



Paris, 7 September 2016

## NOTE FROM THE FRENCH AUTHORITIES

**Subject:** Report on the implementation of Article 9 of the 2012 SGEI Decision and paragraph 62 of the 2012 SGEI Framework.

**Ref.:**

**Enc.:**

*The local authority tables contain figures for 6 out of the 13 regions. Figures for the other 7 regions will be forwarded to you on receipt.*

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## **Expenditure overview**

Please complete the following table:

<b>General SGEI government expenditure by functions (millions EUR)</b>		
<b><i>Compensation for Services of General Economic Interest (1+2)</i></b>	2014	2015
(1) Compensation granted on the basis of the SGEI Decision		
(2) Compensation granted on the basis of the SGEI Framework		

## **1. Description of the application of the 2012 SGEI Decision**

### **1.1. Hospitals (Article 2(1)(b)) and social services (Article 2(1)(c)), health and long-term care**

#### **Clear and comprehensive description of how the respective services are organised in your Member State**

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.

Article L.6111-1 of the Public Health Code entrusts every healthcare establishment with the task of providing ‘diagnosis, monitoring and treatment of the sick, the injured and pregnant women’.

Healthcare establishments ‘shall deliver care, where applicable palliative care, with or without accommodation, on an outpatient basis or at home ... They shall participate in the coordination of care with members of health professions in local practices and with medico-social establishments and services, in the context defined by the regional health agency in consultation with the departmental councils in their respective areas of responsibility.’

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

The entrustment requires establishments to conclude a multiannual objectives and resources contract (*contrat pluriannuel d’objectifs et de moyens* – CPOM) with the regional health agencies, which are decentralised health authorities. Healthcare establishments are also subject to authorisation for the care activities they provide. These authorisations are issued by the regional health agencies. A standard CPOM template is annexed to this report (ANNEX 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?

The CPOM is concluded for a term of five years (Article L.6114-1 of the Public Health Code). No entrustment is longer than five years.

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

/

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

Public and private healthcare establishments receive funding from the mandatory health insurance schemes (see below).

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

**I. - For medical, surgical and obstetric activities**, there is a mixed system for funding healthcare establishments:

- Activity-based invoicing (*tarification à l'activité* – T2A) allows resources to be allocated according to the nature and volume of activities carried out by each establishment.
- The regional intervention fund (*fonds d'intervention régional* – FIR) and the allocation for tasks of general interest and contracting aid (*missions d'intérêt général et d'aide à la contractualisation* – MIGAC) finance those tasks that fall outside the general principle of activity-based invoicing (research, training, etc.).

As a result, there are two compensation mechanisms:

### ***1. Core funding through national rates***

The medicalisation of information systems programme (*programme de médicalisation des systèmes d'information* – PMSI) allows each patient's hospital stay to be categorised within a homogeneous patient group, which corresponds to one or more homogeneous hospital stay groups.

For each invoiced hospital stay, healthcare establishments are remunerated based on national rates set by an order of the ministers for health and social security. The resources allocated are therefore determined according to the activity performed.

### ***2. Supplementary funding through grants or appropriations***

Supplementary funding can come from several sources:

#### ***- The allocation for financing tasks of general interest and contracting aid (missions d'intérêt général et d'aide à la contractualisation – MIGAC)***

The MIGAC budget covers a series of charges associated with provision of the public service that are difficult to quantify on a per-patient basis (preventive measures, screening) or that permanently exist, whatever the level of activity (constant care, emergency medical assistance service (SAMU), mobile liaison teams, etc.). Almost two-thirds of MIGAC grants are allocated on a 'full justification' basis. This method ensures the transparency and accuracy of grants.

#### ***- Regional intervention fund (fonds d'intervention régional – FIR)***

Other appropriations can be allocated to healthcare establishments for targeted and ad hoc support. The aim of the FIR is to offer regional health agencies greater management flexibility throughout the entire health, medico-social and prevention field. The regional health agencies' use of the FIR appropriations is set out in an annual balance sheet, contained in Annex 7 to the Social Security Funding Act (*loi de financement de la sécurité sociale* – LFSS).

**II. - For after-care and rehabilitation activities and psychiatry**, the funding mechanisms vary according to the legal status of the establishment:

*Public and private non-profit establishments*

These are funded through an **annual operating allocation (dotation annuelle de financement – DAF)**, which is provided for by law (Article L.174-1 of the Social Security Code). The budget for this allocation and its regional distribution are laid down by interministerial order. The appropriations are then distributed by the regional health agency on the basis of eight criteria listed in Article R.6145-26 of the Public Health Code (e.g. forecast development of the activity, guidelines of care organisation schemes, costs of the establishment compared with the costs of other establishments in the region, etc.).

*For-profit healthcare establishments*

These are funded on a **price-per-day** basis. The daily rates are provided for by Article L.162-22-1 of the Social Security Code. They are contractually set by the regional health agency through a rate amendment to the CPOM according to the tasks performed and costs forecast in the establishment's budget.

However, after-care activities are currently being reformed in order to fund healthcare establishments, whether public or private (non-profit and for-profit), through the same 'activity-based allocation, thereby ending the current dichotomy. The introduction of this new model will, however, be gradual.

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

In general terms, the rate-setting method enables any overcompensation to be avoided because it is based on the analysis of costs incurred by healthcare establishments for the various services covered by the mandatory health insurance schemes. The **national costs study** (*étude nationale des coûts – ENC*), which involves a common methodology, in principle ensures the absence of overcompensation, since the allocated amounts are mainly calculated using the rates resulting from the costs of the activity performed. Under the rate neutrality principle, rates must be as neutral as possible, by remaining as close as possible to costs.

In addition, Article L.162-22-18 et seq. of the Social Security Code provides for an **invoicing review mechanism**, which aims to ensure that the services invoiced by healthcare establishments correspond to the activity actually performed. In the event of non-compliance with the invoicing rules, a procedure for the health insurance fund to recover sums unduly received is applied, and penalties may also be imposed by the director-general of the regional health authority.

Appropriations from the MIGAC allocation are allocated in such a way that, as far as possible, they correspond to the tasks performed by healthcare establishments. The **full justification** approach helps to limit the risks of overcompensation. Moreover, the methodological guide to preparing CPOMs expressly refers to a non-overcompensation obligation, whatever the form of financing, and therefore enables regional health agencies to claim the reimbursement from establishments of sums unduly received.

At the request of the European Commission services, Article 111 of the Health System Modernisation Act of 26 January 2016 provides for a reform aimed at reinforcing monitoring of the absence of financial overcompensation. The monitoring mechanism requires the accounts of all public and private healthcare establishments to be sent to the regional health agencies so that the latter can recover any financial overcompensation paid. The accounts sent must comply with the principle of accounting separation between activities of general economic interest and other activities.

A short explanation of how the **transparency requirements** (see Article 7 of the 2012 SGEI Decision) for the aid above 15 million euro 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).

Rates are set in a collaborative and transparent manner and, in general, the financing model for healthcare establishments is produced in the same way. The methodology used is published on the website of the technical agency for hospitalisation information (*agence technique de l'information sur l'hospitalisation* – ATIH). Every year the financing of healthcare establishments is the subject of a detailed report submitted to Parliament under Article L.162-22-19 of the Social Security Code.

Furthermore, the amount allocated to healthcare establishments by the regional health agency is set out in an order published in the region's compendium of administrative acts, whatever the amount may be.

<b>Amount of aid granted</b>	
<b>Total amount of aid granted (in millions EUR).</b> This includes all aid granted in your territory, including aid granted by regional and local authorities. <b>(A+B+C)</b>	
<b>2014</b>	<b>2015</b>
<b>75 200</b>	<b>76 600</b>

## **1.2. Access to and reintegration into the labour market**

### ***1.2.1. National authorities***

**Clear and comprehensive description of how the respective services are organised in your Member State.**

**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.**

Employment Office:

- jobseeker support activities: four types of support: monitoring, guiding, reinforcing and comprehensive;
- recruitment support for undertakings: intermediation, specific schemes for micro-enterprises and SMEs;
- anticipation of labour market needs and developments;
- administrative and technical management activity (in relation to benefits and other aid, activities distinct from the aid itself).

APEC (Executive employment agency):

- aid for safeguarding the career paths of executives;
- safeguarding the recruitment of undertakings through appropriate information and advice;
- compilation and advertising of executive vacancies;
- development of a study and monitoring programme on the employment of executives.

Agefiph (Agency promoting employment of the disabled):

- raising of awareness and mobilisation of economic actors on the subject of disabilities;
- support and guidance for disabled jobseekers into and in employment;
- aid for undertakings in the recruitment and hiring of disabled jobseekers;
- aid for developing career plans, qualifications and vocational training policies;
- compensation for the consequences of disabilities; creation or takeover of businesses;
- prevention of occupational exclusion and aid for job retention.

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

Employment Office:

The public service is entrusted through the law (Article L.5312-1 of the Labour Code) and the tripartite agreement between the State, Unédic (National union for employment in industry and trade) and the Employment Office (2015-2018). The law clarifies the nature of the public service mission and also the scope and general operating conditions of the Employment Office, whereas the agreement defines the public service obligations to be fulfilled in a given period.

APEC:

The public service entrustment for APEC (2012-2016) sets out the public service tasks and indicates that the amount of the mandatory contribution received by APEC cannot exceed what is necessary to cover those tasks. The entrustment lays down the requirements in terms of separate cost accounting for commercial activities and public service activities, exclusive use of the mandatory contribution for public service activities, and compensation, avoidance and correction of any overcompensation.

Agefiph:

The public service is entrusted through the law (Article L.5214-1 et seq. of the Labour Code). The law lays down the methods of financing (contribution linked to the obligation to employ disabled workers), nature of the public service mission, and also the scope and general operating conditions of the institution. The multipartite multiannual national objectives and resources agreement (2014-2016) clarifies Agefiph's public service tasks in cooperation with other actors involved in the occupational integration of disabled workers.

Further to Article 208 of the Finance Act for 2011, the agreement of 3 January 2013 between the State and Agefiph also provides for the transfer of the annual declaration on the obligation to employ disabled workers. This agreement sets out the respective tasks of Agefiph (management and checking of declarations) and the State (monitoring of agreements on the obligation to employ disabled workers and application of administrative penalties) in relation to the employment obligation.

**Average duration of the entrustment (in years) and the proportion of entrustments that are longer than 10 years (in %). Explain how this duration (10 years) is justified.**

As regards the Employment Office, the entrustment is renewed via the tripartite agreement (duration of three or four years) following a mid-term evaluation and a final evaluation.

The public service entrustment of APEC is signed for an average duration of five years. This duration reflects the term of APEC's strategic plan. A mid-entrustment evaluation conducted by the Inspectorate-General of Social Affairs allows amendments to be proposed during the entrustment, if necessary. A final evaluation is also envisaged. A duration longer than five years would limit the ability to adapt the entrustment to developments in the executive labour market and economic context.

The law entrusts Agefiph with the public service tasks for an unlimited duration. However, the objectives and resources agreement (provided for by law: Article L.5421-1b of the Labour Code) sets the goals and resources for a specified duration (three years).

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

Not applicable.



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

Direct subsidy to the operator.

Mandatory contributions from undertakings.

Contributions removing the obligation.

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

#### Employment Office:

Article L.5312-7 of the Labour Code provides that ‘the contribution from the State and the contribution from the body managing the unemployment scheme shall be set at a level compatible with performance of the institution’s activities, taking account of developments in the labour market.’ In the tripartite agreement, the subsidy calculation parameters with regard to revising the subsidy are objective and transparent: ‘if there is a cumulative and sustained drop (six consecutive months) in the number of jobseekers at the month-end in category AB below a level of 4 000 000 and in the number of long-term jobseekers at the month-end in category AB below a level of 1 180 000, this subsidy may be reduced on an opinion from the monitoring committee.’

APEC 2012 public service entrustment: ‘The commercial activities of APEC may under no circumstances be financed directly or indirectly by this contribution and must therefore achieve a strictly independent financial balance.’ As APEC carries out activities in addition to these public service tasks, it has separate accounts for those activities benefiting from the proceeds of the aforementioned contribution and for those activities not benefiting from this contribution, in accordance with Order No 2004-503 of 7 June 2004 transposing Directives 80/723/EEC and 2006/111/EC. To this end, APEC uses cost accounting that enables its income and expenditure to be distributed between the various activities and that allows the results of each activity to be calculated.

#### Agefiph:

The public service tasks of Agefiph involve the occupational integration and job retention of disabled workers in undertakings. Its resources are based on the gap between the obligation of undertakings to employ disabled workers (at least 6 % of employees must be disabled people) and the number of actual jobs. The number of disabled workers in undertakings has an automatic effect on both the actions needed to promote their integration and the resources of Agefiph.

For establishments with 20 employees or more, 6 % of the total number of their employees must be beneficiaries of the employment obligation. They can meet all or part of this obligation by directly or indirectly employing disabled people, employing trainees, applying an approved agreement or paying a contribution to Agefiph. The amount of this contribution calculated per missing beneficiary depends on the size of the undertaking: 400 times the minimum wage (from 20 to 199 employees), 500 times the minimum wage (from 200 to 749 employees) and 600 times the minimum wage (+750 employees). This contribution can be reduced by applying reduction factors where severely disabled people are employed and by deducting, under certain conditions, the costs incurred to encourage the employment, integration or retention of disabled workers.

The match between resources and needs is checked every year by the Minister for Employment at the time when the Agefiph budget is approved: the resources and their use, as well as the intensity of actions according to the occupational integration needs of disabled workers, are examined for this purpose.

### **Explanation of the (typical) arrangements for avoiding and repaying any overcompensation.**

As regards the Employment Office, a number of checks allow the public authorities to ensure the absence of overcompensation:

- cost accounting, and method of accounting in non-fungible sections, with only intervention, operating and investment expenditure being partly financed by the public service subsidy paid by the State and adopted in the Finance Act;
- check by the governing bodies of the Employment Office (management board, audit and accounts committee, evaluation committee);
- external checks provided for by the tripartite agreement: ‘two external evaluations by the end of 2016 and start of the first half of 2018’, evaluation report by the Inspectorates-General of Finance and Social Affairs, checks by the Court of Auditors. As the Employment Office, just like any other public service, does not make a profit, the subsidy cannot therefore be regarded as overcompensation.

As regards APEC, the 2012 entrustment states that ‘If the implementation of the APEC action programmes, as part of its public service tasks, results in surpluses indicating overcompensation, the monitoring committee ... shall meet, when the accounts are closed each year, to examine the measures to be adopted’. ‘Any overcompensation having occurred at any point of the entrustment agreement, which is identified on its expiry, shall be repaid to the state budget’. The monitoring committee, which shall involve the social partners and state representatives, shall oversee the implementation of the public service entrustment, in particular based on activity and performance indicators. At the mid-term point (February 2015), the review of the application of the public service entrustment agreement delivered by the Inspectorate-General of Social Affairs concluded that there was no undercompensation (use of the contribution to finance competitive activities) or overcompensation (underuse of the contribution). The end-of-entrustment report is currently being finalised.

Agefiph is subject to administrative and financial control by the State, and in particular by the Comptroller-General for the Economy and Finance, whose task is to ensure that public money is correctly used. The Minister for Labour and Employment approves the Agefiph statutes. Every year the agency submits its budget to the latter for approval.

<b>Total amount of aid granted (in millions EUR) paid by national central authorities</b>
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2014: 5 328.3 (of which 4 694.1 for the Employment Office)
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2015: 5 354.8 (of which 4 749.3 for the Employment Office)
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**See annexes:**

Article de loi AGEFIPH.pdf

Avenant à la convention APEC 2012-2016.pdf

convention tripartite\_ 2015-2018.pdf

Convention de mandat de service public APEC 2012-2016.pdf

Convention multipartite AGEFIPH.pdf

Convention multipartite AGEFIPH\_ANNEXES.pdf

***1.2.2. Local authorities***

**See table:**

Accès réinsertion marché W.pdf

### 1.3. Social housing

#### **Clear and comprehensive description of how the respective services are organised in your Member State**

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.

Article L.411-2 of the Construction and Housing Code defines the social housing SGEI as follows:

- The construction, purchase, improvement, allocation, management and transfer of **capped rent** rental housing, where this is intended for **persons whose income is below the ceilings set by the administrative authority** for the allocation of subsidised rental housing under the conditions defined in Article L.351-2 and **access to which is subject to means testing**. However, the **service of general interest** also includes the aforementioned operations aimed at persons on middle incomes whose means do not exceed the ceilings set in Book III, Title IX, where the corresponding housing accounts for less than 10 % of the social rental housing referred to in Article [L.302-5](#) held by the body in question.
- The conduct of ownership access operations aimed at **persons whose income is below the ceilings set by the administrative authority** for the allocation of subsidised rental housing under the conditions defined in Article [L.351-2](#) and **access to which is subject to means testing**. However, the **service of general interest** also includes, up to a limit of 25 % of the housing sold by the body, operations aimed at persons on middle incomes whose means exceed the aforementioned ceilings, without exceeding the ceilings set in Book III, Title IX, where all the operations are accompanied by guarantees for the person accessing ownership under the conditions laid down by Council of State decree.
- The management or purchase with a view to resale, with the agreement of the mayor of the municipality concerned and of the state representative in the *département*, of housing situated in **co-owned properties affected by major operating difficulties or covered by a rescue plan** pursuant to Article L.615-1 or by a planned operation for the improvement of housing referred to in Article [L.303-1](#) and, for a maximum period of 10 years from the initial transfer, the management of co-owned properties resulting from the transfer of the rental housing referred to in the ninth paragraph, while the selling body remains the owner of housing.
- Ancillary services to the aforementioned operations.

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

Public service tasks entrusted to social housing operators are assigned by means of an official act of the public authorities. Once operators have obtained approval, enabling them to become involved in the social housing SGEI, the main elements of this entrustment are

explicitly set out in Article L.411.2 of the Construction and Housing Code, as well as in other articles of this Code, which particularly define the housing allocation rules to which social housing operators are subject and the personalised housing assistance agreements, which specify the nature of the entrustment for each programme.

The Housing and Anti-Exclusion Act No 2009-323 of 25 March 2009 makes the conclusion of social utility agreements compulsory for all social landlords and semi-public companies, and also lays down financial penalties where bodies refuse to engage in the agreement preparation process or seriously breach their obligations under an agreement. In addition to provisions concerning the body's asset and investment policy (including sales), this agreement includes social management conditions and service quality undertakings. These serve to translate the aims of national housing policy into asset-related and social objectives, particularly as regards the enforceable right to housing and housing allocation, and also adapting the supply of social housing.

These agreements include performance indicators through which bodies undertake to meet quantified targets, particularly as regards the improvement of their assets. These indicators are defined on the basis of the strategic asset plan required by the Act. This plan is based on a multi-factor analysis of the assets, focusing particularly on their quality and appeal, as well as on the body's financial capacity.

The preparation of this plan requires the low-cost housing sector to have a strategic, forward-looking vision for the development of an appropriate supply and for the short-term and long-term asset improvement and maintenance programme.

The indicators associated with the undertaking to maintain and improve existing assets are set out as follows in the agreements:

- amount of investment in euros per dwelling and per year (renovation work on the housing stock and replacement of components);
- amount of operating expenditure in euros per dwelling and per year (maintenance expenditure, which covers routine maintenance and major maintenance);
- number of buildings for which energy performance certificates are obtained within the first 18 months of the agreement;
- percentage of housing renovated in sensitive urban areas and outside sensitive urban areas.

In addition to its ability to house sections of the population who cannot find accommodation on the private market, the low-cost housing sector is developing a quality policy to ensure that its housing is clean and sanitary.

Semi-public social housing companies are subject to the same constraints as low-cost housing bodies.

**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?

The entrustment has no time-limit and the entrusted body is required to comply with the provisions of the Construction and Housing Code. As the ability to provide the social housing SGEI and therefore benefit from State aid depends on the existence of this entrustment, its duration systematically exceeds 10 years. This is also justified by the size of the investments made by social housing bodies.

As a result, the public service obligations are not subject to a time-limit, since the Construction and Housing Code provides that, ‘on the date when an agreement provided for by Article L.351-2 and covering housing belonging to a low-cost housing body ceases to have effect, all the provisions of this Book shall apply to that housing’. In particular, landlords must continue to apply the rules relating to income ceilings and allocations.

Furthermore, the transfer of such housing, besides being extremely tightly regulated (Article L.443-7 et seq. of the Construction and Housing Code), does not extinguish the public service obligations associated with that housing (Articles L.411-3 and L.411-4).

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

Only entrusted undertakings can provide the social housing SGEI and therefore benefit from State aid.

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

Direct aid, loans and guarantees are used.

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

The decision to finance an operation enables operators to obtain preferential financing from the *Caisse des dépôts et consignations* (Deposits and Consignments Fund) through loan agreements that refer to the social nature of the financed housing.

It also gives them the opportunity to benefit from tax incentives, the provisions of which are laid down by legislation.

Lastly, budget subsidies are covered by financing decisions that accompany the personalised housing assistance agreement, but are distinct from this. They fall under the general financing rules laid down by regulation for the State and by decision for the local and regional authorities. The national reference aid amounts are updated annually to reflect changing needs as well as changes in available budget resources.

In practice, the distribution of the amount of aid granted depends on the financial capacity of the various contributors, mainly the State and local and regional authorities. As regards the State, at the national level, the compensation parameters are set based on the national reference amounts, which depend on the social constraints imposed (rent and income ceilings).

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

The public authorities possess broad supervisory and penalty powers over low-cost housing bodies: *ex ante* approval, including the definition of a geographical area of responsibility; participation of local authorities – often in the chair – in the management board of Public Housing Offices (public-sector low-cost housing bodies); supervisory power of the Interministerial Inspectorate of Social Housing (MIILOS), which became the National Agency for Social Housing (ANCOLS) on 1 January 2015, which can impose financial penalties, and supervisory power of the prefect. In the event of serious infringement, the administrative authority can withdraw the body's approval and even dissolve the body.

Financing decisions taken by the authorities are subject to prior financial analysis of the forecast balance of the operation. This analysis serves to set a rent contribution in relation to the maximum scale for operations that are easier to balance, and to monitor the general health of the body in the event of a loss-making operation.

Low-cost housing bodies, and social housing operations in general, are subject to *ex post* supervision by ANCOLS, which covers the regularity and quality of their management. They are also subject to monitoring by prefects and local authorities.

In addition, compliance with personalised housing assistance agreements may be subject to scrutiny by the decentralised services of the Ministry of Housing, which can result in loss of the personalised housing assistance entitlement, and by the tax authorities, which can lead to the recovery of tax incentives.

Article L.353-11 of the Construction and Housing Code provides that 'The application of the agreements defined in this chapter ... shall be scrutinised by the National Agency for the Supervision of Social Housing'. The same article provides that the state representative in the *département*, who finds irregularities in the application of personalised housing assistance agreements, shall inform and report to ANCOLS.

The frequency of scrutiny is also set. Checks can be carried out, in particular, on first occupation, through periodic surveys, through the social housing occupation survey (social mix) or by ANCOLS. The latter carries out comprehensive evaluations of the management of social housing bodies at regular intervals.

Furthermore, bodies responsible for social housing are required to submit their accounts to the authorities. This submission comprises the regulatory statements, including the financial information (balance sheet, operating account). The Public Housing Offices that are required to publish their accounts are subject to audit by the regional audit courts, which check their accounts every year and grant discharge to the office's public accountant. Low-cost housing bodies formed as limited companies and offices subject to the accounting rules laid down by the Commercial Code must have their accounts certified by an auditor, regardless of the size of their budget.

The penalties for non-compliance with the contractual undertakings are laid down in the agreements themselves. These penalties take various forms: criminal, tax and financial

penalties or termination of the agreement. The list of these administrative penalties expressly includes repayment of subsidies in the event of a discrepancy.

A short explanation of how the **transparency requirements** (see Article 7 of the 2012 SGEI Decision) for the aid above 15 million euro 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 various types of compensation for which social housing construction or purchase operations, whether or not involving work, may be eligible are precisely described in the Construction and Housing Code, in the Regulatory Part, Book III, Title III, Sole Chapter, Section 1.

The development of the LOLA software, which allows reports to be produced on the financial balance of each PLUS, PLAI and PLS housing construction or purchase operation, meets the transparency requirement for the operation financing mechanism. The terms of the compensation mechanism are set out in this software, which is easy for the public to access.

<b>Amount of aid granted</b>	
<b>Total amount of aid granted (in millions EUR).</b> This includes all aid granted in your territory, including aid granted by regional and local authorities. <b>(A+B+C)</b>	
<b>2014</b>	<b>2015</b>
6 222	6 552



**Table showing all the public expenditure on social housing (2014-2015)**

	<b>2014</b>	<b>2015</b>	<b>Observations and legal or regulatory basis</b>	<b>Source</b>
<b>European Union aid</b>				
Subsidies for energy saving work on social rental housing	EUR 38 million	EUR 22 million	Subsidies granted by the ERDF	Estimate of the Department of Housing, Town Planning and Landscapes (DHUP), based on CDC data
<b>State aid</b>				
Investment subsidies (new social rental housing)	EUR 398 million	EUR 307 million	Commitment appropriations Articles R.331-15 and R.331-24 of the Construction and Housing Code (CCH)	Documents annexed to the finance acts
Exemption from property tax	EUR 40 million	EUR 40 million	Articles 1384 A, 1384 C and 1384 D of the General Tax Code (CGI)	Documents annexed to the finance acts
Exemption from corporation tax	EUR 1 000 million	EUR 1 100 million	Article 207 of the CGI	Documents annexed to the finance acts
VAT reduced to 7 % (5.5 % from 1 January 2014) on land	EUR 150 million	EUR 150 million	Article 278 <i>sexies</i> of the CGI	Documents annexed to the finance acts
Reduced VAT (5.5 % and 10 %) for new social rental housing and improvement work	EUR 1 460 million	EUR 1 430 million	Article 278 <i>sexies</i> of the CGI	Documents annexed to the finance acts

Subsidies for loans (in particular PLAI/PLUS and éco-PLS loans)	EUR 6 million	EUR 109 million	Articles R.331-14, R.331-17 and R.323-1 of the CCH – Decision of the Minister for the Economy	Annual savings fund reports
Rebate on property tax equal to one-quarter of energy saving work	EUR 100 million	EUR 150 million	Article 1391 E of the CGI	Documents annexed to the finance acts
Subsidies for urban renewal (ANRU – National Agency for Urban Renewal)	EUR 302 million	EUR 573 million	Decree No 2004-1005 of 24 September 2014 Order of 29 June 2011 adopting amendments to the general regulation of the National Agency for Urban Renewal	AGORA ANRU
Subsidies for the social rental housing guarantee fund (CGLLS)	EUR 29 million	EUR 41 million	Commitment appropriations Article L.452-1 of the CCH	CGLLS activity reports
<b>Total<sup>1</sup></b>	<b>EUR 3 485 million</b>	<b>EUR 3 900 million</b>		<b><i>Provisional estimate for 2015</i></b>
<b>Other financers (not defined)</b>				
Operating subsidies	EUR 90 million	<i>Data not currently available</i>	Building grants, subsidies for maintenance work, other subsidies and grants, various operating subsidies (mainly local and regional authorities)	Bolero: item 74 of the income statement All offices and limited companies
Subsidies for energy saving work on social rental housing	EUR 84 million	EUR 57 million		Estimate of the DHUP, based on CDC data
<b>Local authority aid</b>				
Exemption from property tax not offset	EUR 527 million	EUR 553 million	Articles 1384 A, 1384 C and 1384 D of the CGI	Estimate of the DHUP, based on RPLS data <i>2015: forecast data</i>

Investment subsidies	EUR 946 million	EUR 999 million	Application of the clause on the general jurisdiction of the local and regional authorities	Data of the DHUP – Infocentre Galion-Sisal
Subsidies for energy saving work on social rental housing	EUR 193 million	EUR 225 million	Application of the clause on the general jurisdiction of the local and regional authorities	Estimate of the DHUP, based on CDC data <i>2015: forecast data</i>
Exemption from transfer duty: Public Housing Offices and semi-public construction companies	EUR 52 million	EUR 43 million	Articles 1594 G and 1594 H of the CGI	Estimate of the DHUP, based on Infocentre Galion-Sisal data <i>2015: forecast data</i>
Loan guarantee	EUR 73 million	EUR 80 million	Application of the clause on the general jurisdiction of the local and regional authorities	Estimates of the DHUP <i>2015: forecast data</i>
<b>Total<sup>2</sup></b>	<b>EUR 1 791 million</b>	<b>EUR 1 900 million</b>		<b>Provisional estimate for 2015</b>
<b>Aid from the employers' contribution to the construction effort<sup>3</sup></b>				
Subsidies for loans	EUR 299 million	EUR 372 million	Article R.313-19-2 of the CCH and five-year agreement between the State and the UESL (Social Economy Union for Housing)	DHUP calculations – based on ANCOLS data / 2015: based on UESL data
Subsidies	EUR 236 million	EUR 137 million	Article R.313-19-2 of the CCH and five-year agreement between the State and the UESL (Social Economy Union for Housing)	ANCOLS data / 2015: UESL data
Other aid (subscription of shares)	EUR 199 million	EUR 164 million	Article R.313-19-2 of the CCH and five-year agreement between the State and the UESL (Social Economy Union for Housing)	ANCOLS data / 2015: UESL data
<b>Total</b>	<b>EUR 734 million</b>	<b>EUR 673 million</b>		
<b>Grand Total</b>	<b>EUR 6 222 million</b>	<b>EUR 6 552 million</b>		<b>Provisional estimate for 2015</b>

(1) Low-cost housing bodies also benefit from certain specific tax breaks that represent a virtually zero aid amount.

(2) Low-cost housing bodies also benefit from development tax exemptions, which is an expense that cannot be quantified.

(3) Aid distributed from the employers' contribution to the construction effort is not strictly speaking public aid (this contribution is a mandatory investment by undertakings, which is used by associations).

#### **1.4. Care and social inclusion of vulnerable groups**

**Local authorities: see table**

Inclusion sociale.pdf

## **1.5. SGEI compensation not exceeding EUR 15 million (Art. 2(1)(a))**

### ***1.5.1. Culture***

**Local authorities: see table**

Culture.pdf

### ***1.5.2. Youth and the voluntary sector***

**Clear and comprehensive description of how the respective services are organised in your Member State<sup>1</sup>**

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.

An association providing, on its own initiative, a service of general interest recognised as such by the public authorities, as defined in the Council of State judgment of 6 April 2007 on the Municipality of Aix-en-Provence.

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

Any subsidy exceeding EUR 23 000 is covered by an objectives agreement. For subsidies less than this sum, the entrustment usually takes the form of an administrative order.

**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?

The duration of an entrustment can be one year or, in the case of a multiannual agreement, several years. It is typically between one and four years. Entrustments in the youth and voluntary sectors do not last longer than 10 years.

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

No exclusive or special rights are assigned.

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<sup>1</sup> 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.

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

Direct subsidies.

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

The direct subsidies in the form of a contribution are intended to offset some of the costs arising from the service provided by the non-profit body (prior examination of the budget, management report, repayment obligation in the event of non-achievement or partial achievement of the objectives, and auditing of accounts, which are certified by auditors if the body receives subsidies exceeding EUR 153 000 in any year).

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

*Repayment order issued.*

A short explanation of how the **transparency requirements** (see Article 7 of the 2012 SGEI Decision) for the aid above 15 million euro 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).

No aid exceeding EUR 15 million has been granted in the youth and voluntary sectors to undertakings that also engage in non-SGEI activities.

<b>Amount of aid granted</b>	
<b>Total amount of aid granted (in millions EUR)<sup>2</sup>.</b> This includes all aid granted in your territory, including aid granted by regional and local authorities. <b>(A+B+C)</b>	
<b>2014</b>	<b>2015</b>
In 2014, a total of 4 416 associations received subsidies totalling EUR 56 362 000 through government appropriations under budget programme No 163: Youth and the voluntary sector.	The budget documents are currently being compiled. A roughly similar number of associations was subsidised.
<b>Share of expenditure per aid instrument</b> (direct subsidy, guarantees etc.) (if available)	
<b>2014</b>	<b>2015</b>
100 % of subsidy	100 % of subsidy

<sup>2</sup> As stipulated in Article 9(b) of the 2012 SGEI Decision.

**Additional quantitative information** (e.g. number of beneficiaries per sector, average aid amount, size of the undertakings)<sup>3</sup>

2014	2015
In 2014, subsidies exceeding EUR 150 000 were granted to 39 associations, which were therefore liable to exceed the <i>de minimis</i> ceiling for SGEIs. The average amount granted was EUR 376 000. The largest subsidy was the EUR 2 511 793 granted to the <i>Centre d'information pour la jeunesse</i> (Youth Information Centre).	The budget documents for 2015 are currently being prepared. A roughly similar number of associations was subsidised.

### **1.5.3. Standardisation (Association française de normalisation – AFNOR [French Standards Association])**

#### **Clear and comprehensive description of how the respective services are organised in your Member State**

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.

AFNOR has the general interest task of organising and participating in the production of French, European and international standards.

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

The entrustment takes the form of an agreement. For 2014, the reference used is addendum No 1 to agreement No 14 2 17 0020. For 2015, this is addendum No 1 to agreement No 15 2 17 0019.

**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?

1 year.

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

No.

<sup>3</sup> 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, size of the undertakings, etc. Should such additional quantitative information not be readily available in your Member State, it 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.

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

Direct subsidy.

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

Methodology based on cost allocation (with cost accounting). The activities covered by the SGEIs are loss-making despite the aid.

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

There is no overcompensation: the activities covered by the SGEIs are loss-making despite the aid.

However, if the holder were to refuse to provide the required documents or did not use the subsidy for the purposes stipulated in the agreement, the State would require repayment of all or part of the sums paid.

A short explanation of how the **transparency requirements** (see Article 7 of the 2012 SGEI Decision) for the aid above 15 million euro 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).

Publication on the AFNOR website: <http://www.afnor.org/>

<b>Amount of aid granted</b>	
<b>Total amount of aid granted (in millions EUR).</b> This includes all aid granted in your territory, including aid granted by regional and local authorities. <b>(A+B+C)</b>	
<b>2014</b>	<b>2015</b>
9.7	8.9
<b>A: Total amount of aid granted (in millions EUR) paid by national central authorities</b>	
<b>2014</b>	<b>2015</b>
9.7	8.9



<b>Share of expenditure per aid instrument</b> (direct subsidy, guarantees etc.) (if available)	
<b>2014</b>	<b>2015</b>
9.7	8.9
<b>Additional quantitative information</b> (e.g. number of beneficiaries per sector, average aid amount, size of the undertakings)	
<b>2014</b>	<b>2015</b>

#### ***1.5.4. Vocational training***

##### **National authorities**

The French authorities plan to create an industrial and commercial public establishment (*établissement public industriel et commercial* – EPIC) responsible for the vocational training of adults within the public employment service. To this end, they have submitted a project to the European Commission’s Directorate-General for Competition (SA.45452 (2016/PN) - Project to create an EPIC responsible for carrying out the tasks of the AFPA [Association for Adult Vocational Training]). This EPIC will carry out general interest tasks, some of which will be non-economic (certification, qualification management, etc.), with others falling under general economic interest tasks (geographical equality of access to training centres, management of rare skills and trades, training for vulnerable persons, etc.).

The French authorities, in liaison with the European Commission, will ensure that the public service compensation meets the conditions of the *Altmark* judgment of 24 July 2003 or is exempt from notification pursuant to the 2012 SGEI Decision of 20 December 2011, with regard to those EPIC activities that promote access to and reintegration in the labour market.

##### **Local authorities: see table**

Formation Professionnelle.pdf

#### ***1.5.5. Miscellaneous***

##### **Local authorities: see table**

Autres.pdf

## **2. Description of the application of the 2012 SGEI Framework (national authorities)**

### **2.1. Postal services**

**Clear and comprehensive description of how the respective services are organised in your Member State**

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.

In France, La Poste receives public service compensation for three out of the four public service tasks that it has been given.

- Territorial management: La Poste is required to maintain a network of contact points covering the vast majority of the French territory (territorial presence network) and giving the public access, in particular, to universal services (currently 17 075 contact points).
- Press transport and distribution: La Poste is required to distribute press publications, six days out of seven, throughout the territory, at specific rates that are below cost, and with a high level of service quality. This task is intended to encourage pluralism of the written press, particularly with regard to political and general information, and also preserve this pluralism by granting preferential rates to publishers for certain publications.
- Banking accessibility: La Banque Postale is required to offer a product – the *Livret A* (Savings Account A), with the specific characteristics laid down by law – allowing certain people who are excluded from accessing current accounts to have access to certain basic banking services, such as the possibility of making withdrawals and deposits free of charge, even for very small sums, and free direct debits for payments in relation to welfare benefits, social security services or certain taxes and essential services (gas, electricity, water, etc.).

These three tasks were the subject of two recent European Commission decisions: (i) Decision C(2014) 3164 final of 26 May 2014 on the compensation arrangements for the territorial management and press transport and distribution tasks assigned to La Poste<sup>4</sup>; (ii) Decision C(2013) 77 final of 23 January 2013 on State aid SA.29367 (2012/NN) concerning the banking accessibility SGEI involving the *Livret A* of La Banque Postale<sup>5</sup>

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

Service contract 2013-2017 +

- Territorial management: Articles 2 and 6 of the amended Act of 2 July 1990, territorial postal presence contract 2014-2016;

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<sup>4</sup> [http://ec.europa.eu/competition/state\\_aid/cases/252407/252407\\_1568828\\_52\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/252407/252407_1568828_52_2.pdf)

<sup>5</sup> [http://ec.europa.eu/competition/state\\_aid/cases/244553/244553\\_1411514\\_58\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/244553/244553_1411514_58_2.pdf)

- Press transport and distribution: Articles L.4, R.1-1-17 and D.18 to D.28 of the Post and Electronic Communications Code, State-Press-La Poste agreement (known as the ‘Schwartz agreements’) 2008-2015;
- Banking accessibility: Article 2 of the aforementioned Act of 2 July 1990, Articles L.221-2, L.221-3, L.518-25 and L.518-25-1 of the Monetary and Financial Code (COMOFI), Articles R.221-3 and R.221-5 of COMOFI, which lay down some of the public service obligations imposed on La Banque Postale, Articles L.221-6 and R.221-8-1 of COMOFI, which lay down the principle of the payment of compensation, the Order of 26 February 2015 adopted pursuant to Article R.228-8-1 of COMOFI, which sets the compensation amount, and the *Livret A* Agreement.

**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?

- Territorial management: 5 years.
- Press transport and distribution: 6 years.
- Banking accessibility: 6 years.

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

No.

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

- For the territorial management task: rebate on local direct taxation.
- For the press transport and distribution task: direct budget subsidy.
- For banking accessibility: monthly compensation by the Fonds d’épargne (subsidy).

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

Net avoided cost method – separation between the accounts of the SGEI activities and those of purely commercial activities.

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

- Territorial management: the net cost of the additional network that allows the territorial management task entrusted to La Poste to be carried out is calculated every year by the Post and Electronic Communications Regulator (*Autorité de régulation des*

*communications électroniques et des postes* – ARCEP) using the methodology defined by Decree No 2011-849 of 18 July 2011. The ARCEP decision on the cost of the task in the previous year is made before the rate of the local direct taxation rebates, from which La Poste will benefit in the current year, is set by ordinary decree. Any overcompensation identified in the previous year will therefore result in an adjustment, in equivalent proportion, to the rate of the local taxation rebates for the current year.

- Press transport and distribution: the mechanism used by the French authorities to ensure the absence of overcompensation relies on the regulatory accounts sent every year by La Poste to the authorities, as validated by ARCEP, and the 'Public service press' account that is extracted from these accounts, which allows the net cost of the task to be calculated by reporting on the income indicated in La Poste's cost accounts for the performance of this task. The French authorities also require La Poste to calculate the net cost of the task by using the difference between the universal postal service rates and the preferential rates defined for the task, based on the method recommended in the 2012 La Poste Decision.
- Banking accessibility: Under the Addendum to the *Livret A* Agreement, every year La Banque Postale sends the French authorities the overall *Livret A* separate account, which is produced according to the criteria described in the methodological note on the *Livret A* of 10 July 2009. This separate account sets out the revenue generated and all the costs associated with managing the *Livret A*. The difference between the revenue and costs represents the net costs associated with managing the *Livret A*. If the compensation paid exceeds the net costs arising from the *Livret A* in the same year, the French State decides whether this excess can be treated as a reasonable profit under EU case-law, taking into account the risks and regulatory constraints associated with this activity. Otherwise, the French State determines the proportion of the excess amount of compensation that La Banque Postale must repay to the French State. Where this excess amount does not exceed 10 % of the compensation actually due to La Banque Postale for the net costs arising from the *Livret A*, it may be carried forward and deducted from the payment due to La Banque Postale for the next month. Otherwise, La Banque Postale must repay this excess to the French State no later than the 5th day of the following month.

A short explanation of how the **transparency requirements** (see paragraph 60 of the 2012 SGEI Framework) 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 Directorate-General for Enterprise publishes, on its website, all the public information on the public service tasks assigned to La Poste. In addition, the service contract containing a great deal of information on the public service tasks is available on the Groupe La Poste website.

DGE: <http://www.entreprises.gouv.fr/services/servicespostaux?language=fr>

Groupe La Poste: <http://legroupe.laposte.fr/profil/les-missions-de-service-public/le-contrat-de-service-public>

<b>Amount of aid granted</b>	
<b>Total amount of aid granted (in millions EUR).</b> This includes all aid granted in your territory, including aid granted by regional and local authorities. <b>(A+B+C)</b>	
<b>2014</b>	<b>2015</b>
<ul style="list-style-type: none"> <li>- Territorial management: 171.2</li> <li>- Press transport: 150</li> <li>- Banking accessibility: 242</li> </ul>	<ul style="list-style-type: none"> <li>- Territorial management: 170 (estimate)</li> <li>- Press transport: 130</li> <li>- Banking accessibility: 235</li> </ul>
<b>A: Total amount of aid granted (in millions EUR) paid by national central authorities</b>	
<b>2014</b>	<b>2015</b>
<ul style="list-style-type: none"> <li>- Territorial management: 171.2</li> <li>- Press transport: 150</li> <li>- Banking accessibility: 242</li> </ul>	<ul style="list-style-type: none"> <li>- Territorial management: 170 (estimate)</li> <li>- Press transport: 130</li> <li>- Banking accessibility: 235</li> </ul>

**2.2. Culture: Decision C(2014) 1441 final of 27 March 2014 – SA.30481 (2012/E) State Aid in favour of Agence France-Press (AFP)**

**Clear and comprehensive description of how the respective services are organised in your Member State**

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.

1. independence of the AFP;
2. international network of establishments;
3. constant information gathering and processing;
4. production of information for French and foreign users;
5. quality requirements of the information produced;
6. regular and uninterrupted distribution of information.

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

- Act No 57-32 of 10 January 1957 laying down the statutes of the AFP;
- AFP objectives and resources contract 2014-2018.

**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?

10 years.

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

No.

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

Direct subsidy.

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

Net avoided cost method – separation between the accounts of the SGEI activities and those of purely commercial activities.

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

The AFP objectives and resources contract provides that, in the event of overcompensation identified by the Financial Commission (consisting of members of the Court of Auditors) after the accounts for year n have been closed and audited, the AFP will repay to the State, in year n+1, any overcompensation of the net cost of the general interest task that it may have received.

A short explanation of how the **transparency requirements** (see paragraph 60 of the 2012 SGEI Framework) 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 Framework stipulates that the principles set out in paragraphs 14, 19, 20, 24, [39, 51 to 59] and 60(a) do not apply to aid granted before 31 January 2012, which is the case with the AFP.

Amount of aid granted	
<b>Total amount of aid granted (in millions EUR)<sup>6</sup>. This includes all aid granted in your territory, including aid granted by regional and local authorities. (A+B+C)</b>	
<b>2014</b>	<b>2015</b>
	<b>105</b>
<b>A: Total amount of aid granted (in millions EUR) paid by national central authorities</b>	
<b>2014</b>	<b>2015</b>
	<b>105</b>

<sup>6</sup> As stipulated in paragraph 62(b) of the 2012 SGEI Framework.

**2.3. Metrology (Laboratoire national de métrologie et d'essais – LNE): Decision of 22 November 2006 (C24/2005) – State Aid compatible with Article 88 of the EC Treaty**

**Clear and comprehensive description of how the respective services are organised in your Member State**

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.

1. Provision of new measurement options, materials and traceable reference methods allowing manufacturers to connect their equipment.
2. Study and development, on behalf of various authorities, of test methods needed for the drafting of regulations and standards.
3. Issue of qualification certificates.
4. Coordination of French metrology.

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

- Act No 78-23 of 10 January 1978 creating the public establishment (EPIC), Article L.561-1 of the Consumer Code, which provided for the LNE, and Article L.562 of the same Code, which regulates its operation;
- Decree No 78-280 of 10 March 1978 on the *Laboratoire national de métrologie et d'essais* (National metrology and test laboratory) amended by Decree No 2005-49 of 25 January 2005;
- Objectives contract 2013-2016.

**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?

4 years.

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

No.



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

Direct subsidies.

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

Methodology based on cost allocation (with cost accounting).

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

The activities covered by the SGEIs are often loss-making despite the aid.

A short explanation of how the **transparency requirements** (see paragraph 60 of the 2012 SGEI Framework) 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).

Publication on the LNE website: <http://www.lne.fr/>

<b>Amount of aid granted</b>	
<b>Total amount of aid granted (in millions EUR). This includes all aid granted in your territory, including aid granted by regional and local authorities. (A+B+C)</b>	
<b>2014</b>	<b>2015</b>
<b>23</b>	<b>23</b>
<b>A: Total amount of aid granted (in millions EUR) paid by national central authorities</b>	
<b>2014</b>	<b>2015</b>
<b>23</b>	<b>23</b>

### **3. Complaints by third parties**

Please provide an overview of complaints by third parties, in particular litigation before national courts, regarding measures falling 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.

#### **Hospitals:**

The French Federation of Private Hospitals (*Fédération de l'hospitalisation privée* – FHP) submitted two complaints to the European Commission generally alleging discrimination in the allocation of resources between public and private establishments. It also filed several appeals with the administrative courts against the Order setting the rates of health establishments. These appeals were dismissed by the Council of State, which decided that the financing rules of health establishments complied with European Union law.

#### **Postal services:**

To our knowledge, no complaints have been made about the financing of the public service tasks assigned to La Poste and La Banque Postale.

#### **4. Miscellaneous questions**

- 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;

##### **Hospitals:**

It was not difficult to draw up the entrustment act for health establishments. However, publication of all the multiannual objectives and resources contracts (+3 000 contracts) seems to be a burdensome and unnecessary requirement given that the financing allocated to health establishments is mainly covered by the application of laws and regulations.

- 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;

##### **Hospitals:**

The definition of reasonable profit, understood as the rate of return on capital that would be required by a typical undertaking considering whether or not to provide the service of general economic interest, is not appropriate for hospital care, given that this activity is mainly carried out by public establishments and non-profit private establishments. There is also a difficulty due to the absence of comparative data, as no Member State seems to have defined what reasonable profit means for its hospitals.

- 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;

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

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

##### **Postal services:**

As regards determining the net avoided cost, the French authorities stress that this method can prove to be highly complex depending on the characteristics of the SGEI, as defined by the Member State.

Furthermore, it involves the generation of counterfactual scenarios (sometimes costly for the

Member State) that make it much more difficult to determine the amount of compensation. The assumptions that have to be made when generating these scenarios sometimes seem artificial.

- determining the reasonable profit level in line with paragraphs 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.

- 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.

## **5. List of annexes:**

### **1.2. Access to and reintegration into the labour market**

#### ***1.2.1. National authorities***

- Article de loi AGEFIPH.pdf
- Avenant à la convention APEC 2012-2016.pdf
- convention tripartite\_2015-2018.pdf Convention de mandat de service public APEC 2012-2016.pdf Convention multipartite AGEFIPH.pdf
- Convention multipartite AGEFIPH\_ANNEXES.pdf

#### ***1.2.2. Local authorities***

Accès réinsertion marché W.pdf

### **1.4. Care and social inclusion of vulnerable groups**

Local authorities: Inclusion sociale.pdf

### **1.5. SGEI compensation not exceeding EUR 15 million (Art. 2(1)(a))**

#### ***1.5.1. Culture***

Local authorities: Culture.pdf

#### ***1.5.4. Vocational training***

Local authorities: Formation Professionnelle.pdf

#### ***1.5.5. Miscellaneous***

Local authorities: Autres.pdf