13 February 2009 (deadline) the tenderers in the three oldest contracts, including Bøjden-Fynshav, Samsø-Kalundborg and Bornholm, offered a price and were awarded compensation accordingly, irrespective of whether delivery of the services proves to be more expensive or less expensive than expected. Moreover, the tenderers in the existing 2016 contract for ferry services to and from Bornholm offered the largest reduction in ticket prices, irrespective of whether delivery of that reduction leads in practice to a larger or smaller number of ticket sales than expected. The operators thus assume the risk of its proving more expensive than expected to deliver the services concerned, but there is no repayment if it proves to be less expensive than expected to deliver the relevant services. The Ministry considers such a potential profit margin to be within the bounds of reasonable profit, as the operators simultaneously assume the risk of sustaining a loss.</p>	
<p><i>A short explanation of how the transparency requirements (see Article 7 of the 2012 SGEI Decision) for the aid above EUR 15 million to undertakings that also have activities outside the scope of the SGEI are being complied with. In your answer please also include some relevant examples of information published for this purpose (e.g. some links to websites or other references), indicate whether you have a central website on which you publish this information for all aid measures concerned in your Member State (and if so provide the link to this website), or alternatively explain if and how the publication takes place at the level granting the aid (e.g. central, regional or local level).</i></p>	
<p>This point is not relevant to this reporting because, as explained above, the Ministry considers that its ferry contracts are not covered by the SGEI Framework.</p>	
Aid amount	
<p>Total amount of aid granted (in millions EUR)²⁶. This includes all aid granted in your territory, including aid granted by regional and local authorities. (A+B+C)</p>	
2018	2019
A: Total amount of aid granted (in millions EUR) paid by national central authorities²⁷	

²⁶ As stipulated in Article 9 b) of the 2012 SGEI Decision.

²⁷ If the aid amount cannot be split between central, regional and local authorities, only the total amount of aid granted for all authorities should be reported.

2018	2019
DKK 360 433 144.80* (EUR 48.32 million)**	DKK 425 647 884.71* (EUR 57.06 million)**
<i>B: Total amount of aid granted (in millions EUR) paid by regional authorities²⁸</i>	
2018	2019
<i>C: Total amount of aid granted (in millions EUR) paid by local authorities²⁹</i>	
2018	2019
<i>Share of expenditure per aid instrument (direct subsidies, guarantees, etc.) (if available)</i>	
2018	2019
<i>Additional quantitative information (e.g. number of beneficiaries per sector, average aid amount, size of the undertakings)³⁰</i>	
2018	2019
4 contracts	3 contracts

* The amount is not made up of the aid but of the contract payment for the year in question.

** Converted at rate of 7.46.

²⁸ See footnote **Error! Bookmark not defined..**

²⁹ See footnote **Error! Bookmark not defined..**

³⁰ The Commission would welcome any data that you might have on aid granted under the 2012 SGEI Decision, for example the number of beneficiaries per sector, average amount of aid, amount per aid instrument (direct subsidies, guarantees, etc.), size of the undertakings, etc. Should such other quantitative information data not be readily available in your Member State, they can of course be presented in a more aggregated and/or estimated way. In that case please indicate that estimations have been used as well as the type of aggregation made.

Public service compensation to airports

<i>Clear and comprehensive description of how the respective services are organized in your Member State³¹</i>
<i>Explanation of what kind of services in the respective sector have been defined as SGEI in your Member State. Please list the contents of the services entrusted as SGEI as clearly as possible.</i>
Bornholm Airport has a public service obligation. The airport must ensure a high level of security (with landing aids and installations, air traffic control, etc.), remain open to meet the need for scheduled passenger air transport services, perform any necessary infrastructure operations (e.g. transportation of post and individuals) and ensure that the infrastructure is maintained and the necessary capacity made available.
<i>Explanation of the (typical) forms of entrustment. If standardised templates for entrustments are used for a certain sector, please attach them.</i>
The SGEI entrustment is through an agreement between the Danish Transport, Building and Housing Authority and Bornholm Airport. The agreement has been in force since 2014 and has been amended from time to time. The most recent version is dated 27 April 2020.
<i>Average duration of the entrustment (in years), and the proportion of entrustments that are longer than 10 years (in%) per sector. Specify in which sectors SGEI were entrusted with a duration exceeding 10 years and explain how this duration is justified.</i>
The existing entrustment agreement between the Transport, Building and Housing Authority and Bornholm Airport applies from 1 January 2017 to 31 December 2020.
<i>Explanation whether (typically) exclusive or special rights are assigned to the undertakings.</i>
Through the notified agreement, the obligation to deliver a public service is entrusted to Bornholm Airport. The content and duration of the obligation and the principles according to which compensation is to be calculated are specified in the agreement.
<i>Which aid instruments have been used (direct subsidies, guarantees, etc.)?</i>

³¹ If in a certain sector only a small number of individual SGEIs exist in your Member State, we appreciate a detailed description of those services. If a large number of services are entrusted in a specific sector in your Member State (for example, because the competence lies with regional or local authorities), individual details of the entrustments would be disproportionate, but a clear and concise general description of the way the sector is organised including the common features of the individual entrustments remains crucial.

The compensation is in the form of direct subsidies.	
<i>Typical compensation mechanism as regards the respective SGEI services and whether a methodology based on cost allocation or the net avoided cost methodology is used.</i>	
<p>The compensation scheme is based on the cost allocation methodology.</p> <p>The compensation is established on 1 January of each year. It is calculated on the basis of the airport's expected net turnover, i.e. the airport's costs, minus revenue from the areas for which compensation is provided.</p> <p>The compensation is paid in 12 instalments at the end of each month and is adjusted on 1 January of each year in accordance with the principles of this agreement. The compensation is determined by the Finance Act and may be amended in the course of the year only if this is entered in the Supplementary Appropriations Act. Each year, accounts are prepared in the light of the compensation granted. These accounts form part of the Airport's overall accounts, which are audited by the Danish National Audit Office.</p>	
<i>Typical arrangements for avoiding and repaying any overcompensation.</i>	
The compensation must not exceed what is necessary to cover the costs of maintaining/ensuring a high level of safety in relation to fulfilling the public service obligations. In the event of overcompensation being paid for one year, this is offset in the following year (N+2).	
<i>A short explanation of how the transparency requirements (see Article 7 of the 2012 SGEI Decision) for the aid above EUR 15 million to undertakings that also have activities outside the scope of the SGEI are being complied with. In your answer please also include some relevant examples of information published for this purpose (e.g. some links to websites or other references), indicate whether you have a central website on which you publish this information for all aid measures concerned in your Member State (and if so provide the link to this website), or alternatively explain if and how the publication takes place at the level granting the aid (e.g. central, regional or local level).</i>	
On Bornholm Airport's website, there is a reference to the legal basis for the aid amount in the Finance Act: http://bornholms-lufthavn.dk/Lufthavn/Statsstoette .	
Aid amount	
Total amount of aid granted (in millions EUR)³². This includes all aid granted in your territory, including aid granted by regional and local authorities. (A+B+C)	
2018	2019

³² As stipulated in Article 9 b) of the 2012 SGEI Decision.

EUR 3.48 (DKK 26)	EUR 3.44 (DKK 25.7)
A: Total amount of aid granted (in millions EUR) paid by national central authorities³³	
2018	2019
EUR 3.48 (DKK 26)	EUR 3.44 (DKK 25.7)
B: Total amount of aid granted (in millions EUR) paid by regional authorities³⁴	
2018	2019
C: Total amount of aid granted (in millions EUR) paid by local authorities³⁵	
2018	2019
The whole amount is given in the form of direct subsidies.	The whole amount is given in the form of direct subsidies.
Share of expenditure per aid instrument (direct subsidies, guarantees, etc.) (if available)	
2018	2019
Additional quantitative information (e.g. number of beneficiaries per sector, average aid amount, size of the undertakings)³⁶	
2018	2019

³³ If the aid amount cannot be split between central, regional and local authorities, only the total amount of aid granted for all authorities should be reported.

³⁴ See footnote **Error! Bookmark not defined..**

³⁵ See footnote **Error! Bookmark not defined..**

³⁶ The Commission would welcome any data that you might have on aid granted under the 2012 SGEI Decision, for example the number of beneficiaries per sector, average amount of aid, amount per aid instrument (direct subsidies, guarantees, etc.), size of the undertakings, etc. Should such other quantitative information data not be readily available in your Member State, they can of course be presented in a more aggregated and/or estimated way. In that case please indicate that estimations have been used as well as the type of aggregation made.

MISCELLANEOUS

a. *We kindly invite you to indicate whether your authorities have experienced difficulties in applying the 2012 SGEI Decision and ask you to in particular consider the following issues:*

- *drawing up an entrustment act that complies with Article 4 of the SGEI Decision;*
 - *specifying the amount of compensation in line with Article 5 of the SGEI Decision;*
 - *determining the reasonable profit level in line with Article 5(5)-(8) of the SGEI Decision;*
 - *regularly checking overcompensation as required by Article 6 of the SGEI Decision;*
- Please be as specific as possible in your reply, include relevant examples and, if applicable, the sector for which the difficulties are (most) relevant.*

b. *We kindly invite you to indicate whether your authorities have experienced difficulties in applying the 2012 SGEI Framework and ask you to in particular consider the following issues:*

- *carrying out a public consultation in line with paragraph 14 of the SGEI Framework;*

Denmark considered that a public consultation did not need to be conducted. According to the Danish authorities, such a consultation would essentially have dealt with the question of whether or not the airport should remain open.

- *complying with public procurement rules in line with para 19 of the SGEI Framework;*

Not relevant

- *determining the net avoided cost as required by paras 25-27 of the SGEI Framework;*

The 'net avoided cost' methodology requires the undertaking's revenue and expenditure to be established in a hypothetical scenario that does not include the delivery of services of general economic interest. As far this case is concerned, the service of general economic interest is, however, the primary activity conducted at the airport. The services not covered by the entrustment (other commercial activities) are dependent on there being a service of general economic interest. No relevant hypothetical scenario can therefore be used where only the other activities are conducted by the airport. The 'net avoided cost' methodology cannot therefore be used.

- *determining the reasonable profit level in line with paras 33-38 of the SGEI Framework;*

No profit has been factored into the compensation paid to the operator. The compensation paid does not cover all the expenditure in connection with the aid-receiving activities.

Please be as specific as possible in your reply, include relevant examples and, if applicable, the sector for which the difficulties are (most) relevant.

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

On 14 February 2018, the Commission agreed that the compensation provided by the Danish Government to the operator for fulfilling its public service obligations at Bornholm Airport under the entrustment met the conditions of the SGEI Framework and the Aviation Guidelines and that it was therefore compatible with Article 106(2) TFEU.

Complaints by third parties

Please provide an overview of complaints by third parties, in particular litigation before national courts, regarding measures within the scope of the 2012 SGEI Decision or 2012 SGEI Framework. Please be as specific as possible in your reply and include the sector for which you have received the complaints, the contents of the complaints and the possible follow-up by your authorities or the likely outcome of the court proceedings.

No complaints by third parties, including litigation before national courts, have been registered.

Miscellaneous

Where **public service compensation granted to airports** is concerned, we would refer in particular to the answer on page 32. Where the other schemes are concerned, we can provide the following information:

a. We kindly invite you to indicate whether your authorities have experienced difficulties in applying the 2012 SGEI Decision and ask you to in particular consider the following issues:

- drawing up an entrustment act that complies with Article 4 of the SGEI Decision;
 - specifying the amount of compensation in line with Article 5 of the SGEI Decision;
 - determining the reasonable profit level in line with Article 5(5)-(8) of the SGEI Decision;
 - regularly checking overcompensation as required by Article 6 of the SGEI Decision;
- Please be as specific as possible in your reply, include relevant examples and, if applicable, the sector for which the difficulties are (most) relevant.

The Danish authorities have not encountered difficulties in connection with the above.

b. We kindly invite you to indicate whether your authorities have experienced difficulties in applying the 2012 SGEI Framework and ask you to in particular consider the following issues:

- carrying out a public consultation in line with paragraph 14 of the SGEI Framework;
 - complying with public procurement rules in line with para 19 of the SGEI Framework;
 - determining the net avoided cost as required by paras 25-27 of the SGEI Framework;
 - determining the reasonable profit level in line with paras 33-38 of the SGEI Framework;
- Please be as specific as possible in your reply, include relevant examples and, if applicable, the sector for which the difficulties are (most) relevant.

The Danish authorities have not encountered difficulties in connection with the above.

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

The Danish authorities have no other comments on the application of the SGEI Decision and the SGEI Framework.