

SGEI DECISION¹

2011 REPORT

For more background information and explanations of the terms used in this form please refer to the SGEI and State Aid Manual, in particular Section II.3.2. on page 40.

Municipality of Etten-Leur

Date: 29 December 2011

1. FACILITY

A. Please indicate into which category (1 to 8, see Appendix I) your SGEI falls according to Article 2(1) of the SGEI Decision.

Category 1.

B. Has the SGEI been entrusted to the undertaking(s) under a private-law contract or on the basis of public law? In the latter case please give the relevant legislation (Act, decision, etc.).

The compensation is provided for under a grant scheme in line with Article 4.2.3 and 4.2.5 of the General Administrative Law Act and the 2009 Etten-Leur General Municipal Subsidy Ordinance.

C. Please indicate the nature and the duration of the public service obligation.

The public service consists of:

- a. organising performing arts events and presenting them to the public for a charge;
- b. maintaining the existing building complex for cultural, social and educational activities, in the widest sense;
- c. creating conditions for the cultural, social and educational development of the local community, in the widest sense, in line with the objective of De Nobelaer.

Duration of the public service obligation: 1 January – 31 December 2009.

D. Please indicate the undertaking(s) providing the SGEI and the territory covered.

Stichting De Nobelaer, Anna van Berchemlaan 2, 4872 XE Etten-Leur (on 1 January 2010 this became Stichting De Nieuwe Nobelaer, at which point other municipal institutions were also merged). The services are provided in Etten-Leur and surrounding areas and have the local community as their primary target audience.

E. Have any exclusive or special rights (i.e. advantages restricting competition) been assigned to the undertaking? If so, please detail them briefly.

¹ Commission Decision of 28 November 2005 on the application of Article 86(2) of the EC Treaty to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest, OJ L 312, 29.11.2005, p. 67.

To the best of the Municipal Council's knowledge, no special rights (advantages limiting competition) have been assigned to Stichting Nieuwe Nobelaer.

F. Please indicate the parameters used to calculate, verify and, where applicable, review the amount of the SGEI compensation.

Number of commercial and non-commercial dance and amateur theatre performances

Number of visitors

Groups of visitors (age categories)

Number of non-commercial artistic activities

Number of youth performances

Number of activities for socio-cultural associations and social organisations

G. Is the undertaking commercially active outside its SGEI remit? If so, is it required to keep separate accounts or have separate legal structures to prevent cross-subsidies?

Stichting De Nobelaer is commercially active outside its SGEI remit. It must keep separate accounts to prevent cross-subsidisation. These were finalised by its legal successor, Stichting Nieuwe Nobelaer, which also has its registered office at Anna van Berchemlaan 2, 4872 XE Etten-Leur. The auditors' report of 27 August 2010 drawn up by Ernst & Young shows accounts are kept separately as required and that Stichting Nieuwe Nobelaer has taken additional management measures.

H. Do your organisation's reporting arrangements comply with Article 7 of the SGEI Decision by keeping the underlying data available for ten years so that the Commission can determine whether they are in line with the Decision?

Yes.

2. COMPENSATION

A. Please indicate the amounts paid in compensation to the provider of the SGEI separately for each of the following years: 2009, 2010 and 2011.

2009: €704 377.=

2010: -

2011: -

B. Have the accounts been checked for overcompensation? If so, who conducted these checks (e.g. external consultants, own officials)? What were the findings? Has any overcompensation been reclaimed as a result? If so, please state the amount.

Compliance with EU state aid rules is verified each year by an external accountant as part of the Municipal Council's annual audit. The reports contain no mention of non-compliance.

3. SPECIAL SECTORS (to be completed only for transport by air or by sea, ports or airports)

A. Please indicate the average number of passengers per year during the two financial years preceding that in which the SGEI was assigned².

COMMENTS

² The maximum average numbers of passengers set out in the Decision are:

1. air transport => 300 000 passengers
2. maritime transport => 300 000 passengers
3. airports = > 1 million passengers
4. ports => 300 000 passengers

Appendix I

SGEI categories set out in Article 2(1) of the SGEI Decision

1. Article 2(1)(a): public service compensation of less than EUR 30 million per year, granted to undertakings with an annual turnover before tax, all activities included, of less than EUR 100 million during the two financial years preceding that in which the service of general economic interest was assigned.
2. Article 2(1)(a): public service compensation of less than EUR 30 million per year, granted to credit institutions with a balance sheet total, all activities included, of less than EUR 800 million during the two financial years preceding that in which the service of general economic interest was assigned.
3. Article 2(1)(b): public service compensation of any amount granted to hospitals carrying out activities qualified as services of general economic interest by the Member State concerned.
4. Article 2(1)(b): public service compensation of any amount granted to social housing undertakings carrying out activities qualified as services of general economic interest by the Member State concerned.
5. Article 2(1)(c): public service compensation for air links to islands granted in accordance with Regulation (EEC) No 2408/92, on which annual traffic during the two financial years preceding that in which the service of general economic interest was assigned, does not exceed 300 000 passengers.
6. Article 2(1)(c): public service compensation for maritime links to islands granted in accordance with Regulation (EEC) No 3577/92, on which annual traffic during the two financial years preceding that in which the service of general economic interest was assigned, does not exceed 300 000 passengers.
7. Article 2(1)(d): public service compensation for airports for which average annual traffic during the two financial years preceding that in which the service of general economic interest was assigned does not exceed 1 million passengers.
8. Article 2(1)(d): public service compensation for ports for which average annual traffic during the two financial years preceding that in which the service of general economic interest was assigned does not exceed 300 000 million passengers.