

ANNEX

Services of General Economic Interest: Guidance for report to be submitted following the 2012 SGEI Decision and the 2012 SGEI Framework

The reporting obligations are set out in the Article 9 of the 2012 SGEI Decision:

Each Member State shall submit a report on the implementation of this Decision to the Commission every 2 years. The reports shall provide a detailed overview of the application of this Decision for the different categories of services referred to in Article 2(1), including:

(a) a description of the application of this Decision to the services falling within its scope, including in-house activities;

(b) the total amount of aid granted in accordance with this Decision, with a breakdown by the economic sector of the beneficiaries;

(c) an indication of whether, for a particular type of service, the application of this Decision has given rise to difficulties or complaints by third parties; and

(d) any other information concerning the application of this Decision required by the Commission and to be specified in due time before the report is to be submitted.

Paragraph 62 of the 2012 SGEI Framework sets in principle identical reporting obligations for aid granted under the 2012 SGEI Framework.

Please structure your report as follows:

1. EXPENDITURE OVERVIEW

Please complete the following table:

Total SGEI government expenditure by legal basis (millions EUR)		
	2020	2021
Total compensation for Services of General Economic Interest (1+2)	92.019*	86.826*
	(1) - — 0.174	
	(2)(d) — 15.449	(1) - — 0.327
	(2)(e) - — 10.13	(2)(d) — 0.145
	(5)(a) - — 16.76	(2)(e) - — 13.55
	(5)(c) — Sofia Municipality — 13.428	(5)(a) - — 17.56
	(5)(c) — OPE — 0.03	(5)(c) — Sofia Municipality — 14.773
	(5)(g) — Bulgarian Post - pensions - 14.861	(5)(c) — OPE — 0.48
(1) Total compensation granted on the basis of the SGEI Decision		(5)(g) - — Bulgarian Post - pensions - — 15.12

	(5)(g) — Bulgarian Post - printed matter - 10.79 (5)(g) — Napoitelni Sistemi EAD — 9.715 * *	(5)(g) — Bulgarian Post - printed matter - 12.60 (5)(g) — Napoitelni Sistemi EAD — 12.271 * *
	(5)(g) — SOE Kabiyuk — 0.682	(5)(g) — SOE Kabiyuk — no information ***
(2) Total compensation granted on the basis of the SGEI Framework	not applicable	not applicable

***The fixed exchange rate EUR 1 = BGN 1.95583 was used for the calculation of the amount.

The differences between the total expenditure figures for 2020 and 2021 provided in this document and in the Excel file are due to the conversion of the expenditure values from EUR into millions EUR and their corresponding rounding.

** The values reported include VAT. The funds were advanced in accordance with the State Budget Act for 2020 and 2021. Following the submission of the report on factual findings by the auditor, the Committee will meet, examine and decide on the amount of compensation due to Napoitelni Sistemi EAD for the provision of a public service in 2021.

* * * for SOE Kabiyuk, no compensation has yet been granted for 2021.

2. DESCRIPTION OF THE APPLICATION OF THE 2012 SGEI DECISION

Please structure this part of your report by the following sections:

- 1) Hospitals providing medical care, including, where applicable, emergency services (Article 2(1)(b))
- 2) Social services (Article 2(1)(c))
 - a) Health and long-term care;
 - b) Childcare;
 - c) Access to and reintegration into the labour market;
 - d) Social housing;
 - e) Care and social inclusion of vulnerable groups
 - f) Other social services (if applicable)
- 3) Air or maritime links to islands with average annual traffic not exceeding the limit set in Article 2(1)(d);
- 4) Airports and ports with average annual traffic not exceeding the limit set in Article 2(1)(e);
- 5) SGEI compensation not exceeding an annual amount of EUR 15 million (Article 2(1)(a));

a) Postal services:

Universal postal service (UPS) - Funds from the 2020 and 2021 central budget of the Republic of Bulgaria to compensate for the unfair financial burden for the provision of the universal postal service were granted to the postal operator obliged to provide the universal postal service (Bulgarian Post EAD) in accordance with Article 29 of the Postal Services Act. National laws in the field of postal services are in line with Directive 2008/6/EC. The compensation for the year concerned does not exceed EUR 15 million and falls under Article 2(1)(a) of Commission Decision of 20 December 2011 on the application of Article 106(2) TFEU on 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 7, 11.1.2012 (SGEI Decision).

б) Energy;

в) Waste collection;

г) Water supply;

д) Culture;

е) Financial services;

ж) Other sectors (please specify):

Paying out pensions at post offices Paying out pensions at post offices - For 2020 and 2021, the funds from the central budget of Bulgaria to compensate for the unfair financial burden for the public service of paying out pensions at post offices were granted to Bulgarian Post EAD on the basis of Article 92(5) of the Regulation on Pensions and Contribution Periods (NPOS). The compensation for the year concerned does not exceed EUR 15 million and falls under Article 2(1)(a) of the SGEI Decision.

Discount for wholesale and retail distribution of printed periodicals (newspapers and magazines), either directly or on a subscription basis, in Bulgaria - funds from the central budget of the Republic of Bulgaria granted in 2020 and 2021 to compensate for the unfair financial burden resulting from the provision of the public service of distribution of printed periodicals (newspapers and magazines) were made available to Bulgarian Post EAD on the basis of Decree 113 of 28 May 2020. The compensation for the year concerned does not exceed EUR 15 million and falls under Article 2(1)(a) of the SGEI Decision.

A SGEI not exceeding EUR 15 million has been formulated for Napoitelni Sistemi EAD in the agriculture sector which is provided pursuant to Article 2(1)(a) of the SGEI Decision and related to reducing the adverse effects of floods.

For SOE Kabiyuk in the livestock sector, in accordance with contract No RD 50 - 58/04.10.2019 concluded between the Ministry of Agriculture and SOE Kabiyuk and the Methodology for determining the amount of the unfair financial burden borne by SOE Kabiyuk, approved by Order No RD 09-983/22.10.2019 of the Minister for Agriculture, . The company is entrusted with a public service obligation to maintain indigenous and other valuable breeds from the National Livestock Fund and preserve them as a national treasure, receiving compensation from the state budget through the budget of the Ministry of Agriculture.

For each of the items outlined above please provide information in the form of the following table:

Section (for example 1, hospitals or 2b, childcare)
<p><i>(1) — hospitals</i></p> <p><i>(2)(d)— Social housing under Operational Programme ‘Regions in Growth’ (OPRG)</i></p> <p><i>(2)(e) — Care and social inclusion of vulnerable groups — procedures under the Operational Programme ‘Human Resources Development’ (OPHRD)</i></p> <p><i>(5)(a) — Universal postal service (UPS)</i></p> <p><i>(5)(c) — Waste collection — Sofia Municipality project</i></p> <p><i>(5)(c) — Waste collection — procedures under Operational Programme ‘Environment’ (OPE)</i></p> <p><i>(5)(g) — Paying out pensions at post offices</i></p> <p><i>(5)(g) — Discount for wholesale and retail distribution of printed periodicals (newspapers and magazines), either directly or on a subscription basis, in Bulgaria</i></p> <p><i>(5)(g) — for Napoitelni Sistemi EAD in the agriculture sector related to reducing the adverse effects of floods</i></p> <p><i>(5)(g) — for the SOE Kabiyuk in the livestock sector for maintaining autochthonous breeds and other valuable breeds of the National Livestock Fund and preserving them as a national treasure</i></p>
Clear and comprehensive description of how the respective services are organized in your Member State ¹
<p>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>

¹If 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.

(1) — Hospitals

Medical activities outside the scope of mandatory health insurance performed by municipal medical institutions are medical activities listed in the Decision on the Operation of Medical Institutions, issued by the Minister for Health, which are outside the scope of the mandatory health insurance and which are in line with the approved medical standards and the rules of good medical practice. They are listed in a separate annex to the agreement concluded with each healthcare establishment.

(2)(d) - Social housing under Operational Programme ‘Regions in Growth’ (OPRG)

Under the Guidelines for grant applicants in a grant award procedure (BG 16RFOP001-1.001-039 ‘Implementation of the Integrated Plans for Urban Regeneration and Development 2014-2020’ under the Operational Programme ‘Regions in Growth’ 2014-2020, municipalities award the provision of accommodation in social housing financed under the OP in line with the requirements of the Commission SGEI Decision, and this obligation is to be respected throughout the economically useful life of the assets. The development of the entrustment act in line with the requirements of the SGEI Decision is a commitment of the municipalities which they undertake with the conclusion of the grant agreement. With regard to this type of social infrastructure, grants are provided to the beneficiary municipalities as public bodies responsible for social policy at local level and providing basic services to the population in the territory concerned. The Local Government and Local Administration Act (ZMSMA) defines the municipality as the basic administrative- territorial unit where local self-government is exercised. According to Article 17(1) ZMSMA, local self-government consists in the right and opportunity for citizens and their elected bodies to independently resolve all local matters which fall within their competence, as defined by law, including those in the area of social services (point 7 of the aforementioned provision). Local self-government authorities are the municipal council and the mayor. One of the main activities and responsibilities of the municipality (implemented through the local self-government authorities) is to put in place adequate social infrastructure which is also a priority in any short, medium or long term plan or programme. Social infrastructure is used to provide social services, including the provision of shelter to the most deprived. In this connection, the provision of social housing is a service entirely within the competence of the municipality. Organising this service, the municipality fulfils its obligations to society and acts in the public interest, namely through the provision of shelter and normal living conditions to vulnerable, minority and socially disadvantaged groups of the population and other disadvantaged groups who cannot afford to buy or rent property at market prices and for whom no other alternatives exist in practice, as there is no supply of housing for this kind of users. Social housing, whatever the specific nature of this term used for the purposes of this procedure, is essentially municipal dwellings and as such is subject to the Municipal Property Act (ZOS). Pursuant to the explicit legislative authorisation laid down in Article 45a ZOS, the determination of housing needs and the provision of social housing is subject to the regulatory procedure laid down by the municipal council in an ordinance. According to the case-law of the Supreme Administrative Court, ‘municipal housing is a management and administrative activity in which an authority authorised by law is vested with public authority’ (Order No 5124/12.04.2011 of the Supreme Administrative Court in Administrative Case No 4246/2011).

The beneficiary municipalities of procedure BG16ROP001-1.001-039 'Implementation of integrated plans for urban rehabilitation and development 2014-2020' are the owner of the infrastructure. Given that the municipality (through its bodies), being the owner of the infrastructure, determines who and how to manage the infrastructure, it is the contracting authority of the social housing service and the administrator of the aid to the service operator (the municipality provides the means to carry out the service activities and these funds, together with the infrastructure funded by the project, constitute SGEI compensation). In order to ensure that the compensation complies with the State aid rules, the municipality must award the service in accordance with the requirements of the SGEI Decision. The provision of the service and, as the case may be, the operation of the infrastructure may be assigned both to a person external to the municipality (for example, a commercial company) and to a municipal undertaking, a second-tier budget authority or a department/directorate within the municipal administration itself. In any event, the infrastructure operator, even where it is not a separate legal entity but a part of the municipal administration, is regarded as a recipient of compensation for the provision of social housing services.

In addition, unlike in the case of other municipal dwellings, the period of accommodation in social housing under the OPRG 2014-2020 is limited to 3 years. According to the Guidelines for grant applicants, the contract concluded with the users of the housing must include a 'social clause' linked to the use of the social housing, in conjunction with a social package: a package of social services provided to persons accommodated in social housing according to their individual needs. It is precisely this integrated nature of the support that characterises social housing under the OPRG 2014-2020 as a social service of general economic interest.

In the 2020-2021 reporting period under priority axis 1 'Sustainable and integrated urban development', procedure BG16RFOP001-1.001-039 'Implementation of integrated urban regeneration and development plans 2014-2020' under OPRG 2014-2020, a total of 14 (fourteen) administrative grant agreements (for social housing) were concluded, of which:

- In 2020, 14 (fourteen) administrative grant contracts were signed for an amount of EUR 15.278 million;

- No contracts were concluded in 2021.

In the reporting period 2020-2021, 4 (four) administrative grant agreements were completed under the above procedure, namely:

- BG16RFOP001-1.008-0002-C01 'Construction of social housing in district IV' of the municipality of Blagoevgrad.

- BG16RFOP001-1.020-0003-C01 'Construction of social housing for vulnerable groups in Groznitsa district, city of Lovech' of the municipality of Lovech;

- BG16RFOP001-1.005-0005-C01 'Construction of social housing for persons belonging to minorities and socially disadvantaged persons who do not meet the housing conditions of the municipality of Ruse' of the municipality of Ruse;

- BG16RFOP001-1.006-0004-C01 'Construction of social housing in Stara Zagora' of the municipality of Stara Zagora.

(2)(e) — Care and social inclusion of vulnerable groups — under the Human Resources Development Operational Programme

As Managing Authority for the Operational Programme 'Human Resources Development' 2014-2020, the Directorate-General for European Funds, International Programmes and Projects of the Ministry of Labour and Social Policy implemented procedures through the direct award of grants as follows:

1. Procedure BG05M9OP001-2.040 'Patronage care for the elderly and people with disabilities — Component 2':

This procedure is carried out under Priority Axis No 2 'Poverty reduction and promotion of social inclusion', Investment Priority (IP) No 3 'Improving access to affordable, sustainable and high-quality services, including health and social services of general interest', Specific Objective 2 to IP 3 'Reducing the number of elderly people and people with disabilities placed in institutions through the provision of social and health services in the community, including long-term care services'.

The general objective of the procedure is to improve the quality of life and the opportunities for social inclusion of people with disabilities and the elderly by providing a network of services in the home environment and building suitable (material and personnel) capacity for their delivery.

The specific objective of the procedure is to build a patronage care model for the elderly and people with disabilities, including chronic diseases and permanent disabilities, in order to ensure hourly mobile integrated health care services at home.

Procedure BG05M9OP001-2.040 'Patronage care for the elderly and people with disabilities — Component 2' is being implemented in accordance with the SGEI Decision. Specific beneficiaries and partners in the procedure are the municipalities in Bulgaria, in line with the criteria approved by the OPHRD 2014-2020 Monitoring Committee for the selection of the operation. The number of beneficiaries and partners is 125 and 31 respectively.

The beneficiaries and the partner municipalities are local government public bodies and the basic administrative-territorial units where local self-government is exercised. The municipalities are set up as regional executive bodies for the implementation of state policy of local importance in the interest of the local community. State policies in the field of social assistance, including social integration of vulnerable groups are implemented in cooperation with public authorities, local authorities and others which create conditions and facilitate the implementation of programmes and projects in this field. In the implementation of local policies, municipalities support the central executive exercising its public powers in the field of social policy towards the integration of vulnerable groups.

According to Article 17(1) of the Local Government and Local Administration Act (ZMSMA), local self-government consists in the right and opportunity for citizens and their elected bodies to independently resolve all local matters which fall within their

competence, as defined by law, including those in the area of social services (point 7 of the aforementioned provision). Local self-government authorities are the municipal council and the mayor. One of the main activities and responsibilities of the municipality (implemented through the local self-government) is to put in place adequate social services which is also a priority in any short, medium or long term plan or programme.

Under the Social Assistance Act, social services are carried out by the state, municipalities, etc., with the mayor of the municipality managing social services on the territory of the municipality, which are activities delegated by the State and local activities. The mayor is responsible for meeting the criteria and standards for the provision of social services and is the employer of the managers of these services. As such, they have an obligation to plan, manage and determine the social services to be provided on their territory at local level (in accordance with the Social Assistance Act and its Implementing Rules) and to ensure that they are provided in accordance with national priorities. The provision of social services guarantees the right of citizens in Bulgaria to receive social assistance.

Patronage care is not included in the list of activities delegated by the State which are financed by funds from the State budget. The municipalities maintain some of the services as a local activity, but the capacity of these local activities cannot meet the needs of people in need of home health care services. Except for the municipalities, no one else provides this service on the market or, if it is provided, the price is not affordable for the target groups and the territorial scope is insufficient. Given the target group, a pressing need for integrated health and social services at home (patronage care) has been identified. The market, in so far as it exists, cannot offer these services at prices accessible to the target group, while maintaining the required quality. In other cases, while there is a proven need for them, such services are not offered in the municipalities, i.e. there is no market and the public authorities decide to organise the provision of such services under certain rules.

The activities under the procedure focus exclusively on people over 65 with restricted ability or functional dependence or people with disabilities and their families, people who are socially isolated and who have a social need for hourly services, thus protecting the public interest and responding to the needs of the population. The procedure is in accordance with Measure 2 (Operation 6): Ensuring patronage care by provision of hourly mobile integrated healthcare and social services for people with disabilities and the elderly in the 2018-2021 Action Plan for the implementation of the National Strategy on Long-Term Care adopted by Decision of the Council of Ministers No 28/19.01.2018, and is part of the overall process of deinstitutionalisation of the care of people with disabilities and of the elderly and the building of alternative community-based assistance through the provision of affordable, quality long-term care services. The implementation of the procedure results in an improvement of the quality of life and the opportunities for social inclusion of people with disabilities and the elderly by providing a network of services in the home environment and building suitable (material and personnel) capacity for their delivery.

Grants are provided to the municipalities, specific beneficiaries and partners in their capacity as public bodies responsible for the implementation of social policies at local level and the provision of basic services to the population in the territory concerned. Where public authorities at national, regional or local level organise, entrust or perform services/activities to meet the needs of society, they are generally classified as services of

general (public) interest. The Communication 'Implementing the Community Lisbon Programme: social services of general interest in the European Union' (COM (2006)177) identifies, in addition to healthcare services, two main groups of social services of general economic interest, one of these groups of services covering, among others, 'care for the social inclusion of vulnerable groups'. The care and social inclusion of vulnerable groups is also listed as a social service in the Commission SGEI Decision. In this regard, the provision of integrated healthcare and social services for disabled and elderly people in need (patronage care) is regarded as an SGEI.

According to the SGEI Decision, one of the main criteria to be met is that the amount of compensation must not exceed what is necessary to cover the net cost incurred in discharging the public service obligations, including a reasonable profit. According to the provisions of Article 125(4) of Regulation 966/2012 and Article 192(1) of Regulation 2018/1046 grants must not have the purpose or effect of producing a profit within the framework of the action or the work programme of the beneficiary ('no-profit principle'). Therefore, the procedure does not allow a profit to be made in the performance of the SGEI and only the net costs incurred in discharging the public service obligation are taken into account in determining the amount of the compensation. 'Patronage care' is defined as an SGEI, and a grant in connection with the provision of a 'patronage care for the elderly and the disabled' service constitutes a public service compensation for the operator of that service (the provider), which is compatible with the internal market and excluded from the notification requirement laid down in Article 108(3) of the Treaty on the Functioning of the European Union. The activities covered by this procedure fall within the scope of the services referred to in Article 2(1)(c) of the Commission SGEI Decision: Taking into account the specificities of patronage care, in accordance with the Commission Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union (2016/C 262/01), European rules require an assessment of the applicability of State aid rules at three levels: owner (municipality), supplier and end-user.

At the level of the user of the service, given that these are natural persons who do not carry out an economic activity, the existence of State aid is excluded as such may exist only when the recipient is an undertaking.

The municipalities which are beneficiaries/partners in the procedure 'Patronage care for the elderly and people with disabilities' are the owner. With the signature of the administrative contract, the OPHRD MA provides municipalities (specific beneficiaries and partners) with grants to implement a project proposal for the provision of hourly integrated home health care services: patronage care. The municipality is also the owner of the furnishing and equipment purchased with project funds, including the means of transport (if applicable) for their entire economically useful life. The acquired assets are entered in the assets of the municipality in accordance with the rules in force, while the costs of depreciation arise for the owner (municipality) and not for the SGEI provider (irrespective of the fact that a supplier may be an administrative unit of the municipality itself). The furnishing and equipment acquired with grant funds may not be used for the economic activity of the municipality at the end of the project, unless it is granted for use in connection with the operation of an SGEI entrusted in accordance with the respective procedure, in line with the rules on State aid. As regards the applicable State aid rules, despite the fact that it does not have separate legal personality, the municipal undertaking or the unit responsible for the provision of the service is regarded as a separate/independent part of the remaining municipal administration, since the revenue

and expenditure relating to the activities carried out by the municipal undertaking/unit concerned are to be separated from the other revenue and expenditure of the municipality. That separation is a necessary condition for the purposes of the State aid rules and the award of the service.

The activities for implementing measures for the social inclusion and integration of people with disabilities and, in particular, the provision of hourly mobile social and healthcare services to persons over 65 with functional dependence or to people with disabilities, are an integral part of the powers of the municipalities as a local authority and cannot be separated from the exercise of public powers, as they have been entrusted to them by the State. In view of this, it can be concluded that, at the level of the owner, the grant provided to municipalities by the OPHRD MA falls outside the scope of the State aid rules, as it is a transfer between the budgets of the executive branch of government.

At the operator (service provider) level, the economic nature of patronage care cannot be excluded as the operator operates under the conditions of an existing social services market. The fact that the prices of these social services on the free market are unacceptable/unaffordable to a large part of those in need and that there is no private interest in the provision of this type of services proves the need for State intervention, but does not rule out the existence of an economic activity. As mentioned above, patronage care is defined as a SGEI and, in this respect, for a grant to be compatible with the common market the rules on State aid should apply: the procedure is governed by the rules of the Commission SGEI Decision.

Given that the municipality (through its authorities), being the owner, determines who is to provide social services for the population and how those social services are to be provided, it constitutes a contracting authority for the service and an administrator of the grant to the service provider (the operator). The municipality provides the means to carry out the activities of providing the patronage care and those means constitute the SGEI compensation.

2. Procedure BG05M9OP001-2.090 'New long-term care for the elderly and people with disabilities — Stage 2 — provision of new services':

The specific beneficiaries of this procedure are 28 municipalities in Bulgaria, according to the maps of community support services and resident services under the Action Plan 2018-2021 for the implementation of the National Strategy on Long-Term Care, which have received funding for the construction of social infrastructure under Operational Programme 'Regions in Growth' under procedure BG16RFOP001-5.002 'Support for deinstitutionalisation of social services for the elderly and people with disabilities'.

The specific beneficiaries, the municipalities, are local government public bodies and the basic administrative-territorial units where local self-government is exercised. Local self-government consists in the right and actual opportunity for citizens and their elected bodies to independently resolve all local matters which fall within their competence, as defined by law, including those in the area of social services. The municipalities are set up as regional executive bodies for the implementation of state policy of local importance in the interest of the local community.

State policies in the field of social assistance, including through social services, are implemented in cooperation with public authorities, local authorities and other actors which create conditions and facilitate the implementation of programmes and projects in

this field. In this regard, municipalities as executive bodies are public bodies set up to exercise state powers by supporting the implementation of the state policy in their area of competence. The role of the State is in providing funds for social services, which constitute activities delegated by the State, and in formulating the social services policies. By formulating social services policies and financing social services, which it delegates, the State, in partnership with the municipalities, fulfils its responsibility to provide social support to vulnerable citizens. In the implementation of local policies, municipalities support the activities of the central executive exercising its public powers in the field of social policy on the integration of vulnerable groups. According to Article 17(1) ZMSMA, local self-government consists in the right and opportunity for citizens and their elected bodies to independently resolve all local matters which fall within their competence, as defined by law, including those in the area of social services (point 7 of the aforementioned provision). Local self-government authorities are the municipal council and the mayor.

One of the main activities and responsibilities of the municipality as a manager and a provider of social services (implemented through local authorities) is the provision of adequate social services for the population. Under the national legislation, social services are carried out by the municipalities, with the mayor of the municipality managing social services on the territory of the municipality, which are activities delegated by the State and local activities. The mayor is responsible for meeting the criteria and standards for the provision of social services and is the employer of the managers of these services. As such, they have an obligation to plan, manage and determine the social services to be provided on their territory and to ensure that they are provided in accordance with national priorities. The provision of social services guarantees the right of citizens in Bulgaria to receive support for social inclusion.

Social services in Bulgaria are an essential tool for the social inclusion of vulnerable groups. They are activities in support of social inclusion and independent living, based on social work and take account of individuals' wishes and personal choices. All Bulgarian citizens, families and cohabitants who, following a needs assessment, are found to be in need of support with a view to social inclusion and ensuring independent living are entitled to social services under the law,

Due to their role as public authorities in the field of social policy at local level, municipalities which are included in the maps of resident and community support services and on whose territory the social infrastructure is built have been designated as specific beneficiaries of the procedure.

The services to be set up under this procedure, day centres and care homes, are not included in the list of activities delegated by the State, which are financed from the State budget. Except for the municipalities, no one else provides these service on the market or, if they are provided, the price is not affordable for the target groups and the territorial scope is insufficient.

The purpose of the funding provided under this procedure is to support the provision and operation of the services, the infrastructure of which has been built under the Operational Programme 'Regions in Growth' in implementation of the measures under the 2021-2018 Action Plan for the implementation of the National Strategy for Long-Term Care in the process of deinstitutionalisation of care of the elderly in the Republic of Bulgaria.

The following types of services are to be established:

- *Day centres for people with different forms of dementia and their families*

and

- *Care homes for people with disabilities and the elderly (for persons with mental disorders, persons with intellectual disabilities, people with various forms of dementia and the elderly with functional dependence).*

The implementation of this operation will support the process of deinstitutionalisation of the care for people with disabilities and the elderly and ensure the provision of new services in the community on the territory of the country, for which the appropriate infrastructure has been built with funds from the Operational Programme 'Regions in Growth'.

In order to develop long-term care for the elderly and people with disabilities and improve their quality of life, a National Strategy on Long-Term Care (Decision of the Council of Ministers No 2/7.1.2014) was adopted in early 2014, aimed at creating the conditions for independent and dignified living for the elderly and people with disabilities through the provision of accessible and sustainable quality long-term care services tailored to the individual needs of users.

The activities under the procedure are inextricably linked to these objectives and to major societal objectives for which services are provided by municipalities. The services focus entirely on: elderly people, including with disabilities, institutionalised and community-based, and their families; adults with disabilities and their families; staff of social and health care providers.

Only municipalities listed as eligible applicants under the Conditions of Application will receive grants under the procedure as public bodies responsible for implementing the social policy at local level and providing services to the population on the territory concerned.

Where public authorities at national, regional or local level organise, entrust or perform services/activities to meet the needs of society, they are generally classified as services of general (public) interest.

At the level of the user of the service, given that these are natural persons who do not carry out an economic activity, the existence of State aid is excluded as such may exist only when the recipient is an undertaking.

The owner are the municipalities beneficiaries under the procedure New long-term care for the elderly and people with disabilities — Stage 2 — provision of new services''. By signing the administrative contract, the MA of the OPHRD provides a grant to the municipality (specific beneficiary) for the implementation of a project proposal for the provision of community support services (in day centres) and residential services (care homes).

The municipality is also the owner of the furnishing and equipment purchased with project funds for their entire economically useful life. The acquired assets are entered in the assets of the municipality in accordance with the rules in force, while the costs of depreciation

arise for the owner (municipality) and not for the SGEI provider (irrespective of the fact that a supplier may be an administrative unit of the municipality itself).

The furnishing and equipment acquired with grant funds may not be used for the economic activity of the municipality at the end of the project, unless it is granted for use in connection with the operation of an SGEI entrusted in accordance with the respective procedure, in line with the rules on State aid. This requirement is laid down in the administrative grant agreement.

The activities for implementing measures for the social inclusion and integration of people with disabilities and, in particular, the provision of social and healthcare services including to persons over 65 with partial or full functional dependence and/or to people with disabilities, are an integral part of the powers of the municipalities as a local authority and cannot be separated from the exercise of public powers, as they have been entrusted to them by the State. In view of this, it can be concluded that, at the level of the owner, the grant provided to municipalities by the MA of the OPHRD falls outside the scope of the State aid rules, as it is a transfer between the budgets of the executive branch of government.

At the operator (service provider) level, the economic nature of day centres and care home cannot be excluded as the operator operates under the conditions of an existing social services market. The fact that the prices of social services of this type on the free market are unacceptable/unaffordable to a large part of those in need and that there is no private interest in the provision of this type of services proves the need for State intervention, but does not rule out the existence of an economic activity.

Given that the municipality (through its authorities), being the owner, determines who is to provide social services for the population and how those social services are to be provided, it constitutes a contracting authority for the service and an administrator of the grant within the meaning of Article 9 of the State Aid Act to the service provider (the operator). The municipality provides the means to carry out the activities of providing day centres and care homes and those means constitute the SGEI compensation. In view of the above, in order to ensure compliance of the compensation with the State aid rules, the municipality entrusts the performance of the service concerned, in accordance with the requirements of the SGEI Decision, to a social service provider (including a municipal undertaking set up in accordance with Article 52 of the State Aid Act, a second-tier budget authority or a unit/directorate within the municipal administration). In any event, the service provider (the operator), even if it is not a separate legal entity, but part of the municipal administration, is regarded as an undertaking for the purposes of State aid for the specific activity and as the recipient of compensation for the provision of the services — day centres and care homes.

In order to ensure that project proposals comply with the State aid rules in the grant contracts, the MA of the OPHRD sets out a requirement for beneficiaries, following the creation of the conditions to provide the services to those in need (preparation, furnishing and fitting-out of premises) to entrust the provision of services in line with the requirements of the SGEI Decision.

All assets acquired with the grant under the project remain the property of the municipality (the contracting entity) for their entire economically useful life. When entrusting the SGEI, the municipality provides the assets to be operated and used by the

service provider (operator) only for the specific SGEI (day centres and care homes) and only for the duration of the operation of the public service obligation.

3. Procedure BG05M9OP001-6.002 'Patronage care +':

This procedure is conducted under: Priority Axis 6 : 'Fostering crisis repair in the context of the COVID-19 pandemic and preparing a green, digital and resilient recovery of the economy' Investment Priority No 1 'Fostering crisis repair in the context of the COVID-19 pandemic and preparing a green, digital and resilient recovery of the economy' Specific Objective 1: 'Fostering crisis repair in the context of the COVID-19 pandemic and preparing a green, digital and resilient recovery of the economy'

The aim of the procedure is to provide support through the provision of patronage care for the elderly and people with disabilities through home services, as well as support to adapt social services delegated by the State in response to the unprecedented challenges related to the spread of COVID-19. Continued support for the provision of hourly mobile integrated health and social services in homes of those most vulnerable to the Corona virus will be ensured.

Additional financial support in relation to COVID-19 infection prevention measures and the provision of patronage service will provide continued support also in this emergency situation in response to the current needs related to the prevention and containment of the coronavirus and the needs of vulnerable groups.

Under procedure BG05M9OP001-6.002 'Patronage care +', patronage care activities (activities 1-4 under the procedure) are carried out in line with the SGEI Decision.

Specific beneficiaries in the procedure are the municipalities in Bulgaria, in line with the criteria approved by the OPRHR 2014-2020 Monitoring Committee for the selection of the operation.

Under Article 63(4) of the Health Act, State and municipal authorities establish the necessary conditions for the implementation of the measures put in place by the Minister for Health in the event of an emergency epidemic situation on the territory of the country.

One of the main activities and responsibilities of the municipality (implemented through the local self-government) is to put in place adequate social and health services for the population and protect it in crisis situations, which is also a priority in any short, medium or long term plan or programme.

According to the Social Services Act, part of the tasks of the mayor of the municipality is to manage the provision of social services on the territory of the municipality, which are financed from the state and municipal budgets. It is the responsibility of the mayor that the social services on the territory of the municipality, which are financed from the state and municipal budgets, comply with the quality standards. The mayors of municipalities are under the obligation to analyse the needs for social services of the people living in the municipality concerned in accordance with the criteria laid down under the Social Services Act and to ensure their provision in accordance with the national priorities.

Patronage care as an integrated service is not included in the list of social services delegated by the State which are financed by funds from the State budget. The municipalities maintain some of the services as a local activity, but the capacity of these

local activities cannot meet the needs of people in need of home health care services. Except for the municipalities, no one else provides this service on the market or, if it is provided, the price is not affordable for the target groups and the territorial scope is insufficient. Given the target group, a pressing need for integrated health and social services at home (patronage care) has been identified. The market, if there is one, cannot offer these services at prices accessible to the target group, while maintaining the required quality. In other cases, while there is a proven need for them, such services are not offered in the municipalities, i.e. there is no market and the public authorities decide to organise the provision of such services under certain rules. The activities focus exclusively on people with restricted ability or functional dependence or people with disabilities and their families, people undergoing quarantine who need hourly services, thus protecting the public interest and responding to the needs of the population.

In 2020, patronage care for vulnerable persons, including those in quarantine due to COVID-19, proved to be a well-functioning support mechanism in particularly difficult conditions for people at risk of social exclusion. After a state of emergency was declared, public services in the country closed or were severely restricted.

Patronage care activities have been developed as required by the draft amendment of the draft ESF + Regulation: under the dedicated separate thematic objective of the Commission 'Fostering crisis repair in the context of the COVID-19 pandemic and preparing a green, digital and resilient recovery of the economy' and respond to EU's efforts to address the most pressing challenges related to the coronavirus outbreak.

The implementation of patronage care activities supports the government's efforts to contain the spread and address the consequences of COVID-19.

Grants are provided to the municipalities, specific beneficiaries in their capacity as public bodies responsible for the implementation of social policies at local level and the provision of basic services to the population in the territory concerned.

Where public authorities at national, regional or local level organise, entrust or perform services/activities to meet the needs of society, they are generally classified as services of general (public) interest. The Communication 'Implementing the Community Lisbon Programme: social services of general interest in the European Union' (COM (2006)177) identifies, in addition to healthcare services, two main groups of SGEIs, one of these groups of services covering, among others, 'care for the social inclusion of vulnerable groups'. The care and social inclusion of vulnerable groups is also listed as a social service in the Commission SGEI Decision. In this regard, the provision of integrated healthcare and social services for people with disabilities, the elderly and people undergoing quarantine in need (patronage care) is classified as an SGEI.

According to the provisions of Article 125(4) of Regulation 966/2012 and Article 192(1) of Regulation 2018/1046 grants must not have the purpose or effect of producing a profit within the framework of the action or the work programme of the beneficiary ('no-profit principle'). Therefore, it is not permitted to make a profit from patronage care activities in the performance of the SGEI and only the net costs incurred in discharging the public service obligation are taken into account in determining the amount of the compensation.

A grant in connection with the provision of the SGEI 'Patronage care +' is a public service compensation for the operator of that service (the provider), which is compatible

with the internal market and excluded from the notification requirement laid down in Article 108(3) of the Treaty on the Functioning of the European Union.

Taking into account the specificities of patronage care, in accordance with the Commission Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union, European rules require an assessment of the applicability of State aid rules at three levels: owner (municipality), supplier and end-user.

At the level of the user of the service, given that these are natural persons who do not carry out an economic activity, the existence of State aid is excluded as such may exist only when the recipient is an undertaking.

The owners are the municipalities that are beneficiaries in the Patronage care + procedure. With the signature of the administrative contract, the OPHRD MA provides the municipality (specific beneficiary) with a grant to implement a project proposal for the provision of hourly integrated home health care services: patronage care.

The activities for implementing measures for the social inclusion and integration of people with disabilities, the elderly with partial or full functional dependence and other vulnerable groups, including people undergoing quarantine linked to COVID-19, and people at risk of contracting COVID19 are an integral part of the powers of the municipalities as a local authority and cannot be separated from the exercise of public powers, as they have been entrusted to them by the State. In view of this, it can be concluded that, at the level of the owner, the grant provided to municipalities by the OPHRD MA falls outside the scope of the State aid rules, as it is a transfer between the budgets of the executive branch of government.

At the operator (service provider) level, the economic nature of patronage care cannot be excluded as the operator operates under the conditions of an existing social services market. The fact that the prices of these social services on the free market are unacceptable/unaffordable to a large part of those in need and that there is no private interest in the provision of this type of services proves the need for State intervention, but does not rule out the existence of an economic activity.

Given that the municipality (through its authorities), being the owner, determines who is to provide social services for the population and how those social services are to be provided, it constitutes a contracting authority for the service and an administrator of the grant to the service provider (the operator). The municipality provides the means to carry out the activities of providing the patronage care and those means constitute the SGEI compensation. In order to ensure that the compensation complies with the State aid rules, the municipality awards the service in accordance with the requirements of the SGEI Decision. The provision of the service may be entrusted to a municipal undertaking, to a second-tier budget authority or to a unit/directorate within the municipal administration itself. In any event, the service provider (the operator), even if it is not a separate legal entity, but part of the municipal administration, is regarded as an undertaking for the purposes of State aid for the specific activity and as the recipient of compensation for the provision of the service patronage care.

4. Procedure BG05M9OP001-2.103 'Patronage care for the elderly and people with disabilities — Component 4':

This procedure is aimed only at municipalities (specific beneficiaries) implementing contracts under procedure BG05M9OP001-2.040 'Patronage care for the elderly and people with disabilities — Component 2'. The aim is to extend the provision of patronage care to target groups for an additional period of 6 months, addressing the population's needs for the provision of home services for the elderly and people with disabilities, thereby protecting the public interest and continuing the care process for people with disabilities and the elderly, as well as building alternative community support through the provision of quality and accessible long-term care services.

(5)(a) - Universal postal service (UPS)

The scope and characteristics of the UPS are regulated by the Postal Services Act (ZPU). The UPS is a service of specified quality uniformly performed within set working hours at affordable prices and accessible to all users throughout Bulgaria.

The UPS includes the following types of postal services:

1. Clearance, transport and distribution of the following domestic and cross-border mail:

(a) items of correspondence up to 2 kg;

(b) small packages up to 2 kg;

(c) print products up to 5 kg;

(d) postal items for blind and partially sighted persons, up to 7 kg.

2. Clearance, transport and distribution of the domestic and cross-border postal packages up to 20 kg. The weight limit for packages from other countries may be higher;

3. Additional services for 'registered items' and 'insured items'.

(5)(c) — Waste collection — Sofia Municipality project

Waste treatment and disposal services, operation and maintenance of waste treatment facilities acquired under the project 'Integrated system of municipal waste treatment facilities for Sofia Municipality'.

(5)(c) — Waste collection — procedures under Operational Programme 'Environment' (OPE)

Under Priority Axis 2 'Waste' of Operational Programme 'Environment' 2014-2020, the following procedures are announced: BG16M1OP002-2.002 'Combined procedure for the design and construction of composting plants and plants for the pre-treatment of household waste'; BG16M1OP002-2.004 'Design and construction of anaerobic installations for separately collected biodegradable waste'; BG16M1OP002-2.005 'Design and construction of composting plants for separately collected green and/or biodegradable waste'; BG16M1OP002-2.006 'Second combined procedure for the design and construction of composting installations and installations for pre-treatment of household waste' and BG16M1OP002-2.007 'Completion of project 'Application of a decentralised approach to bio-waste management in one of Bulgaria's waste management areas, including the construction of the necessary technical infrastructure, notably a plant for separate bio-waste collection and recycling' with beneficiaries municipalities on the territory of the Republic of Bulgaria.

Municipalities and owners of pre-treatment, composting and anaerobic treatment installations (including services for separate collection of green and/or biodegradable

household waste financed by the OPE 2014-2020, supported by an EU ERDF grant) which are included in waste management regions where, according to the National Waste Management Plan 2020-2014 (NWMP), such installations have not been built. Municipalities are beneficiaries of the grant because they are responsible for the pre-treatment and composting of household waste. According to Article 19 of the Waste Management Act (WMA), the mayor of the municipality has the power to organise the management of waste generated on its territory. The mayor of the municipality is also responsible for the separate collection of municipal waste on the territory of the municipality for at least the following waste materials: paper and cardboard, metals, plastics and glass. It is the authority competent to decide how to organise the pre-treatment and it is responsible for the management of household waste generated on the territory of the municipality. Such decisions cannot be taken by another body — they are entirely within the competence of municipal authorities (municipal councils and mayors).

Municipalities' duties under the WMA are carried out on a regional basis. Article 31(1) of the Waste Management Act sets national targets to be achieved in each of the waste management regions. Pursuant to Section 15 of the Transitional and Final Provisions of the WMA, the targets for the treatment for re-use and recycling of waste materials, including at minimum paper, cardboard, metal, plastic and glass from households and similar waste from other sources, are as follows: by 1 January 2016, at least 25% of their total weight; by 1 January 2018 at least 40% of their total weight and by 1 January 2020 at least 50% of their total weight.

In order to achieve the national targets under Article 31(1) WMA, the municipalities of each waste management region set up a regional waste management association. These targets are distributed among the waste management regions on the basis of the morphological composition of the waste generated on the territory of the municipalities in each of the regions. The allocation of obligations to meet the objectives referred to in Article 31(1) WMA between the different municipalities in the waste management region itself is carried out by decision of the regional waste management association. The municipalities in each regional waste management association must ensure that the regional objectives are met jointly, within the deadlines set for this purpose. In order to achieve this result, the relevant waste management regions need to have facilities and installations in place to ensure compliance with household waste treatment obligations of the municipalities.

Facilities and installations for the treatment of household waste are part of a regional waste management system that municipalities set up as owners of household waste generated on their territory and as members of the respective regional waste management association. Their owner, in accordance with Article 23(3) WMA, may be: the municipality which owns the land or has a building right over the land designated for construction; jointly owned by the municipalities that are members of the regional waste management association; co-ownership of the private funding partner and the municipality owning the land and/or municipalities that are members of the regional waste management association or owned by the private funding partner for the pre-recovery or disposal and recovery facilities. It is up to the municipalities to decide on the ownership of the installations, which makes treatment of municipal waste in privately owned installations possible only after a decision to this effect has been taken by all municipalities in the waste management region. In making such a decision, municipalities should consider both the characteristics of the region concerned, the infrastructure available and the market supply available, as well as the need to achieve the waste targets

for the waste management region. Under the OPE 2014-2020 programme, only the construction of municipal installations is financed.

The NWMP contains information that the municipalities of the regional waste management association covered by the procedure have not yet installed and are not currently constructing biodegradable waste installations and sorting installations for separating recyclable components from household waste (public or private property). This indicates that these municipalities have not implemented the decision for the preliminary treatment and composting of household waste to be carried out by a private operator, if a decision to this effect was taken. As part of the NWMP, an analysis of the infrastructure for landfilling, pre-treatment, bio-waste recovery and energy production from household waste was carried out on the basis of up-to-date information at the beginning of 2014. It shows that 26 regional waste management associations do not have biodegradable waste installations and sorting installations for separating recyclable components from municipal waste and that no such installations are being planned or constructed.

According to the NWMP, landfilling as a waste disposal method still has the highest relative share in the treatment of household waste. The plan indicates that the indicator 'composted household waste per inhabitant' has improved in recent years, but the large gap compared to the European average has not yet been addressed, owing to the insufficient number of recovery facilities, including facilities for the recycling of biodegradable household waste. At the same time, the landfilling of household waste without prior treatment is in breach of Article 38 of Regulation No 6 of 27.8.2013 on the conditions and requirements for the construction and operation of landfills and other facilities and installations for the recovery and disposal of waste. Under the WMA, persons who accept waste for landfilling which has not been previously treated for disposal are subject to a financial penalty. A penalty in the form of a fine is also imposed on mayors of municipalities who do not exercise control over waste management or take the necessary action to achieve the preparation for re-use and recycling targets referred to in Article 31(1) of the Waste Management Act in accordance with the decision of the General Assembly of the regional waste management association. In the absence of the necessary installations, municipalities with statutory obligations to treat household waste, the failure to comply with which is subject to penalties, would have no other option than to organise that activity themselves by constructing municipal installations.

This information in its entirety indicates a lack of interest on the part of private funding partners within the meaning of the WMA in the construction of pre-treatment and composting installations to achieve the waste management objectives. The information will be checked during the assessment of project proposals when the municipalities applying for the procedure are required to provide data on all pre-treatment and composting installations under construction in the respective regional waste management association, an analysis of the need for additional infrastructure in the region to achieve the recycling and recovery targets for household waste, including an analysis of which approach is more effective: infrastructure for the treatment of household waste common to the whole region or part of the region or a separate infrastructure for each municipality in the association, as well as a justification showing that due to the missing/insufficient waste treatment services for the relevant type of waste in the specific region, the persons obliged by law are forced to build themselves the necessary infrastructure for the pre-treatment/composting of their household waste (described below).

According to the Commission Notice on the notion of State aid as referred to in Article 107(1) TFEU, infrastructure projects often involve several categories of actors. The Notice distinguishes between the developer and/or the first infrastructure owner, the operators (i.e. undertakings that directly use infrastructure to provide services to end-users, including undertakings that acquire infrastructure from the developer/owner to exploit it economically, or that obtain a concession for the use and operation of the infrastructure), and the end-users of the infrastructure. In this sense, the following actors can be provisionally distinguished:

- municipalities receiving grants from the Programme Managing Authority;*
- contractors to which the municipalities will entrust, in accordance with the procedure laid down in the Public Procurement Act (ZOP), the development and construction of installations for the pre-treatment and composting of household waste. In the context of the procedure, it is not permissible for the beneficiary municipalities to build these sites independently, through municipal undertakings.*
- the operators who will be entrusted with the operation of the installed installations;*
- users of the household waste pre-treatment and composting service in the territory of the municipalities concerned.*

This part of the Guidelines for applicants draw a distinction, for the purposes of the applicability of the State aid rules, between different actors and the relationship between them.

I. Relations between the managing authority of OPE 2014-2020 and municipalities receiving grants under the procedure:

Mayors of municipalities are required to organise separate collection and composting of biodegradable and green waste on their territory and to ensure pre-treatment of mixed household waste before it is landfilled. These obligations stem from European and national waste legislation and the current procedure is intended to support their implementation.

The construction of composting and pre-treatment facilities for household waste is aimed at raising waste management standards and ensuring a healthy environment and good environmental status for soil, water and air. The opinion of the Committee of the Regions on 'Management of bio-waste in the European Union' (2009/C 211/07) states that 'waste production and waste management present an environmental and health problem in the EU as well as globally, which directly implicates local and regional authorities in their general roles as decision-makers and organisers. The Committee also points out that all those who manage waste are responsible for ensuring a high level of environmental and human health protection.' Achieving the outcome of the procedure would therefore benefit citizens and the society as a whole.

The mayor of the municipality is an executive body. In this sense, the allocation of funds under Priority Axis 2 'Waste' of OPE 2014-2020, co-financed by the European Regional Development Fund and the state budget of the Republic of Bulgaria, to municipal budgets constitutes a transfer between the budgets of executive bodies. In the relations between

the managing authority of OPE 2014-2020 and the municipalities, the awarding of grants does not constitute State aid. Further arguments are set out below:

In the context of grant procedures, there is no competition between municipalities to obtain this aid. The implementation of projects under the procedures will help achieve both the national objectives set out in the WMA and the regional objectives which are set out in the secondary legislation referred to in Article 43(5) of the WMA. These objectives should be achieved by the municipalities in the waste management region concerned jointly and not in competition with each other.

The OPE 2014-2020 grant is awarded only for the implementation of eligible actions under the procedures as defined in the Guidelines for applicants in the procedures. The municipalities receiving these funds will not be able to use them to finance another (including economic) activity carried out by the municipality concerned.

At the grant stage, the companies that will operate the pre-treatment, composting and anaerobic treatment plants (including services for separate collection of green and/or biodegradable household waste) are not yet identified and therefore there is no need to identify an economic operator that may be given a market advantage.

II. Relations between municipalities receiving grants under public procurement procedures and contractors for the planning and construction of facilities for the pre-treatment and composting of household waste:

The installations financed under the procedure will be designed and constructed by contractors designated under the Public Procurement Act by carrying out open, transparent, well-publicised, non-discriminatory and unconditional procedures, in respect of which the Managing Authority of the OPE 2020-2014 carries out ex-post control of legality. In this sense, at the level of contractors, the support cannot create a risk to competition on the market either, as it does not lead to an advantage for a particular contractor within the meaning of Article 107(1) of the Treaty on the Functioning of the EU.

III. Relations between the municipalities — owners of future installations and the operators to which the municipalities entrust their operation:

The objectives and requirements of the procedures presuppose that the construction of the installations is entrusted by the beneficiary municipalities, who are free to choose how the installations constructed are to be operated subsequently, in compliance with the applicable legislation. The procedures provide for public funding for the preparation and construction of composting installations and installations for the pre-treatment of household waste. There is no provision for financing the operation of the installations thus constructed. However, from the point of view of the applicability of the State aid rules, it is necessary to examine both the stage of preparation and construction of the pre-treatment and composting installations and the stage of their operation, since the construction of the installations is of no importance on its own, if and until they become operational. Grants granted under the procedures and the construction of installations using the funds thus provided do not in themselves pose a risk to competition on the market. However, given that the entity that will operate the installation will receive compensation for the service provided which includes, in addition to remuneration for the activity carried out, the value of the right to use the installation, the assessment of public

support in the light of the State aid rules must also cover the stage of operation of the installations.

The municipalities, in their capacity as aid administrators in the award of pre-treatment and composting services, are required to ensure full compliance with the applicable State aid regime, including compliance with the obligation to notify the Ministry of Finance and the European Commission, where relevant.

In order to be eligible for funding under the procedure and in accordance with the SGEI entrustment rules, the municipalities assume the obligation to entrust an SGEI and, accordingly, to provide compensation for the service. Only project proposals which clearly argue that composting services or pre-treatment of household waste are not available on the free market, or even if there is some supply, it is not satisfactory in terms of parameters and conditions for achieving the objectives set by the municipalities, are eligible for funding. In case they refer to an SGEI entrustment, municipalities are required to provide, in the application process, a detailed justification showing that due to the lack/insufficient provision of treatment services for the waste concerned in the specific region, obliged entities are forced to organise themselves the pre-treatment/composting of their household waste. Thus, the procedure does not finance projects which provide for the construction of installations which would face direct competition from existing installations offering the same service. The justification of the applicant municipalities contains a detailed reasoning regarding the characteristics of the composting and pre-treatment services required, the conditions for their provision, the target group, the need to provide the services, the specificities of the existing supply (including all planned composting and pre-treatment plants in the region concerned, type of technology, capacity, type and source of waste treated, etc.). Each of the applicant municipalities declares that the circumstances described in the justification are correct and that a service with similar parameters and conditions is not available on the market. The declaration must be completed in accordance with the model attached to the Guidelines for Applicants and the justification is required at the time of application. The presence of the two documents, both of which must comply with the Guidelines for Applicants, is assessed under the criterion 'The applicant has submitted all the documents required for the purpose of the application'.

For the purposes of the justification, it is important to delineate the territory that represents the geographical market for the provision of the composting and pre-treatment services for household waste. According to competition law rules, the relevant geographic market broadly covers the territory where substitutable goods/services are offered and where the competitive conditions are equal or differ from those in adjacent areas. A regional approach to waste management has been adopted on the territory of the Republic of Bulgaria. In accordance with Article 49(9) of the Waste Management Act, the 2014-2020 NWMP defines waste management regions comprising municipalities that share a regional landfill and/or other waste treatment facilities. In this regard, the applicant municipalities should also take into account the specificities of their territory and the territory of the regional waste management association. Under the procedure, municipalities are required to submit a decision of the general assembly of the respective regional waste management association allocating the relevant waste treatment facilities and the duties of all municipalities in the association in order to achieve the objectives under Article 31(1)(1) and (2) of the WMA, which: (1) demonstrates the need for additional infrastructure in the region to achieve recycling and recovery targets for household waste and (2) has been taken on the basis of an analysis of which approach is

more effective — common to the whole region or part of the region, or individual to each municipality of the association.

The definition of the scope of the SGEI also takes into account the following:

As a general rule, under this procedure, municipalities of each eligible regional waste management association may jointly submit only one project proposal. It is permissible under a project proposal to build more than one composting plant that will serve different municipalities in the region but only one pre-treatment plant. An SGEI in this sense may be awarded for each individual installation falling within the scope of the project proposal or for all installations as a whole.

The pre-treatment of waste may be carried out by different methods — physical/mechanical, chemical, biological and thermal. It is therefore possible to use multiple and different processes leading to pre-treatment and hence use multiple and various types of installations, facilities and techniques. In this respect, the SGEI will have to be entrusted in respect of the whole pre-treatment installation and not separately for the services provided by each individual installation involved in the pre-treatment (sorting plant, installations for stabilising the biological fraction of waste, etc.), insofar as the relevant process covered by the individual installation cannot be carried out and entrusted to an operator on its own.

Depending on the scope of the project proposals and the situation in the region, the collection and transport of municipal waste for composting purposes may be entrusted as part of a composting SGEI.

The compensation must not exceed what is necessary to cover all or part of the costs incurred in the discharge of the public service obligations, taking into account the relevant receipts and a reasonable profit.

In conclusion, the beneficiary municipalities ensure compliance with the requirements for the provision of compensation for the provision of an SGEI in the entrustment of the service of composting and pre-treatment of household waste on their territory and within the respective association.

(5)(g) - Paying out pensions at post offices

Under Article 51(1) of the Regulation on Pensions and Contribution Periods (NPOS), pensions and supplements are paid out at post offices competent for the permanent or current address of pensioners in accordance with the procedure set out in the Regulation. Pensioners may receive their pension at home at their permanent or current address if they are entitled to a long-term disability pension or are 68 years of age or older (Article 62(1) of the Regulation).

The service of paying out pensions at post offices is defined in national law as an SGEI. By paying out pensions at post offices and allowing for receiving pensions at home, the State is helping to protect the most vulnerable social group: the pensioners.

(5)(g) — Discount for wholesale and retail distribution of printed periodicals (newspapers and magazines), either directly or on a subscription basis, in Bulgaria

Discount for wholesale and retail distribution of printed periodicals (newspapers and magazines), either directly or on a subscription basis, in Bulgaria is defined as a SGEI in national law. The service must meet certain requirements set out in the entrustment act, such as timely delivery, frequency of delivery, including early delivery, delivery on Saturdays/Sundays — 360 days a year, etc.

Through the provision of this service, printed periodicals are distributed throughout the country and equal access is ensured for all citizens, in particular the elderly and persons with reduced mobility. In doing so, the State is helping to protect the most vulnerable social groups of society.

(5)(g) — for Napoitelni Sistemi EAD in the agriculture sector related to reducing the adverse effects of floods

The SGEI at hand is provided pursuant to Article 2(1)(a) of the SGEI Decision and related to reducing the adverse effects of floods. It is provided by Napoitelni sistemi EAD, which is a 100% state-owned commercial company within the system of the Ministry of Agriculture, on the basis of a contract concluded between the Ministry and Napoitelni sistemi EAD.

The activities related to reducing the adverse effects of floods are set out in the Contract and include the following:

- Visits and monitoring for the purpose of identifying the technical and operational condition of dikes on the Danube and protective dikes, corrections of rivers and gullies, drainage fields and related systems and facilities as well as retention dams;*
- Maintaining the capacity of river and gully corrections, including their cleaning from construction waste, domestic waste and sediment deposits, removal of trees growing along the water course, trunks, bushes and all trees which have fallen or are at risk of falling;*
- Measurements and maintenance of the design parameters of dikes on the Danube and protective dikes, river and gully corrections, removal of grass, shrubs and trees, restoration of degraded profiles;*
- Maintenance and ongoing repair works of the open and closed drainage network and facilities of drainage fields and systems;*
- Operation and maintenance of the good working order of drainage pumping stations and related facilities;*
- Rectification of any faults which might impair the constructive and technological security of retention dams;*

- *Carrying out of emergency repair works of the facilities for reducing the adverse effects of floods in case of accidents posing a threat to the personnel and population, engineering infrastructure and populated areas.*

(5)(g) — for the SOE Kabiuk in the livestock sector for maintaining autochthonous breeds and other valuable breeds of the National Livestock Fund and preserving them as a national treasure

In accordance with contract No RD 50 - 58/04.10.2019 concluded between the Ministry of Agriculture and SOE Kabiuk and the Methodology for determining the amount of the unfair financial burden borne by SOE Kabiuk, approved by Order No RD 09-983/22.10.2019 of the Minister for Agriculture,. The company is entrusted with a public service obligation to maintain indigenous and other valuable breeds from the National Livestock Fund and preserve them as a national treasure, receiving compensation from the state budget through the budget of the Ministry of Agriculture. Species breeds: Horse breeding — East Bulgarian, Pleven horse, Shagiya Arabian breeds; Sheep breeding - Caucasian, Askanian, the copper-red Shumen and Karakachan breeds; Cattle breeding - grey Iskar cattle.

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

(1) — Hospitals

Contract for the execution of medical activities pursuant to Article 106(1) and (2) of the Medical Institutions Act concluded between the respective municipality and the medical establishment.

2d - Social housing under Operational Programme 'Regions in Growth' (OPRG)

The social housing service is awarded by the municipality in accordance with the requirements of the SGEI Decision, and the obligation to award applies to the entire economically useful life of the assets financed by the OP. The award of the service is effected by an act of entrustment which may take the form of a legislative or regulatory instrument or contract (legally binding document under national law which provides the legal basis for the financing of the specific service and for its definition as an SGEI). The service may also be entrusted by means of several instruments which, in their entirety, must contain all the necessary elements required by Article 4 of the SGEI Decision. In order to determine the type of document or documents that constitute an act of entrustment, it is necessary to specify which municipal body is authorised to entrust the execution of the service and therefore constitutes a 'contracting authority' and who is the 'contractor' of the service. The existence of a contracting entity and a contractor, regardless of their legal status, is a necessary condition for ensuring compliance with the SGEI rules. The term 'contracting authority' refers to the competent authority, which, by means of a specific act, may entrust a municipal unit (in the form of a municipal enterprise or other municipal unit) or the mayor of the municipality with the operation of social housing, may determine the terms and conditions thereof and may monitor compliance with the rules which it has adopted. This authority is the municipal council.

The municipal council's competence under the applicable national legislation covers the determination of the housing needs and housing in municipal dwellings by virtue of a regulatory procedure laid down by the municipal council in an ordinance pursuant to the explicit authorisation set out in Article 45a ZOS. This is also the body responsible for deciding which municipal housing should serve as SGEI housing as a form of administration and/or management of municipal property — Article 21(1)(8) ZMSMA. In the light of the above, the municipal council is the competent authority which, by means of a specific act (decision of the municipal council), can determine how, and through which units, the municipality will operate social housing and control compliance with the rules adopted by that authority (in conjunction with the ordinance adopted for this purpose). The municipal council is the body that will entrust the implementation of the SGEI and will supervise the provision of the service jointly with the mayor of the municipality. The municipal council's remit also covers the setting of the rental price of the municipal dwellings. The municipal council may decide that the social housing units financed under the OPRG are to be used by the representatives of vulnerable groups living there without payment of rent. Taking into account the status of social housing users and the impossibility for them to obtain adequate accommodation at market prices, where the municipal council decides that rent is to be paid for the housing, it should set a rent that does not exceed the cost of maintaining and ensuring the functioning of the buildings and their surrounding areas. At the application stage, the fulfilment of this condition is evidenced by a financial analysis.

(2)(e) — Care and social inclusion of vulnerable groups — under the Human Resources Development Operational Programme

1. Procedure BG05M9OP001-2.040 'Patronage care for the elderly and people with disabilities — Component 2' and procedure BG05M9OP001-2.103 'Patronage care for the elderly and people with disabilities — Component 4':

Under the applicable national legislation, the municipal council has competence for determining the types of social services within the territory of the municipality as well as a plan for the development of social services at municipal level. It also decides which municipal services should be defined as an SGEI. In the light of the above, the municipal council is the competent authority which, by means of a specific act (decision of the municipal council), can determine how, and through which units, the municipality will provide patronage care and control compliance with the rules adopted by that authority (in conjunction with the ordinance adopted for this purpose). The municipal council is the body entrusting the implementation of the SGEI and supervising the provision of the service jointly with the mayor of the municipality. The municipal council's remit also covers setting the fee to be paid by the users of patronage care. The municipal council may decide that the patronage care service funded under the OPHR be free of charge. Should it decide that patronage care will be provided against payment of a fee, the municipal council must determine the amount of the fee so that it does not exceed the costs of the provision of the patronage care. The condition concerning the amount of the fee should be met throughout the period of the provision of patronage care. Under Article 44(1)(1) and (2) ZMSMA, the mayor manages all implementation work of the municipality, directs and coordinates the activities of the specialised implementing bodies. Article 44(1)(5) ZMSMA also establishes the power of the mayor of the municipality to organise the implementation of the municipal budget, and subparagraph 7 imposes an obligation on the mayor to organise the implementation of the acts of the municipal council as well. The power of the mayor of the municipality to issue penalty orders in case of a violation of the municipal council regulations is laid down in Article 22(5) ZMSMA. As can be seen from the above, the provision of the patronage care service for the elderly and people with disabilities is entrusted by the municipal council though the mayor of the municipality.

In order to ensure that project proposals comply with the State aid rules in the grant contracts, the OPHRD MA sets out a requirement for beneficiaries and partners (municipalities), following the creation of the necessary conditions to provide the patronage care to those in need (for example, if there is a need for the repair and fitting-out of premises or the purchase of a car) to entrust the provision of services in line with the requirements of the SGEI Decision.

The entrustment of an SGEI by the municipalities is carried out by means of an entrustment act, which contains the mandatory elements set out in Article 4 of the SGEI Decision. The development of the entrustment act in line with the requirements of the SGEI Decision is a commitment of the municipalities which they undertake with the conclusion of the grant agreement. In order to facilitate the beneficiary and partner municipalities, the MA of the OPHRD developed guidelines (Annex No 1.1 — file: 'Annex 1.1 — Guidelines — OPHRD.pdf') on the content of the acts and a model entrustment act (Annex 1.2 — file: 'Annex 1.2 - - Entrustment - template - OP HRD.docx') in line with the SGEI Decision.

Where the beneficiary and/or the partner entrust the implementation of the mobile integrated social and healthcare service (the patronage care for the elderly and people with disabilities) to a social service provider (including a municipal undertaking set up under Article 52 ZOS, a second-tier budget authority or a unit/directorate within the municipal administration itself) or medical and healthcare establishments, the beneficiary/partner acquires the status of a contracting authority of the SGEI within the meaning of the SGEI Decision. Each of the municipalities (beneficiary or partner) independently assigns the implementation of the mobile integrated social and healthcare service (the patronage for the elderly and disabled persons) on its territory under the SGEI Decision. The service provider entrusted with the obligation to provide the service should be selected in a transparent and public manner.

The provision of an SGEI is entrusted by an act of entrustment, which must include:

- the content and duration of the public service obligations;*
- the undertaking and, where applicable, the territory concerned;*
- the nature of any exclusive or special rights assigned to the undertaking by the granting authority;*
- a description of the compensation mechanism and the parameters for calculating, controlling and reviewing the compensation;*
- the arrangements for avoiding and recovering any overcompensation;*

and

- reference to the SGEI Decision.*

In case providers subcontract part of the activities (for example: procurement of stationery), the rules of the Public Procurement Act/Council of Ministers Decree No 160/2016 should be respected.

2. Procedure BG05M9OP001-2.090 'New long-term care for the elderly and people with disabilities — Stage 2 — provision of new services' and Procedure BG05M9OP001-6.002 'Patronage care +':

The entrustment of an SGEI by the municipalities is carried out by means of an entrustment act, which contains the mandatory elements set out in Article 4 of the SGEI Decision. The development of the entrustment act in line with the requirements of the SGEI Decision is a commitment of the municipalities which they undertake with the conclusion of the grant agreement.

Municipalities should take measures at local level to define community support services: residential services — day centres and care homes and patronage care services - as services that are part of the municipality's social inclusion policy.

This can be done by adopting the relevant regulations, other types of acts/documents by the municipal councils or applying other types of mechanisms based on the experience of the municipality concerned, to regulate how the service is provided and the relevant

requirements. The ordinance should lay down the specific conditions for the municipality to award the service, in accordance with the requirements of the SGEI Decision, which are assigned as an obligation for the mayor of the municipality to comply with and to carry out checks.

In accordance with Article 5(9) of the SGEI Decision service providers (operators) must keep separate analytical accounts of revenues, costs, assets and liabilities for activities constituting SGEIs and for other activities carried out by them.

The provision of an SGEI is entrusted by an act of entrustment, which must include:

- the content and duration of the public service obligations;
- the undertaking and, where applicable, the territory concerned;
- the nature of any exclusive or special rights assigned to the undertaking by the granting authority;
- a description of the compensation mechanism and the parameters for calculating, controlling and reviewing the compensation;
- the arrangements for avoiding and recovering any overcompensation;

and

- reference to the SGEI Decision.

In case providers subcontract part of the activities (for example: procurement of stationery), the rules of the Public Procurement Act/Council of Ministers Decree No 160/2016 should be respected.

(5)(a) - Universal postal service (UPS)

The obligation to perform the UPS is entrusted under the Postal Service Act and an individual licence is issued by the national regulatory authority, the Communications Regulation Commission (KRS).

The obligation to provide the UPS includes:

- Provision of the UPS throughout the country, ensuring that it is available to all users regardless of their geographic location;
- Provision of the UPS at the operator's points of access to the postal network on all working days, at least five days a week, with at least one collection of post every working day and one delivery to recipients, except in settlements and residential areas with difficult access;
- Provision of the UPS at a level of quality that meets the standards adopted by the regulator.
- Provision of the UPS by type of service at affordable prices that are the same for the entire country and are established in accordance with the requirements of the Ordinance on determining rules for setting and implementing the price of the UPS and the Methodology for determining the affordability of the UPS, adopted by the Council of Ministers;
- Provision of the UPS free of charge in the cases specified in the Postal Services Act.

(5)(c) — Waste collection — Sofia Municipality project

The service is entrusted to a specially created municipal enterprise under the Municipal Property Act and the entrustment was effected by Decision 223/16.05.2013 of the Sofia Municipal Council.

5c — Waste collection — procedures under Operational Programme ‘Environment’ (OPE)

The SGEI should be entrusted in accordance with the form of subsequent operation of the funded installations chosen by the beneficiary municipalities under the OPE procedure and its parameters and the parameters of the compensation and the mechanism to avoid overcompensation should be precisely defined.

The beneficiaries were given the option of choosing among a number of permissible scenarios for entrusting SGEIs, namely: by applying the Altmark criteria; by applying Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to undertakings providing services of general economic interest; by applying the SGEI Decision and by applying the European Union Framework for State aid in the form of public service compensation (2011) (2012/C 8/03).

According to information provided by the beneficiary municipalities, they entrust the operation of the installations under the SGEI Decision.

From the point of view of State aid rules, various options for cooperation between the municipalities involved and for the awarding of works for the operation of the installations constructed are eligible and possible. The choice of option depends on beneficiaries’ assessment and the characteristics of the market in the region concerned.

For the purposes of operating installations and providing composting and pre-treatment services, the most appropriate forms of cooperation between municipalities are: (1) The joint activity contract, in which case the operation of the installations should be awarded by the municipalities implementing the project to a third party by way of joint procurement under the Public Procurement Act (Article 8 of the Public Procurement Act) and (2) the setting up of a company with a municipal contribution to which the municipalities implementing the project entrust the operation of the installations in accordance with Article 14(1)(7) of the Public Procurement Act. Where an installation treats the household waste of a single municipality the municipality may decide to entrust a municipal undertaking with the provision of composting services in the form of an SGEI.

In accordance with the form of subsequent operation of the funded installations chosen by the municipalities, the relevant documentation and the public procurement contract, the articles of incorporation of the municipal company or the municipal council decision setting up a municipal undertaking should entrust the operation of the SGEI, define precisely its parameters, the parameters of the compensation and the mechanism to avoid overcompensation for the SGEI provided. At the same time, in accordance with the form chosen by the municipalities for the subsequent operation of the funded installations (through a municipal company/undertaking or an operator selected under the Public Procurement Act) the municipalities should ensure that the chosen State aid regime is respected and that the entrustment act is therefore in full compliance with the rules of the

chosen regime. The rights of use of the operating installation are quantified and are part of the compensation for the SGEI entrusted. When entrusting the operation of the installations, the parameters for calculating the compensation must be established in an objective and transparent manner. In the event that an SGEI is awarded in the context of a public procurement procedure, the method of calculating the compensation must be included in the information provided to all undertakings wishing to participate in the procedure.

(5)(g) - Paying out pensions at post offices

The provision of the public service of paying out pensions at post offices was entrusted by the Council of Ministers to Bulgarian Post EAD - the postal operator with the densest own network of offices in the country including offices in sparsely populated areas and difficult to access areas (Article 926(1) NPOS)

5g — Discount for wholesale and retail distribution of printed periodicals (newspapers and magazines), either directly or on a subscription basis, in Bulgaria

Discount for wholesale and retail distribution of printed periodicals (newspapers and magazines), either directly or on a subscription basis, in Bulgaria has been entrusted by an act of the Council of Ministers to Bulgarian Post EAD.

5g — for Napoitelni Sistemi EAD in the agriculture sector related to reducing the adverse effects of floods

A service of general economic interest related to reducing the adverse effects of floods is provided on the basis of a public service contract concluded between Napoitelni Sistemi EAD and the Ministry of Agriculture in accordance with §4a(1) of the Transitional and Final Provisions of the Water Act, in line with the provisions of the SGEI Decision. The funds to compensate for the unfair financial burden for the public service of reducing the adverse effects of floods are granted to Napoitelni Sistemi EAD.

An unfair financial burden in providing the public service of reducing the effect of floods arises where the performance of the contract results in a net cost for the company.

5g — for the SOE Kabiyuk in the livestock sector for maintaining autochthonous breeds and other valuable breeds of the National Livestock Fund and preserving them as a national treasure

The form of the award was Contract No RD 50-58/04.10.2019 between the SOE Kabiyuk and the Ministry of Agriculture.

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) — Hospitals

Entrusted for a period of one year.

2d - Social housing under Operational Programme ‘Regions in Growth’ (OPRG)

The average duration of the award reported by the municipalities is up to 10 years.

(2)(e) — Care and social inclusion of vulnerable groups — under the Human Resources Development Operational Programme

1. Procedure BG05M9OP001-2.040 ‘Patronage care for the elderly and people with disabilities — Component 2’ and procedure BG05M9OP001-2.103 ‘Patronage care for the elderly and people with disabilities — Component 4’:

The provision of integrated healthcare services under the two procedures is for a period of 12 months.

As regards the requirement that the implementation of the activities under the procedures should be completed by 31.12.2023, the period for the entrustment of an SGEI will not go beyond 10 years.

2. Procedure BG05M9OP001-2.090 ‘New long-term care for the elderly and people with disabilities — Stage 2 — provision of new services’ and Procedure BG05M9OP001-6.002 ‘Patronage care +’:

As regards the requirement that the implementation of the activities under the two procedure should be completed by 30.06.2023, the period for the entrustment of an SGEI will not go beyond 10 years.

(5)(a) - Universal postal service

Pursuant to § 70 of the Transitional and Final Provisions of the Act Amending the Postal Services Act, in force since 30 December 2010, the postal operator entrusted by law with the operation of the UPS is the commercial company Bulgarian Post EAD, for a period of 15 years starting on 30 December 2010. In the postal services sector the share of entrustment for more than 10 years is 100%.

At the end of each five-year period from the entrustment of the UPS, the Communications Regulation Commission draws up a report on the implementation of this obligation with a view to maintaining, amending or revoking it. The National Assembly is the body empowered by the Bulgarian Constitution to amend or revoke such an obligation through amendments to the Postal Services Act.

The entrusted obligation for the operation of the UPS for a period of 15 years starting on 30 December 2010 does not contradict Article 2(2) of the SGEI Decision. This period is determined on the basis of the significant investment made (and which needs to be depreciated over a longer period) for the organisation and maintenance of the postal network of the operator entrusted with the operation of the UPS, built on the entire territory of the country, including sparsely populated and hard-to-reach areas.

(5)(c) — Waste collection — Sofia Municipality project

The period of entrustment is 15 years since the average period of operation of such facilities is 15 years and, under the project, replacement of facilities is foreseen after 15 years of operation.

5c — Waste collection — procedures under Operational Programme ‘Environment’ (OPE)

There are no contracts with a duration of more than 10 years.

(5)(g) - Paying out pensions at post offices

The public service obligation to pay out pensions at post offices is for a period of 10 years starting on 1 July 2016.

(5)(g) — Discount for wholesale and retail distribution of printed periodicals (newspapers and magazines), either directly or on a subscription basis, in Bulgaria

The obligation to provide discounted wholesale and retail distribution of printed periodicals (newspapers and magazines), either directly or on a subscription basis, in Bulgaria has been entrusted for a period of 10 years starting on 1 March 2020.

(5)(g) — for Napoitelni Sistemi EAD in the agriculture sector related to reducing the adverse effects of floods

The public service contract is concluded for a definite period of time (5 years and enters into force as of the date of signing) within the limits specified in Article 2(2) of the SGEI Decision and it covers the years 2020 - 2021.

(5)(g) — for the SOE Kabiyuk in the livestock sector for maintaining autochthonous breeds and other valuable breeds of the National Livestock Fund and preserving them as a national treasure

The duration of entrustment of activities is three years; the contract concluded is for the period 1.1.2019-31.12.2021.

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

(1) — Hospitals

No exclusive or special rights are granted. The rights granted are only with regard to specific medical activities, as listed in the annex which is an integral part of the contract for medical activities outside the scope of the mandatory health insurance.

(2)(d) - Social housing under Operational Programme ‘Regions in Growth’ (OPRG)

A clause with a description of any exclusive or special rights granted to the undertaking must be included in the public service contract where the service is outsourced to an entity external to the municipality. An example of such a right is the entity’s right to receive the rental income.

Blagoevgrad Municipality The SGEI was entrusted by drawing up an entrustment act granting aid for the operation of an SGEI and adopting internal rules for the provision of a social housing service, which clearly set out the public service obligations, the parameters and mechanisms for calculating the compensation, the methods for monitoring and avoiding overcompensation.

Municipality of Lovech: The award was performed by Entrustment Act (Order) No 3-1377/10.09.2020.

Ruse municipality: The provision of the social housing service is provided through the Social Housing Unit of the municipal enterprise ‘Solidarity canteen and social housing’.

Municipality of Stara Zagora The municipality implements the service through the Municipal Property and Economic Policy Directorate and the Health and Social Affairs Unit.

(2)(e) — Care and social inclusion of vulnerable groups — under the Human Resources Development Operational Programme

Any exclusive or special rights (if applicable) assigned to the undertaking by the granting authority are set out in the individual entrustment acts of the respective municipalities.

(5)(a) - Universal postal service

No exclusive or special rights are granted for the operation of the UPS by the obliged postal operator.

(5)(c) — Waste collection — Sofia Municipality project

Under ZOS, a municipal enterprise is a specialised unit of the municipality for the implementation of local activities and services financed from a municipal budget. A municipal enterprise is created, transformed and wound up by a decision of the municipal council. Its activities are carried out on the basis of rules adopted by the municipal council. The rules define the scope of activities of the company, the structure, the administration, the staff headcount and the rights and obligations of the undertaking in respect of the municipal property granted to it. In this context, the municipal enterprise Metropolitan Waste Treatment Company has been granted rights and obligations to effectively manage the operational activity and day-to-day maintenance of the waste

treatment facilities installed under the project 'Integrated system of municipal waste treatment facilities for Sofia Municipality'. The municipal enterprise is not an independent legal entity within the meaning of the Commerce Act.

5c — Waste collection — procedures under Operational Programme 'Environment' (OPE)

Enterprises are normally not granted other special or exclusive rights, privileges or advantages beyond the right to use and operate the installation (s).

5g - Paying out pensions at post offices

No exclusive or special rights are granted to the obliged enterprise.

(5)(g) — Discount for wholesale and retail distribution of printed periodicals (newspapers and magazines), either directly or on a subscription basis, in Bulgaria

No exclusive or special rights are granted to the obliged enterprise.

(5)(g) - For Napoitelni Sistemi EAD in the agriculture sector related to reducing the adverse effects of floods

Responsibility for activities to reduce the adverse effects of floods lies with the Minister for Agriculture and, within the meaning of Article 10(1)(2) of the Water Act, Napoitelni Sistemi EAD has been entrusted with the operation and management of this service.

(5)(g) — for the SOE Kabiuk in the livestock sector for maintaining autochthonous breeds and other valuable breeds of the National Livestock Fund and preserving them as a national treasure

ursuant to § 54(3) of the Transitional and Final Provisions of the Act amending the Livestock Farming Act, the assets of the state-owned enterprise 'Kabiuk' may not be the subject of enforcement and consist of the property assigned to it by type, volume and value by the Minister for Agriculture and the property it has acquired as a result of its activities.

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

(1) — Hospitals

Subsidy

(2)(d) - Social housing under Operational Programme ‘Regions in Growth’ (OPRG)

Direct subsidies from municipalities and grants.

(2)(e) — Care and social inclusion of vulnerable groups — under the Human Resources Development Operational Programme

Grant.

(5)(a) - Universal postal service

The aid is a direct subsidy from the central budget of Bulgaria for the corresponding year.

(5)(c) — Waste collection — Sofia Municipality project

An annual compensation is paid for the purpose of covering the operating costs related to the operation and maintenance of the facilities of the municipally-owned undertaking Metropolitan Waste Treatment Company. The company is supported by budget funds and is a second-tier budget authority. Budget formation is cost-based. Aid instrument — subsidy.

(5)(c) — Waste collection — procedures under Operational Programme ‘Environment’ (OPE)

Direct subsidies.

(5)(g) - Paying out pensions at post offices

The aid is a direct subsidy from the central budget of Bulgaria for the corresponding year.

5g — Discount for wholesale and retail distribution of printed periodicals (newspapers and magazines), either directly or on a subscription basis, in Bulgaria

The aid is a direct subsidy from the central budget of Bulgaria for the corresponding year.

(5)(g) — for Napoitelni Sistemi EAD in the agriculture sector related to reducing the adverse effects of floods

Direct subsidy.

(5)(g) — for the SOE Kabiyuk in the livestock sector for maintaining autochthonous breeds and other valuable breeds of the National Livestock Fund and preserving them as a national treasure

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.

(1) — Hospitals

The compensation funds for the medical activities performed outside the scope of the mandatory health insurance are determined using a non-standardised methodology approved by the mayor and developed on the basis of the specific internal rules on the operations and organisation of the corresponding municipality. The methodology is based on the net avoided cost. The allocation of funds by healthcare establishments is made following the adoption and publication of the State Budget Act of the Republic of Bulgaria for the respective year and in accordance with provisions enacted by the Ministry of Finance associated with the budgetary procedure, and based on the budget of the respective municipality. After determining the amount of funds provided in the municipalities' approved budgets for the year appropriated for financing the municipal healthcare establishments, the Committee develops funding options for the healthcare establishments using the historical cost method by analysing their funding and operations during the previous three years, their current scope of activities, the licence issued by the Ministry of Health for medical care (types of medical activities, specialisations and structures with levels of competence); the medical and social importance of the services provided to citizens. The compensation funds are in line with the laws and regulations and the national rules and regulations for financing medical activities approved by the Ministry of Health and the National Health Insurance Fund.

(2)(d) - Social housing under Operational Programme 'Regions in Growth' (OPRG)

The compensation for the public service is calculated in accordance with the requirements of Article 5 of the SGEI Decision which stipulates that the amount of compensation does not exceed what is necessary to cover the net cost incurred in discharging the public service obligation, including a reasonable profit. In the event that social housing services are provided directly by the municipality, the municipality covers all the costs related to the provision of the social housing service with municipal funds and it must ensure that rental income and any other revenues from the operation of the infrastructure (if any) do not exceed the cost of providing the service. The municipality maintains separate accounting records for all revenue and expenditure related to the social housing service and to the infrastructure financed, so that all revenue and expenditure can be traced and compared. The compensation may not exceed an amount corresponding to the net financial effect equivalent to the total of the effects, positive or negative, of compliance with the public service obligation on the costs and revenue of the public service operator. The effects shall be assessed by comparing the situation where the public service obligation is met with the situation which would have existed if the obligation had not been met.

The municipalities ensure that, in accordance with the SGEI Decision, the amount of compensation to be granted for the operation of the SGEI will not exceed what is necessary to cover the net cost incurred in discharging the public service obligations, including a reasonable profit.

(2)(e) — Care and social inclusion of vulnerable groups — under the Human Resources Development Operational Programme

1. Procedure BG05M9OP001-2.040 'Patronage care for the elderly and people with disabilities — Component 2' and procedure BG05M9OP001-2.103 'Patronage care for the elderly and people with disabilities — Component 4':

The cost of providing healthcare and social services includes all the costs necessary for the provision of the integrated healthcare and social service (patronage care): the maximum value of the service per person (customer/user of the service) does not exceed BGN 2 016.00 per year.

Municipalities (beneficiaries and partners) take local measures to define the services of patronage care as a service which is part of the social inclusion policy of the municipality, in accordance with the requirements for the measures under the two procedures at hand. This can be done by adopting relevant ordinances or other acts/documents from the municipal councils regulating the way the service is provided and the relevant requirements. The requirements laid down in the ordinances must be set in accordance with the programme developed by the Ministry of Health (methodology) for the provision of patronage care and quality of service standards under Component 1 of the procedures. The ordinance should lay down the specific conditions for the municipality to award the service, in accordance with the requirements of the SGEI Decision, which are assigned as an obligation for the mayor of the municipality to comply with and to carry out checks.

One of the basic principles applicable to granting of State aid under the procedures is the principle of proportionality and effectiveness. In accordance with Article 5(1) of the SGEI Decision, the amount of State aid in the form of compensation for the provision of an SGEI may not exceed the amount needed to reimburse the net costs incurred in discharging the public service obligation. According to the provisions of Article 192(1) of Regulation 1046/2018 'the grant [may] not have the purpose or effect of making a profit within the framework of the action or work programme of the beneficiary. Therefore, the procedures do not allow a profit to be made in the performance of the SGEI and only the net costs incurred in discharging the public service obligation are taken into account in determining the amount of the compensation.

The amount of compensation should not exceed what is necessary to cover the net cost incurred in discharging the public service obligations. The net cost is calculated as the difference between costs and revenues. Revenue from the provision of patronage care is considered to be the fees payable to the service provider as well as any other revenue of the supplier (the operator) resulting from the provision of an SGEI, regardless of whether or not they are classified as State aid within the meaning of Article 107 TFEU. The level of fees to be charged to consumers is set by the municipal council concerned in accordance with the Local Taxes and Fees Act.

In calculating the compensation itself under procedure BG05M9OP001-2.040 'Patronage care for the elderly and people with disabilities — Component 2', the following components are taken into account:

- wage costs under the Labour Code, the remuneration under the Civil Servant Act and the remuneration arising from service contracts or contracts under the Obligations and Contracts Act for persons directly involved in the performance of direct actions, including the employer's social security contributions and all the adjustments made under national law;

- cost of work clothing;
- cost of occupational medicine;
- training and supervision costs;
- travel expenses (transport expenses) during the performance of duties;
- costs of materials and supplies for the provision of the service;
- overhead costs and maintenance costs of the premises where the service is provided (if applicable). The costs are eligible, provided that they are not included in the value of the right to use/lease the premises, equipment and means of transport (if applicable) and if there is a methodology developed by the beneficiary showing how they are calculated. The methodology is presented to the Managing Authority in the reporting of these costs;
- rental costs/ costs for right to use the premises, equipment and means of transport.

The costs for the purchase of furniture and equipment, including means of transport, the costs of fixed intangible assets, construction works and the indirect costs (costs of organisation and management and the costs of information and communication) are not included in the amount of the compensation.

The fees collected from the users, as well as any other revenue (if applicable), are deducted in the calculation of the compensation for the service.

The aid administrator (the municipality) ensures compliance with the applicable State aid rules with regard to the suppliers of patronage care, in accordance with the requirements of the SGEI Decision, including the introduction and application of mechanisms to monitor compliance with the requirements of the SGEI Decision.

2. Procedure through the direct award of grants BG05M9OP001-2.090 'New long-term care for the elderly and people with disabilities — Stage 2 — provision of new services':

The amount of compensation is determined by deducting from the total value of the grant of the project proposal indirect costs which are limited in percentage from the direct costs, the purchase costs of the tangible assets (if applicable) and the costs of preparatory activities (up to BGN 1 000.00 or BGN 2 000.00 per municipality).

Municipalities should take measures at local level to define community support services and residential services — day centres and care homes — as services that are part of the municipality's social inclusion policy, in line with the requirements of the measures under this procedure.

This can be done by adopting the relevant regulations, other types of acts/documents by the municipal councils or applying other types of mechanisms based on the experience of the municipality concerned to regulate how the service is provided and the relevant requirements. The ordinance should lay down the specific conditions for the municipality to award the service, in accordance with the requirements of the SGEI Decision, which are assigned as an obligation for the mayor of the municipality to comply with and to carry out checks.

The following principles apply to the granting of State aid under the procedure:

— principles of proportionality and effectiveness — the support must be appropriate to achieve the objective pursued and must not go beyond what is necessary in order to attain it, aiming at maximising output with the lowest amount of State aid. In accordance with Article 5(1) of the SGEI Decision, the amount of State aid in the form of compensation for the provision of an SGEI covering the conditions of application of this procedure may not exceed the amount needed to reimburse the net costs incurred in discharging the public service obligation. According to the provisions of Article 192(1) of Regulation 1046/2018 'the grant [may] not have the purpose or effect of making a profit within the framework of the action or work programme of the beneficiary (non-profit principle). Therefore, this procedure does not allow a profit to be made in the performance of the SGEI and only the net costs incurred in discharging the public service obligation will be taken into account in determining the amount of the compensation.

The amount of compensation should not exceed what is necessary to cover the net cost incurred in discharging the public service obligations. The net cost may be calculated as the difference between costs and revenues. Revenue from the provision of the services under the procedure is considered to be the fees payable to the service provider (if applicable) as well as any other revenue of the supplier (the operator) resulting from the provision of an SGEI, regardless of whether or not they are classified as State aid within the meaning of Article 107 TFEU.

The level of fees to be charged to users (if applicable) is set by the municipal council concerned in accordance with the Local Taxes and Fees Act. The amount of compensation is determined on the basis of the costs necessary to provide the service concerned to a natural person for one year. In determining the amount of compensation, only the net costs incurred in discharging the public service obligation must be taken into account, since no profit is permissible under this procedure.

In calculating the compensation under Procedure BG05M9OP001-2.090 'New long-term care for the elderly and people with disabilities — Stage 2 — provision of new services' the following component are taken into account:

- wage costs, on the basis of an employment/civil contract, including employer's social security contributions and any adjustments under national law;*
- mission expenses (travel expenses) of persons related to the provision of project services during the performance of their duties;*
- costs of materials and supplies for the provision of the service, including the cost of purchasing work clothes;*
- costs of meals;*
- cost of occupational medicine;*
- costs, including overhead costs for maintenance of the premises where the service is provided (if applicable). Costs are eligible, provided there is a methodology developed by the beneficiary showing how they are calculated. The methodology is presented to the Managing Authority in the reporting of these costs;*

- rental costs of a means of transport;

- costs of training and supervision of service staff;

The costs of preparatory work, the purchase of furniture and equipment, indirect costs and information and communication costs are not included in the amount of compensation.

The fees collected from the users, as well as any other revenue (if applicable), are deducted in the calculation of the compensation for the service.

For the purposes of control of the amount of the compensation and the checks for overcompensation, the service provider (the operator) submits to the administrator (the municipality) quarterly and annual financial statements for its activities, indicating those constituting SGEIs.

3. BG05M9OP001-6.002 'Patronage care +':

The maximum value for the provision of integrated health and social services — patronage care (compensation) per person is up to BGN 2 016 per 12 months.

Municipalities take local measures to define the services of patronage care as a service which is part of the social inclusion policy of the municipality, in accordance with the requirements for the measures under this procedure. This can be done by adopting relevant ordinances or other acts/documents from the municipal councils regulating the way the service is provided and the relevant requirements. The ordinance/act should lay down the specific conditions for the municipality to award the service, in accordance with the requirements of the SGEI Decision, which are assigned as an obligation for the mayor of the municipality to comply with and to carry out checks.

The following principles apply to the granting of State aid under the project:

— principles of proportionality and effectiveness — the requirements must be appropriate to achieve the objective pursued and must not go beyond what is necessary in order to attain it, aiming at maximising output with the lowest amount of State aid. In accordance with Article 5(1) of the SGEI Decision, the amount of State aid in the form of compensation for the provision of this patronage care SGEI may not exceed the amount needed to reimburse the net costs incurred in discharging the public service obligation.

According to the provisions of Article 192(1) of Regulation 1046/2018 'the grant [may] not have the purpose or effect of making a profit within the framework of the action or work programme of the beneficiary (non-profit principle)'. Therefore, this procedure does not allow a profit to be made in the performance of the SGEI and only the net costs incurred in discharging the public service obligation will be taken into account in determining the amount of the compensation.

The amount of compensation should not exceed what is necessary to cover the net cost incurred in discharging the public service obligations. The net cost may be calculated as the difference between costs and revenues. Revenue from the provision of patronage care is considered to be the fees payable to the service provider as well as any other revenue

of the supplier (the operator) resulting from the provision of an SGEI, regardless of whether or not they are classified as State aid within the meaning of Article 107 TFEU.

The level of fees to be charged to consumers is set by the municipal council concerned in accordance with the Local Taxes and Fees Act. The amount of compensation is determined on the basis of the costs necessary to provide the service to a natural person for one year. In determining the amount of compensation, only the net costs incurred in discharging the public service obligation will be taken into account, since no profit form operating an SGEI is permissible under this procedure.

The following components are taken into account in the calculation of the compensation:

- wage costs, on the basis of an employment/civil contract, including employer's social security contributions and any adjustments under national law;*
- costs of work clothes, including personal protective equipment for service staff;*
- cost of occupational medicine;*
- costs of supervision, psychological support, counselling;*
- travel expenses (transport expenses) during the performance of duties;*
- costs of materials and supplies for the provision of the service;*
- overhead costs and maintenance costs of the premises where the service is provided (if applicable). Costs are eligible provided that they are not included in the rent of the premises.*
- rental costs/ costs for right to use the premises, equipment and means of transport.*

The fees collected from the users, as well as any other revenue (if applicable), are deducted in the calculation of the compensation for the service.

For the purposes of control of the amount of the compensation and the checks for overcompensation, the service provider (the operator) submits to the administrator (the municipality) quarterly and annual financial statements for its activities, indicating those constituting SGEIs.

(5)(a) - Universal postal service

The compensation mechanism for the unfair financial burden resulting from the provision of the UPS is regulated in the Act Amending the Postal Services Act in effect since 30 December 2010. This Act transposed Directive 2008/6/EC of the European Parliament and of the Council of 20 February 2008 amending Directive 97/67/EC with regard to the full accomplishment of the internal market of Community postal services (OJ L 52/3 of 20 February 2008) in connection with the financing of the universal postal service after the abolishment of the reserved area as of 1 January 2011.

Pursuant to the Postal Services Act, the postal operator obliged to provide the UPS receives compensation from the state budget where the UPS obligation results in net costs and constitutes an unfair financial burden on it. The amount of the unfair financial burden

resulting from the UPS is determined on the basis of the net costs. The compensation is determined in the State Budget of the Republic of Bulgaria Act for the corresponding year and may not exceed the amount of the unfair financial burden resulting from the provision of the UPS. Net costs resulting from the provision of the UPS are calculated using a methodology prepared by the Communications Regulation Commission and approved by the Council of Ministers (Council of Ministers Decree No 199 of 11 July 2011, published in SG No 55 of 19 July 2011). The methodology is based on the net avoided cost method. The methodology defines the procedure and manner in which the postal operator obliged to provide the UPS in the entire territory of the country via the postal network organised and managed by it, calculates and substantiates the net costs resulting from the obligation to provide the service. The methodology has been developed in accordance with Part B: Calculation of net cost in Annex I 'Guidance on calculating the net cost, if any, of universal service' to Directive 2008/6/EC.

(5)(c) — Waste collection — Sofia Municipality project

Compensation is calculated by deducting operating costs from operating revenue.

(5)(c) — Waste collection — procedures under Operational Programme 'Environment' (OPE)

Municipalities are allowed to entrust SGEIs for the use and operation of the installations built by municipalities, applying methodologies adapted to the specific features of the activities applicable to the waste management region concerned.

Under the contracts and acts of the municipal councils entrusting SGEIs for the operation of waste installations and pursuant to Article 5 of the SGEI Decision, the amount of compensation does not exceed what is necessary to cover the net cost incurred in discharging the public service obligation, including a reasonable profit if the activity is profit-making for the municipality concerned. The amount of compensation is determined in accordance with Article 5(2), first sentence of the SGEI Decision.

(5)(g) - Paying out pensions at post offices

The compensation mechanism for the provision of the public service of paying out pensions through post offices nationwide is set out in an annex to Article 92(3) of the NPOS. The mechanism is applied in compliance with the requirements of the SGEI Decision.

The mechanism is based on the net avoided cost (NAC) approach. Where the net costs incurred in paying out pensions at post offices nationwide exceed those incurred in carrying out business without having to meet such an obligation to provide this public service, an unfair financial burden arises which is eligible for compensation. The compensation amount is the amount of the net cost for the year concerned constituting an unfair financial burden.

(5)(g) — Discount for wholesale and retail distribution of printed periodicals (newspapers and magazines), either directly or on a subscription basis, in Bulgaria

The compensation mechanism for the provision of SGEIs for the distribution of press periodicals throughout the country is laid down in the Annex to Article 2(1) of Decree 113 of 28 May 2020.

When calculating the revenues and costs of providing an SGEI in the territory of the Republic of Bulgaria for discounted wholesale and retail distribution of printed periodicals either directly or on a subscription basis only the costs incurred in operating the service — all direct costs and a proportionate share of the indirect costs — are taken into account. Investment costs directly or indirectly linked to the provision of the service are taken into account in full or in part on the basis of their actual participation in operating the service. In order to separate the service concerned from other services provided, separate analytical accounting is carried out according to a cost-allocation accounting system of Bulgarian Post EAD.

(5)(g) — for Napoitelni Sistemi EAD in the agriculture sector related to reducing the adverse effects of floods

Under § 4b of the Transitional and Final Provisions of the Water Act:

‘(1) The company obligated to provide the public service related to reducing the harmful effects of floods shall submit to a committee appointed by order of the Minister for Agriculture a report for the previous year on the costs incurred in the provision of the public service, along with the required evidence, by 31 March of the current year.

(2) The documents pertaining to calculation of net costs resulting from the provision of the public service for the protection against the adverse effects of floods shall be submitted to the Committee under paragraph 1 and shall be inspected by an auditor appointed by the same committee.

(3) Within a period of three months following the submission of the report under paragraph 1, the committee shall announce their decision on :

1. the presence of an unfair financial burden resulting from the provision of the public service related to reducing the adverse effects of floods;

2. the amount of the compensation payable to the company obligated to provide the public service related to reducing the adverse effects of floods for the preceding year;

3. a comparison between the unfair financial burden and the funds provided in advance for the respective period.

(4) Within the period specified in paragraph 3 the committee may demand from the applicant to present additional information and evidence within a seven-day period.

(5) The Minister for Agriculture shall, in the course of the budget procedure, present to the Minister for Finance the decision under paragraph 3 and the relevant materials thereto.’

The amount of the unfair financial burden is determined based on the net costs calculated using the Methodology adopted by the Council of Ministers:

‘Article 4. (1) The amount of the unfair financial burden is the compensation necessary to cover the sum of the net costs incurred by Napoitelni Sistemi EAD in the fulfilment of their obligations under the contract, including a reasonable profit.

(2) The annual compensation under paragraph 1 shall not exceed the amount in BGN which equals EUR 15 million. For the term of the Contract, the annual amount shall be calculated as an arithmetic mean of the annual amounts of the compensation expected to be received in the period of entrustment, and the investment costs for the period.

Article 5 The net costs are the difference between the costs incurred for the provision of the service of general economic interest and the earnings from the service of general economic interest.

Article 15 To ensure the transparency and traceability of the funds spent for the public service, Napoitelni Sistemi EAD shall carry out separate analytical accounting for the cost items and activities under Article 9.'

Article 17 (2) The annual statement of expenditure incurred in the provision of the public service for reducing the adverse effects of floods in the previous year, together with the necessary evidence, shall be submitted by 31 March of the current year to the committee and shall be reviewed by an auditor on the basis of § 46(2) of the Transitional and Final Provisions of the Water Act.

In execution of Contract No RD 50-43/3.4.2014 and Article 17(2) of the Methodology used to determine the unfair financial burden, Napoitelni Sistemi EAD has submitted by 31 March 2021 to the Committee the annual report on the costs incurred in the provision of the public service related to reducing the adverse effects of floods for 2020, along with the required evidence. The report, together with the additional information, will be submitted for an audit and an Auditor's Report of Factual Findings will be drawn up.

In fulfilment of the Rules of Procedure of the Committee, the following decisions were adopted in 2021:

Under Article 23(4) of the State Budget Act of the Republic of Bulgaria, Napoitelni Sistemi EAD was granted funds for 2020 in the amount of BGN 19 000 000 including VAT (including the amount of compensation due to Napoitelni Sistemi EAD for the provision of the public service for 2018 in the amount of BGN 1 496 198, including VAT);

- advances granted to Napoitelni Sistemi EAD in 2020 amounted to BGN 17 503 802, including VAT;

- amount of the compensation payable to Napoitelni Sistemi EAD for the provision of the public service for 2020 - BGN 20 341 301 including VAT;

- amount of the compensation payable to Napoitelni Sistemi EAD for the provision of the public service for 2020 exceeds the advance payment granted by BGN 2 837 499 including VAT.

On the basis of Article 20(3) of the Methodology used to determine the unfair financial burden and Article 3(4) of the Rules of Procedure of the Committee, Report No 93-3965/3.8.2021 on the compensation exceeding advance payment granted for 2020 was drawn up and approved by the Minister for Agriculture.

In execution of Contract No RD 50-23/5.4.2019 and Article 17(2) of the Methodology used to determine the unfair financial burden, Napoitelni Sistemi EAD is to submit by 31 March 2022 to the Committee the annual report on the costs incurred in the provision of the public service related to reducing the adverse effects of floods for 2021, along with the required evidence. The report, together with the additional information, will be submitted for an audit and an Auditor's Report of Factual Findings will be drawn up.

The amount of funds granted in advance to Napoitelni Sistemi EAD for 2021 is BGN 24 000 000 including VAT (including the compensation due to Napoitelni Sistemi EAD for the provision of the public service in 2019 in the amount of BGN 7 053 967 including VAT);

Following the submission of the report on factual findings by the auditor, the committee will examine and decide on the amount of compensation due to Napoitelni Sistemi EAD for the provision of the public service in 2021.

(5)(g) — for the SOE Kabyuk in the livestock sector for maintaining autochthonous breeds and other valuable breeds of the National Livestock Fund and preserving them as a national treasure

The funds under the Contract are provided in advance according to a schedule in view of the planned annual value, and are adjusted on a quarterly basis according to the works completed by SOE 'Kabyuk'. Provided that the compensation fixed by the Committee under Article 4(2) exceeds the advance funds received, the excess is paid back by the end of the year in which it is established. The amount of the compensation for the accounting year covers the net costs of the SOEs 'Kabyuk' for the public service. They may not take into account recoverable taxes — VAT, excise duties, etc. The net cost of the SOEs 'Kabyuk' includes all the reported and audited expenditure for the provision of the public service in accordance with the principles of Article 12 and the annual report submitted by the enterprise, according to the separate accounting of expenditure for the public service activities reduced by the revenue received from the public service.

Typical arrangements for avoiding and recovering any overcompensation.

(1) — Hospitals

Medical activities performed by medical institutions outside the scope of the mandatory health insurance are not financed with additional funds.

(2)(d) - Social housing under Operational Programme ‘Regions in Growth’ (OPRG)

With a view to avoiding overcompensation, at the end of the financial year, the municipality calculates the net financial effect for the entire preceding year on the operator, on the basis of the annual accounts. Where it is established that funds have been made available to the operator in excess of what is required, the excess is refunded by the operator at the latest within one month of the finding of the excess. The parameters for calculating the compensation are updated accordingly in the future. Where the amount of overcompensation (excess of the amount required) does not exceed 10% of the amount of the average annual compensation, such overcompensation may be carried forward to the next period and deducted from the amount of compensation payable in respect of that period. The control of over-compensation is carried out by the municipality every year, throughout the period of entrustment and at the end of the entrustment period. The way in which over-compensation controls can be carried out is described in the entrustment act.

(2)(e) — Care and social inclusion of vulnerable groups — under the Human Resources Development Operational Programme

For procedures: BG05M9OP001-2.040 ‘Patronage care for the elderly and people with disabilities — Component 2’, BG05M9OP001-2.103 ‘Patronage care for the elderly and people with disabilities — Component 4’, BG05M9OP001-2.090 ‘New long-term care for the elderly and people with disabilities — Stage 2 — provision of new services’ and BG05M9OP001-6.002 ‘Patronage care +’:

The fees collected from the users, as well as any other revenue (if applicable), are deducted in the calculation of the compensation for the service.

For the purposes of control of the amount of the compensation and the checks for overcompensation, the service provider (the operator) submits to the administrator (the municipality) quarterly and annual financial statements for its activities, indicating those constituting SGEIs.

— Administrator verification of the absence of overcompensation under the following two procedures: BG05M9OP001-2.040 ‘Patronage care for the elderly and people with disabilities — Component 2’ and BG05M9OP001-2.103 ‘Patronage care for the elderly and people with disabilities — Component 4’:

(a) the provision of hourly mobile integrated health care services for people with disabilities and the elderly in the territory of the municipality concerned;

(b) provision of psychological support, counselling;

(c) training and supervision of staff.

— Administrator verification of the absence of overcompensation under procedure BG05M9OP001-2.090 ‘New long-term care for the elderly and the people with

disabilities — Stage 2 — provision of new services' is carried out, according to the examples provided in point 12.3 of the Conditions of Application for that procedure, namely:

The budget for each project proposal under this procedure consists of the following expenditure:

- Costs of preparatory activities:

• up to BGN 2 000.00 for municipalities that will provide the services of care homes for persons with mental disorders and/or care homes for persons with intellectual disabilities where persons from specialised institutions and state psychiatric hospitals have to be physically moved.

• up to BGN 1 000.00 for municipalities that will provide only the services of day centres, care homes for persons with various forms of dementia and/or care homes for the elderly with functional dependence.

- Costs of providing social services (compensation);

- Costs of purchase of tangible assets (if applicable);

- Indirect costs.

The maximum value for the services provided per person, including the cost of tangible assets (if applicable) and indirect costs, is:

○ For the day-centre service — BGN 10 000.00 per person/year.

○ For the care-home service — BGN 18 000.00 per person/year.

In case the service is provided for less than 12 months, the costs are calculated on a pro rata basis. The amount of compensation is determined by deducting from the total value of the grant of the project proposal indirect costs which are limited in percentage from the direct costs, the purchase costs of the tangible assets (if applicable) and the costs of preparatory activities (up to BGN 1 000.00 or BGN 2 000.00 per municipality).

Example:

❖ Day centre for people with different forms of dementia and their families:

40 persons x BGN 10 000.00 per person/year = BGN 400 000.00 + BGN 1 000.00 (preparatory activities) = BGN 401 000.00 (total value of the grant for the project proposal), of which:

** BGN 378 301.89 in total direct costs, including:*

** BGN 1 000.00 direct costs (costs of preparatory activities, other than compensation)*

** BGN 377 301.89 — direct costs (costs of providing social services and costs of purchasing equipment — if applicable).*

If applicants do NOT plan to purchase equipment, the amount of compensation for the service provided is BGN 377 301.89.

If applicants plan to purchase equipment, this should be up to 20% of the total direct eligible costs (BGN 378 301.89) and the difference between the direct costs less the costs of purchasing equipment and the cost of preparatory work will constitute the amount of the compensation for the service.

** BGN 22 698.11 is indirect costs.*

BGN 1 000.00 + BGN 377 301.89 + BGN 22 698.11 = BGN 401 000,00

❖ Care homes (for persons with mental disorders, persons with intellectual disabilities, people with various forms of dementia and the elderly with functional dependence).

5 homes with 15 persons x BGN 18 000.00 per person/year = BGN 1 350 000.00 + BGN 1 000.00/2 000.00 (preparatory activities) = BGN 1 351 000.00/1 352 000.00 (total value of the grant for the project proposal), of which:

** BGN 1 274 528.30/1 275 471.70 in total direct costs, including:*

** BGN 1 000.00/2 000.00 direct costs (costs of preparatory activities, other than compensation)*

** BGN 1 273 528.30/1 273 471.70 - direct costs (costs of providing social services and costs of purchasing equipment — if applicable).*

If applicants do NOT plan to purchase equipment, the amount of compensation for the service provided is BGN 1 273 528.30/1 273 471.70.

If applicants plan to purchase equipment, this should be up to 20% of the total direct eligible costs (BGN 1 274 528.30/1 275 471.70) and the difference between the direct costs less the costs of purchasing equipment and the cost of preparatory work will constitute the amount of the compensation for the service.

** BGN 76 471.70/76 528.30 is indirect costs.*

BGN 1 000.00/2 000.00 + BGN 1 273 528.30/1 273 471.70 + BGN 76 471.70/76 528.30 = BGN 1 351 000,00/1 352 000.00

When checking for overcompensation under procedure BG05M9OP001-6.002 'Patronage care +', the administrator takes into account the following activities of the SGEI provider:

(a) the provision of hourly mobile integrated health care services for people with disabilities and the elderly. in

(b) provision of psychological support, counselling;

(c) supply of food, food stuffs and essential products, including medicines (purchased from users' funds or by other means than those covered by this procedure), payment for

household bills, requesting and receiving urgent administrative and household services (paid by the users or using funds other than the funds under this procedure).

(d) transport for staff providing patronage services from/to the homes of persons.

Under the four procedures referred to above under the OPHRD, the control on overcompensation includes a verification by the municipality of the actual costs and revenues associated with the services, the performance of the services entrusted within the defined quality parameters and, where appropriate, the imposition of penalties. A check of reasonable profit is not performed as profit is not foreseen.

The checks to avoid overcompensation are carried out on a quarterly basis, annually and at the end of the period of entrustment.

Where the check reveals that the net cost is exceeded (overcompensation), the supplier is required to refund any overcompensation received. Where the amount of overcompensation does not exceed 10% of the amount of the average annual compensation, such overcompensation may be carried forward to the next period and deducted from the amount of compensation payable in respect of that period.

The aid administrator (the municipality) ensures compliance with the applicable State aid rules with regard to the suppliers of patronage care, in accordance with the requirements of the SGEI Decision, including the introduction and application of mechanisms to monitor compliance with the requirements of the SGEI Decision.

In accordance with Article 8 of the Commission SGEI Decision, for the duration of the entrustment and for at least 10 years from the end of the entrustment period, the administrator keeps all the information necessary to determine the compatibility of the compensation granted with the SGEI Decision and this information is available on request for checks by the OPHRD MA, the Minister for Finance, inspection and audit bodies or the European Commission.

In the event that the OPHRD Managing Authority, an inspection or audit authority identifies infringements or the granting of unlawful or incompatible State aid by the beneficiary/partner (municipality), the Managing Authority has the right to require the beneficiary to recover any sums paid together with the statutory interest.

(5)(a) - Universal postal service

Pursuant to the Postal Services Act, the amount of the compensation is determined in the State Budget of the Republic of Bulgaria Act and may not exceed the amount of the unfair financial burden resulting from the provision of the UPS, calculated in accordance with the Methodology for calculating the net costs resulting from the obligation to provide the UPS. The documents relating to the calculation of the net costs and the unfair financial burden resulting from the provision of the UPS, and the implementation of the cost allocation system by the postal operator obliged to provide UPS are subject to an annual examination by an independent auditor. The cost allocation system is approved by the KRS and uses an objective approach to calculate costs by type of service — ABC method (Activity Based Costing).

Based on the results of the calculation of net costs and the auditor's assessment, KRS issues a ruling regarding:

- *the existence of an unfair financial burden resulting from the provision of the UPS;*
- *the amount of the compensation due to the postal operator with the obligation to provide the UPS.*

Pursuant to the procedure envisaged in the Postal Services Act for the calculation of net costs (based on the previous year's data), proving an unfair financial burden and determining the amount of the compensation, the postal operator obliged to provide the UPS receives compensation at the earliest during the second year after the year for which net costs were calculated.

The legal arrangements for calculating the net costs resulting from the obligation to provide the UPS, for determining the amount of the unfair financial burden and the amount of compensation eliminate, in practice, any possibility of overcompensation.

(5)(c) — Waste collection — Sofia Municipality project

The budget of the municipally-owned undertaking 'Metropolitan Waste Treatment Company' is planned on an annual basis by entering the quantities of waste to be treated by the facilities and calculating the operating costs: staff, electricity, water, fuel and mechanisation costs, the administrative costs, etc. by facility.

(5)(c) — Waste collection — procedures under Operational Programme 'Environment' (OPE)

Depending on the specificities of the activities applicable to the waste management region concerned, taking into account the type of plant concerned — composting, anaerobic, pre-treatment, etc.

The contracts and acts of the municipal councils entrusting SGEIs for the operation of constructed installations include clauses requiring the operators of installations to repay to the municipalities any overcompensation they have received. Controls to avoid overcompensation are carried out at different levels within the municipality structure — financial controllers, directorates and departments, internal audit units, etc.

(5)(g) - Paying out pensions at post offices

Under national law, pensioners are exempt from paying for the service and the supplier does not generate any operational revenue from this activity.

In this connection, pursuant to Article 92(2) of the Regulation on Pensions and Contribution Periods (NPOS) concerning the compensation of the costs of paying out pensions at post offices, the National Social Security Institute (NSSI) transfers in advance, by the 7th day of the month, to the company entrusted with the operation of the public service on the territory of the entire country an amount equal to 1/12 of the compensation allocated for that year. Each year the obliged company draws up and submits to the Minister for Transport and Communications a summary of the annual report on the net expenditure incurred and the investment costs involved in carrying out the public service of paying out pensions during the previous year. The report also includes the amount

requested to compensate for the net costs that constitute an unfair financial burden calculated in line with the mechanism defined in the regulation.

The documents relating to the calculation of the net costs and the determination of the compensation amount, as well as the application of the cost allocation system by the obliged company, are subject to an annual inspection by an independent auditor. The cost allocation system is approved by the KRS and uses an objective approach to calculate costs by type of service — ABC method (Activity Based Costing). Based on the results of the calculation of the net costs and of the auditor's assessment, the Minister for Transport and Communications determines by order the amount of the compensation due for performing the public service relating to the payment of pensions at post offices over the preceding year. The final amount of the compensation is set by the State Budget Act for the following year.

The compensation for performing this SGEI is exempt from value added tax and may not exceed the amount specified in Article 2(1)(a) of the SGEI Decision, the BGN equivalent of EUR 15 million. In the event of the amount being set at more than the BGN equivalent of EUR 15 million, the compensation is notifiable as State aid and is not to be paid until a positive decision has been received from the European Commission.

If the amounts received in advance for a given year exceed the set amount of the annual compensation by up to 10%, the excess amount is deducted from the amount of the compensation for the following period.

If the amounts received in advance for a given year exceed the set amount of the annual compensation by more than 10%, the full amount of the excess is refunded by the obligated company to the National Social Security Institute, within one month of issuing the order which determines the amount of compensation.

The Minister for Transport and Communications oversees the entire compensation process, carrying out checks at least every three years during the period of entrustment and at the end of that period so as to ensure that the company is not overcompensated, and in the event of inconsistencies issues relevant instructions.

(5)(g) — Discount for wholesale and retail distribution of printed periodicals (newspapers and magazines), either directly or on a subscription basis, in Bulgaria

In accordance with Decree 113 of 28 May 2020 (promulgated in State Gazette No 50 of 2 June 2020), in order to compensate for the net costs of operating the service, the company receives an advance each month, in accordance with a schedule approved by the Minister for Transport and Communications, in an amount equal to the monthly average of the amount of compensation determined in the previous year.

Each year the obliged company draws up and submits to the Minister for Transport and Communications a summary of the annual report on the net expenditure incurred and the investment costs (direct and indirect) involved in carrying out the service determined in line with the requirements in the methodology. The report also contains the amount of compensation requested for the net costs determined in accordance with the Annex. The Minister of Transport and Communications appoints each year an independent auditor to verify the compliance of the report submitted and the amount of compensation requested with the requirements of the methodology.

Based on the results of the calculation of the net costs and of the auditor's assessment, the Minister for Transport and Communications determines by order the amount of the

compensation due for performing the service over the preceding year. The final amount of the compensation is set by the State Budget Act for the following year.

The compensation for performing this SGEI may not exceed the amount specified in Article 2(1)(a) of the SGEI Decision, the BGN equivalent of EUR 15 million. The compensation for the provision of the service includes value added tax.

In the event of the amount of the compensation being set at more than the BGN equivalent of EUR 15 million, the compensation is notifiable as State aid and is not paid until a positive decision has been received from the European Commission. In such cases, the Minister for Transport and Communications publishes on the Ministry's website information on the amount of aid granted to the company on an annual basis following approval by the European Commission.

If the amount of compensation exceeds the amount received, the difference is paid to the company in the following financial year. If the amounts received exceed the set amount of the annual compensation by up to 10%, the excess amount is deducted from the amount of the compensation for the following budget year.

If the funds received exceed the amount of compensation by more than 10%, the full amount of the excess is repaid by the company within one month of the order being issued.

The Minister for Transport and Communications oversees the entire compensation process, carrying out checks every year during the period of entrustment and at the end of that period so as to ensure that the company is not overcompensated for operating the service. Where non-compliances are found, the Minister for Transport and Communications issues the relevant instructions.

(5)(g) Napoitelni sistemi EAD:

Pursuant to Article 20 of the Methodology used to determine the unfair financial burden: 'Article 20 (1) The funds under the Contract shall be provided in advance according to a schedule approved by the Minister for Agriculture and Food in view of the planned annual value, and shall be adjusted on a quarterly basis according to the works completed by Napoitelni Sistemi EAD.

(2) The adjustment to reflect the real costs, including the investment costs and real income, shall be made as of 31 December of each budget year pursuant to the provisions of § 46 of the Transitional and Final Provisions of the Water Act within the time limits for financial closure of the relevant year and without exceeding the amount determined in Article 2(1)(a) of Decision 2012/21 /EU – EUR 15 million.

(3) In case the compensation determined by the committee exceeds the advance funds received, the amount of the difference shall be included in the estimated advance funds for the following year.

(4) Where the advance funds received exceed the amount of the compensation due, the amount of the overcompensation, if not exceeding 10 per cent of the average annual compensation, shall be carried over to the following year and shall be deducted from the compensation for the following year.

(5) Where the amount of overcompensation exceeds 10 per cent of the average annual compensation, it shall be repaid to the budget of the Ministry of Agriculture and Food.'

(5)(g) SOE 'Kabiyuk' in the livestock farming sector

If the amount of advance funds exceeds the compensation due, the amount of overcompensation is recovered to the budget of the Ministry of Agriculture by the end of the year in which it is established. Where the overcompensation referred to in paragraph 3 has not been recovered from the SOE 'Kabiyuk', the Ministry of Agriculture offsets the amount of overcompensation.

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).

Under all sections:

Not applicable as the compensation granted for the above-mentioned SGEIs does not exceed EUR 15 million.

The Republic of Bulgaria does not have a central website for ensuring transparency of the SGEIs provided.

Amount of aid granted

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)

2020	2021
(1): 0.174	(1): 0.327
(2)(d): 15.449	(2)(d): 0.145
(2)(e): 10.13	(2)(e): 13.55
(5)(a): 16.76	(5)(a): 17.56
(5)(c): 13.428+0.03	(5)(c): 14.773+0.48
(5)(g): 14.861 + 10.79 + 9.715 +0.682	(5)(g): 15.12 + 12.60 + 12.271
Total: 92.019	Total: 86.826

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

A: Total amount of aid granted (in millions EUR) paid by national central authorities³	
2020	2021
<p><i>(2)(d): 15.278</i></p> <p><i>(5)(a): 16.76</i></p> <p><i>(5)(g): 14.861 + 10.79 + 9.715 + 0.682</i></p> <p><u>Total:</u> 68.086</p>	<p><i>(5)(a): 17.56</i></p> <p><i>(5)(g): 15.12 + 12.60 + 12.271</i></p> <p><u>Total:</u> 57.551</p>
B: Total amount of aid granted (in millions EUR) paid by regional authorities⁴	
2020	2021
-	-
C: Total amount of aid granted (in millions EUR) paid by regional authorities⁵	
2020	2021
<p><i>(1): 0.174</i></p> <p><i>(2)(d): 0.171</i></p> <p><i>2(e): 10.13</i></p> <p><i>(5)(c): 13.428+0.030</i></p> <p><u>Total:</u> 23.933</p>	<p><i>(1): 0.327</i></p> <p><i>(2)(d): 0.145</i></p> <p><i>(2)(e): 13.55</i></p> <p><i>(5)(c): 14.773+0.480</i></p> <p><u>Total:</u> 29.275</p>
Share of expenditure per aid instrument (direct subsidy, guarantees etc.) (if available)	
2020	2021
<i>EUR 92.019 million — the instrument used under all reported SGEIs is a subsidy or grant that can be equated to a subsidy instrument for State aid purposes.</i>	<i>EUR 86.826 million — the instrument used under all reported SGEIs is a subsidy or grant that can be equated to a subsidy instrument for State aid purposes.</i>

³If 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.

⁴See footnote 3.

⁵See footnote 3.

Additional quantitative information (e.g. number of beneficiaries per sector, average aid amount, size of the undertakings) ⁶	
2020	2021
<i>(2)(e) — Number of beneficiaries: 142 average aid amount: EUR 0.04 million</i>	<i>(2)(e) — Number of beneficiaries: 202 average aid amount: EUR 0.05 million</i>
<i>(5)(a) — 1 beneficiary: Bulgarian Post EAD</i>	<i>(5)(a) — 1 beneficiary: Bulgarian Post EAD</i>
<i>(5)(c) with regard to the Sofia Municipality project — 1 beneficiary: Municipal enterprise 'Sofia Municipal Waste Treatment Plant'</i>	<i>(5)(c) with regard to the Sofia Municipality project — 1 beneficiary: Municipal enterprise 'Sofia Municipal Waste Treatment Plant'</i>
<i>(5)(g) with regard to the pension and printed periodicals services — 1 beneficiary: Bulgarian Post EAD</i>	<i>(5)(g) with regard to the pension and printed periodicals services — 1 beneficiary: Bulgarian Post EAD</i>
<i>(5)(g) with regard to the water protection service — 1 beneficiary: Napoitelni sistemi EAD</i>	<i>(5)(g) with regard to the water protection service — 1 beneficiary: Napoitelni sistemi EAD</i>
<i>(5)(g) — for the SOE Kabiyuk in the livestock sector for maintaining autochthonous breeds and other valuable breeds of the National Livestock Fund and preserving them as a national treasure - 1 beneficiary SOE 'Kabiyuk':</i>	<i>(5)(g) — for the SOE Kabiyuk in the livestock sector for maintaining autochthonous breeds and other valuable breeds of the National Livestock Fund and preserving them as a national treasure - 1 beneficiary SOE 'Kabiyuk':</i>
<p><u>5(g) Napoitelni sistemi EAD:</u></p> <p><i>Napoitelni Sistemi EAD is a 100% state-owned company commercial company within the system of the Ministry of Agriculture.</i></p> <p><i>The main activities of the company comprise:</i></p> <ul style="list-style-type: none"> ➤ <i>Management, operation, repair, maintenance, expansion, investment, study and design; research, development and engineering activities for the comprehensive use of the irrigation fund;</i> ➤ <i>Water supply for irrigation and industrial water supply, amelioration and agricultural development;</i> ➤ <i>Carrying out of specialised works and provision of specialised services in the field of irrigation engineering and construction.</i> 	

⁶The 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 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.

Please also fill in the attached summary file in Excel “SGEI Decision 2020 2021” with the total amounts by section for the whole Member State (not by region, local authority or municipality).

3. DESCRIPTION OF THE APPLICATION OF THE 2012 SGEI FRAMEWORK

The SGEI Framework has not been applied in Bulgaria in the period 2020-2021.

Please structure this part of your report by the following sections:

SGEI compensation exceeding EUR 15 million, falling outside the SGEI Decision (please specify the Commission decision approving each measure if applicable):

- i. Postal services
- ii. Energy
- iii. Waste collection
- iv. Water supply
- v. Air or maritime links to islands with average annual traffic above the limits set in Art. 2(1)(d)
- vi. Airports and ports with average annual traffic above the limit set in Art. 2(1)(e)
- vii. Culture
- viii. Financial services
- ix. Other sectors (please specify)

For each of the items outlined above please provide information in the form of the following table:

Section (for example iii. Waste collection or viii. Financial services)
Clear and comprehensive description of how the respective services are organized in your Member State⁷
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.

⁷If 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. Since cases falling under

Explanation of the (typical) forms of entrustment . If standardised templates for entrustments are used for a certain sector, please attach them.	
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.	
Explanation whether (typically) exclusive or special rights are assigned to the undertakings.	
Which aid instruments have been used (direct subsidies, guarantees, etc.)?	
Typical compensation mechanism as regards the respective services and whether a methodology based on cost allocation or the net avoided cost methodology is used.	
Typical arrangements for avoiding and recovering any overcompensation .	
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).	
Amount of aid granted	
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)	
2020	2021

the SGEI Framework will be limited in number, the Commission expects a detailed description of each concrete measure.

⁸As stipulated in Paragraph 62(b) of the 2012 SGEI Framework.

A: Total amount of aid granted (in millions EUR) paid by national central authorities⁹	
2020	2021
B: Total amount of aid granted (in millions EUR) paid by regional authorities¹⁰	
2020	2021
C: Total amount of aid granted (in millions EUR) paid by regional authorities¹¹	
2020	2021
Share of expenditure per aid instrument (direct subsidy, guarantees etc.) (if available)	
2020	2021
Additional quantitative information (e.g. number of beneficiaries per sector, average aid amount, size of the undertakings) ¹²	
2020	2021

Please also fill in the attached summary file in Excel “SGEI Framework 2020 2021” with the total amounts by section for the whole Member State (not by region, local authority or municipality).

4. COMPLAINTS BY THIRD PARTIES

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

⁹If 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.

¹⁰See footnote 9.

¹¹See footnote 9.

¹²The Commission would welcome any data that you might have on aid granted under the 2012 SGEI Framework, for example the number of beneficiaries per sector, average amount of aid, amount per aid instrument, 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.

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 regarding the provided SGEI have been received in the period 2020-2021 in Bulgaria.

5. 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;
- 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.

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6. 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 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.

- B. 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 below.

Ministry of Labour and Social Policy

OPERATIONAL PROGRAMME

Human Resources Development 2014-2020

Operational programme

Human Resources Development

European Union

European Social Fund

Guidance for ensuring compliance of patronage care projects for the elderly and people with disabilities under the OPHRD with the applicable State aid regime and on the content of acts entrusting services of general economic interest

Procedure BG05M9OP001-2.040 ‘Patronage care for the elderly and people with disabilities — Component 2’:

Contents:

I.	Introduction	1
II.	Patronage care as a social service of general economic interest	2
III.	Entrustment of a public service obligation	3
IV.	Ownership of assets	5
V.	Form and content of the entrustment act	5
	1. Content of public service obligations (Art. 4 (a))	5
	2. Duration of public service obligations (Art. 4 (a))	8
	3. The undertaking and, where applicable, the territory concerned (Article 4(b))	8
	4. The nature of any exclusive or special rights assigned to the undertaking (Article 4(c)).....	8
	5. The description of the compensation mechanism and the parameters for calculating, monitoring and reviewing the compensation (Article 4(d))	8
VI.	Compensation	10
VII.	Obligations of the municipal councils through/in conjunction with the mayor of the municipality in their capacity as public authority awarding SGEI.....	12

I. Introduction

In line with the Conditions for applying for procedure BG05M9OP001-2.040 ‘Patronage care for the elderly and people with disabilities — Component 2’, **State aid rules are applicable**. In accordance with the Commission Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union (2016/C 262/01), the MA of the OPHRD has conducted an assessment of the applicability of State aid rules at all three levels with regard to investment: owner (municipality), operator (service provider) and end user (patronage care user). According to the analysis presented in the Conditions, the applicability of State aid rules is excluded at two levels: the level of the owner and the level of the user. The exclusion of the applicability of State aid rules at the level of the owner (beneficiary/partner municipality concerned) is linked to the municipalities’ obligation to provide adequate social services to the population, which is also a priority of any short, medium or long-term plan or programme.

Under the Social Assistance Act, social services are carried out by the state, municipalities, etc., with the mayor of the municipality managing social services on the territory of the municipality, which are activities delegated by the State and local activities. The mayor is responsible for meeting the criteria and standards for the provision of social services and is the employer of the managers of these services. As such, they have an obligation to plan, manage and determine the social services to be provided on their territory at local level (in accordance with the Social Assistance Act and its Implementing Rules) and to ensure that they are provided in accordance with national priorities.

The development of the entrustment act in line with the requirements of the Decision is a commitment of the municipalities which they undertake with the conclusion of the grant agreement.

This guidance is intended to provide general guidelines to beneficiaries for entrusting patronage care services and to facilitate the drafting of entrustment acts in line with the requirements of the SGEI Decision.

Given that this guidance cannot address all possible scenarios and situations existing in the different municipalities, the information in this document is not exhaustive. In this respect, the guidance is not binding, but beneficiaries should bear in mind that they are solely responsible for ensuring that the grants received comply with State aid rules.

II. Patronage care as a social service of general economic interest

Social service of general economic interest (SSGI) is not defined in European legislation, but the Communication ‘Implementing the Community Lisbon Programme: social services of general interest in the European Union’ (COM (2006)177) identifies, in addition to healthcare services, two main groups of social services of general economic interest (SGEIs), one of these groups of services covering, among others, ‘care for the social inclusion of vulnerable groups’. The care and social inclusion of vulnerable groups is also listed as a social service in the Commission SGEI Decision (Commission Decision of 20 December 2011 (the Decision)). In this regard, the provision of integrated healthcare and social services for disabled and elderly people in need (patronage care) is regarded as an SGEI. It is for this reason that the Conditions for application for procedure BG05M9OP001-2.040 ‘Patronage care for the elderly and people with disabilities— Component 2’ refer to the provision of patronage care for the elderly and people with disabilities as a social service of general economic interest.

‘Patronage care’ is defined as an SGEI, and **part of the grant** in connection with the provision of a ‘patronage care for the elderly and disabled people’ service **constitutes a public service compensation for the operator of that service (the provider)**, which is compatible with the internal market and excluded from the notification requirement laid down in Article 108(3) of the Treaty on the Functioning of the European Union.

The municipality (beneficiary or partner) is also the owner of the furnishing and equipment purchased with project funds, including the means of transport (if applicable) for their entire economically useful life. The acquired assets are entered in the assets of the municipality in accordance with the rules in force, while the costs of depreciation arise for the owner (municipality) and not for the SGEI provider (irrespective of the fact that a supplier may be an administrative unit of the municipality itself).

The furnishing and equipment acquired with grant funds may not be used for the economic

activity of the municipality at the end of the project, unless it is granted for use in connection with the operation of the above SGEI entrusted in accordance with the respective procedure, in line with the rules on State aid. This requirement is laid down in the administrative grant agreement.

III. Entrustment of a public service obligation

The patronage care service should be entrusted by the municipality in accordance with the requirements of the SGEI Decision, with the obligation to perform the service for **a period of 12 months**. The award of the service is effected by an act of entrustment which may take the form of a legislative or regulatory instrument or contract (legally binding document under national law which provides the legal basis for the financing of the specific service and for its definition as an SGEI). For example: an act, rules for the implementation of an act, decree of the Council of Ministers, rules of procedure of an undertaking, decision of the municipal council, order, service contract.

The service may also be entrusted by means of several instruments which, in their entirety, must contain all the necessary elements required by Article 4 of the SGEI Decision (see Section V).

In order to determine the type of document or documents that constitute an act of entrustment, it is necessary to specify which municipal body is authorised to entrust the execution of the service and therefore constitutes a ‘contracting authority’ /administrator under Article 9 of the State Aid Act and who is the ‘contractor’ of the service. It is important to bear in mind that the term ‘contracting authority’ used for the purposes of these guidelines does not mean the same and does not meet the requirements of ‘contracting authority’ laid down in the Public Procurement Act and the Obligations and Contracts Act. The term **‘contracting authority’** in this guidance refers to the competent authority, which, by means of a specific act, may entrust a municipal unit (in the form of a municipal enterprise or other municipal unit) or an entity external to the of the municipality (social service provider or a healthcare establishment) with the operation of patronage care, may determine the terms and conditions thereof and may monitor compliance with the rules which it has adopted.

This authority is the municipal council.

Under the applicable national legislation, the municipal council has competence for determining the types of social services within the territory of the municipality as well as a plan for the development of social services at municipal level. It also decides which municipal services should be defined as an SGEI. In the light of the above, the municipal council is the competent authority which, by means of a specific act (decision of the municipal council), can determine how, and through which units, the municipality will provide patronage care and control compliance with the rules adopted by that authority (in conjunction with the ordinance adopted for this purpose). The municipal council is the body that will entrust the implementation of the SGEI and will supervise the provision of the service **jointly with the mayor of the municipality**.

The municipal council’s remit also covers setting the fee to be paid by the users of patronage care. The municipal council may decide that the patronage care service funded under the OPHR be free of charge. Should it decide that patronage care will be provided against payment of a fee, the municipal council must determine the amount of the fee so that it does not exceed the costs of the provision of the patronage care.

IMPORTANT

The beneficiaries should bear in mind that the condition concerning the amount of the fee should be met throughout the period of the provision of patronage care.

Under Article 44(1)(1) and (2) ZMSMA, the mayor manages all implementation work of the municipality, directs and coordinates the activities of the specialised implementing bodies. Article 44(1)(5) ZMSMA also establishes the power of the mayor of the municipality to organise the implementation of the municipal budget, and subparagraph 7 imposes an obligation on the mayor to organise the implementation and the acts of the municipal council. The power of the mayor of the municipality to issue penalty orders in case of a violation of the Municipal Council regulations is laid down in Article 22 (5) ZMSMA

As can be seen from the above, **the provision of the patronage care service for the elderly and people with disabilities is entrusted by the municipal council through the mayor of the municipality.**

The beneficiary municipality or partner conducts the relevant procedure for the selection of the provider of patronage care under the Public Procurement Act in case the provider is an entity external to the municipality (healthcare establishment or social service provider). The documentation for the selection of the provider must specify the quality requirements and the methodology for the provision of patronage care, in accordance with the **‘Methodology for the provision of patronage care in homes for the elderly and people with disabilities’** developed by the Ministry of Health, as well as the training requirement for persons employed to provide patronage care under a programme also developed by the Ministry of Health in the document above.

The municipal undertaking/unit or the relevant social service provider or healthcare establishment, which is responsible for providing patronage care, is an **‘operator’ (provider of patronage care service)**. In any event, **the service provider** (the operator), even if it is not a separate legal entity, but part of the municipal **administration, is regarded as an undertaking** for the purposes of State aid for the specific activity and as the recipient of compensation for the provision of the service patronage care.

For the purposes of this guidance, as regards the applicable State aid rules, despite the fact that it does not have separate legal personality, the municipal undertaking or the unit responsible for the provision of the service is regarded as a separate/independent part of the remaining municipal administration, since the revenue and expenditure relating to the activities carried out by the municipal undertaking/unit concerned are to be separated from the other revenue and expenditure of the municipality. That separation is a necessary condition for the purposes of the State aid rules and the award of the service.

It is the responsibility of the municipal council to decide who will provide the service and how this should be regulated in accordance with national law. Depending on how the municipal council has decided to regulate the award of the service and depending on who will be responsible for providing the service, the entrustment act may be one or more of the following documents: a regulation or a decision of the municipal council laying down how and to whom the operation of the service is to be entrusted, a public service contract, the rules of procedure of a municipal undertaking, the internal operating rules of a relevant unit in the municipality, an order of the mayor, etc.

In the case where the patronage care service is provided by a municipal undertaking or

another unit/directorate in the municipality, the mayor of the municipality entrusts the undertaking, unit or directorate concerned with the tasks of providing the service. The document by which the mayor entrusts the operation of the relevant activity is part of the entrustment act (e.g. an order or internal rules in case the service will be provided by an internal unit or directorate in the municipality). If the service is to be provided by a municipal undertaking, the obligations relating to the provision of services should be laid down in the company's rules of procedure and, accordingly, no other specific procurement document is necessary, the rules of procedure form part of the act of entrustment.

IV. Ownership of assets

The municipalities which are beneficiaries/partners in the procedure 'Patronage care for the elderly and people with disabilities - component 2' are the **owner**. With the signature of the administrative contract, the OPHRD MA provides the municipality or municipalities (specific beneficiary and partners) with grants to implement a project proposal for the provision of hourly integrated home health care services: patronage care.

The municipality, as the contracting authority of the service, should provide the relevant assets to the operator for the purpose of operating the service. The entrustment act should clearly specify that the assets in question are made available to the relevant operator (municipal company/other unit in the municipality/social service provider or healthcare establishment) for the purpose of providing the patronage care service.

V. Form and content of the entrustment act

Under Article 4 of the SGEI Decision, there are no specific requirements as to the form of the act or acts entrusting the service and it is therefore the responsibility of the municipality concerned to assess how many and what documents to prepare or adopt in order to ensure compliance with the requirements of the SGEI Decision. The mandatory elements to be included in the act or acts are described below and the order in which they are listed does not necessarily mean that they should appear in that order in the act or acts of entrustment. The OPHRD MA recommends that beneficiaries, when developing the entrustment act or acts, include the following mandatory elements, in one document only, if possible.

1. Content of public service obligations (Art. 4 (a))

The entrustment act should clearly describe the activity to be entrusted and any resulting rights and obligations for the service provider (respectively the operator). In the case of a contract, those are the clauses subject matter of the contract and the rights and obligations of the contractor. All activities falling within the scope of the service to be operated by the undertaking entrusted with the service should be **clearly listed**. Below is a list of the activities falling within the scope of the service. In the case of an external award, the contract should also detail the rights and obligations of the contracting authority. In case of entrustment to a municipal undertaking or unit in the municipal administration, a specific document, part of the entrustment act, should clearly distinguish between the activities of the unit that will operate the service (the municipality as operator) and the activities of the other units in the municipality which will control the activity of the operating unit. For the sake of clarity and simplicity, the following text presents the examples of activities in two groups: rights and obligations of the operator and rights and obligations of the contracting entity.

Rights and obligations of the operator:

- ✓ Obligation to operate the patronage care service and, accordingly, the right to use the assets financed under the OP HRD for the purposes of that service. The entrustment act should detail patronage care according to the methodology developed by the Ministry of Health.
- ✓ Needs assessment and selection of persons to receive patronage care, if applicable: For example, the unit in the municipality responsible for the operation of patronage care may also have responsibilities for assessing the needs and selecting the users of the service. However, if the activity is outsourced to an entity external to the municipality, the municipality may decide not to entrust this part of the activity. In case this activity will be carried out by the operator, this should be explicitly mentioned in the entrustment act, as this activity entails additional costs (e.g. for the staff involved in the evaluation and selection).
- ✓ Concluding contracts with the users of the service and monitoring the fulfilment of the users' obligations;
- ✓ Provision of integrated health and social services for users, adapted to the assessment of their individual needs;
- ✓ Provision of psychological support and counselling;
- ✓ Training and supervision of staff involved in the provision of services;
- ✓ Safety and security requirements, as far as applicable;
- ✓ Quality requirements for the implementation of the activities, quality control mechanisms (as far as applicable);
- ✓ Compliance with the 'Methodology for the provision of patronage home care for the elderly and people with disabilities' developed by the Ministry of Health.
- ✓ **Obligation for separation of accounts:** Where a provider of a service of general economic interest, including where it is a public body, carries out activities falling both within and outside the scope of that service, its internal accounts must show separately the costs and receipts associated with the service of general economic interest and the costs and receipts of other activities.

When operating other activities outside the activity of providing patronage care service, the contractor must keep analytical accounts for each type of activity in accordance with Article 5(9) of the SGEI Decision. All costs related to the performance of activities that fall outside the scope of the patronage service should be accounted for separately from the rest and should not be included in the calculation of the amount allocated to the service provider (i.e. in the calculation of the compensation amount).

If the activity is carried out by a municipal enterprise or directorate in the municipality, it should be adequately ensured that, when determining the budget account or the analysis of the budget account of that undertaking or a directorate approved by the municipal council, the funds relating to the provision of the patronage service are recorded in the beneficiary's accounting system separately from all other funds.

In addition, the municipality should ensure separate analytical accounting for all other

receipts and costs related to the patronage care activity.

The analytical accounts for each type of business meet the following conditions:

- maintaining separate analytical accounts for each of the activities, for each share of assets and for the direct and indirect (fixed) costs corresponding to each activity;
- under no circumstances may any direct costs and indirect costs relating to any other activity of the public service operator be charged to the patronage care activity;

The order and manner of accounting for the acquired assets and the recognition of income and expenses arising from the acquisition of the relevant assets is the same regardless of the sources of financing of the acquisition of the assets concerned.

As far as the acquisition of assets under projects financed by European Union funds is concerned, according to point 16 of the Ministry of Finance's VAT Guideline No 05/2016, the acquisition process is recorded on a cash and accrual basis in the accounting group (business area) 'European Union funds accounts'. On completion of the acquisition of the asset, depending on its nature, it is transferred to the accounting group (business area) 'Budget' or 'Other accounts and activities' of the relevant budgetary organisation. If the asset is depreciable, it is depreciated in accordance with the procedure laid down in the above mentioned Ministry of Finance Guideline, available on the Ministry's website <http://www.minfin.bg/bg/1103>.

- ✓ Entitlement to **compensation** for the patronage care service:

Regardless of whether the service will be entrusted to an undertaking external to the municipality or to a municipal undertaking or administrative unit, that undertaking or unit is entitled to compensation for the activity it operates and the associated costs it incurs. The method of determining the compensation is a mandatory requirement of the entrustment act and is discussed in point 5 of this section, as well as in Section VI below in these guidelines. In case fees are to be collected by the service operator, the right of the operator to receive the fee income should be explicitly stated in the entrustment act.

- ✓ Other rights and obligations at the discretion of the municipality.

Rights and obligations of the municipality as provider of an SGEI

- ✓ Rights and obligations relating to the control of the activity carried out by the operator. In case the operator is a municipal undertaking or another administrative unit, the entrustment act should specify who controls the activity of the operator and how.

- ✓ Obligations to pay to the operator for the services provided — such obligations are included in the clauses only in the case of a public service contract.

- ✓ In the case of internal award, the municipality's financial management and control systems should record the accounts through which payments are made and the analytical work built up in the accounting system.

- ✓ Rights and obligations in respect of assets and infrastructure for the provision of the patronage service — for example: repair, maintenance, etc. at the discretion of the municipality.

2. Duration of public service obligations (Art. 4 (a))

The **duration of the service** (in the case of a contract, the duration of the service is the duration of the contract) should not exceed 10 years, in accordance with Article 2(2) of the SGEI Decision.

With regard to the requirement set out in the Conditions of Application that patronage care service is planned and provided for a period of 12 months, municipalities should set **a period of 12 months in the entrustment act**.

3. The undertaking and, where applicable, the territory concerned (Article 4(b))

A decree or decision of the municipal council should explicitly define how or to whom the service will be entrusted and, if it is the municipality, the relevant structure (the head of a municipal undertaking, a structural unit or a directorate in the municipality) should be defined. Where the service is awarded to an entity external to the municipality, in so far as that person is selected in accordance with the rules laid down by the relevant regulations, the undertaking is specified in the contract for the award of the service.

The act of entrustment must specify the territory in which patronage care is to be provided, generally the territory of the municipality concerned.

4. The nature of any exclusive or special rights assigned to the undertaking (Article 4(c))

A clause with a description of any exclusive or special rights granted to the undertaking must be included in the public service contract where the service is outsourced to an entity external to the municipality. An example of such a right is the entity's right to receive revenue from a fee for the provision of patronage care and the right to use assets to provide patronage care (premises, car, etc.).

5. The description of the compensation mechanism and the parameters for calculating, monitoring and reviewing the compensation (Article 4(d));

Where the service is awarded under a public service contract, these are the terms of the contract relating to performance, performance control and corresponding remuneration.

In case the service will be provided by a municipal enterprise or another structural unit within the municipal administration, the budget account approved by the municipal council for the relevant structural unit, together with the right to exploit the assets financed under the OPHRD, is the compensation received by the service provider. At the same time, provision should be made for appropriate mechanisms to control the performance of the service and control of the funds received by the structural unit operating the service.

This part of the entrustment act includes:

- **Compensation** In the case of a public service contract, the contract clearly describes the parameters for calculating the compensation, including a formula for calculating the compensation. The compensation may include compensation for the obligation to provide the patronage service at a certain fee, other benefits granted to the operator by the municipality financed under the OPHRD, as well as any other receipts from the discharge of the public service obligation.

The rules described in Section VI ‘Compensation’ of these Guidelines apply to the compensation.

The entrustment act should specify who collects the receipts from the fees (if a fee is paid for patronage care). As already mentioned above, separate analytical accounting should be provided for receipts from fees so that it can be clearly traced how much of the operating costs can be covered by funds equal to the receipts from fees for patronage care.

- **Oversight and reporting clauses**, including reporting on the performance of the task, quality indicators, financial reporting. Where a supplier is a municipality or a municipal enterprise, control is carried out in accordance with the requirements for monitoring the implementation of the State budget. External providers (a healthcare establishment or a social service provider) submit quarterly reports and an annual report.
- **Penalties**— quality and effectiveness control clauses and sanctions in cases of non-compliance
- **Payment (and invoicing if applicable)** — description of the procedures for payment of compensation, frequency of payments and procedures applicable in the event of penalties.
- **Control and audit** — description of the mechanism to control compensation and avoidance of overcompensation, control of contractual obligations and audit procedures. In case the service will be provided by a municipal enterprise or unit, it is described which entity or entities in the municipality will exercise control over the implementation and spending of the funds and how. The controlling bodies should be functionally independent from the unit acting as operator.

In the case of a public service contract with an entity external to the municipality, the contract also includes clauses on:

- Contract modification
- Exceptional circumstances
- Termination
- Arbitration.

Examples of annexes in the case of a public service contract with an external undertaking

- Economic framework for the public service obligation, i.e. the framework for calculation of compensation;
- Methodology for determining the economic framework and calculating the compensation;
- Service quality standards;
- A list of the operator’s assets;
- Reference to the Decision
- A list of the assets made available to the operator by the municipality, rights and obligations when they are used;
- Penalties — by means of compensation mechanisms, public authorities must encourage operators to be more efficient by providing services of the required level and quality with the least resources possible. Failure to perform obligations under the contract or performance below the required quality should be penalised.

VI. Compensation

The compensation for the public service is calculated in accordance with the requirements of Article 5 of the SGEI Decision which stipulates that the amount of compensation does not exceed what is necessary to cover the net cost (does not exceed the net financial effect) incurred in discharging the public service obligation.

The amount of compensation under the procedure ‘Patronage care for the elderly and people with disabilities— Component 2’ is determined on the basis of the costs necessary to provide the service to an individual over one year, less the corresponding revenue from the provision of the service (if any). In determining the amount of compensation, only the net costs incurred in discharging the public service obligation are taken into account, since no profit from operating an SGEI is permissible under this procedure.

The following components are taken into account in the calculation of the compensation:

- wage costs, on the basis of an employment/civil contract, including employer’s social security contributions and any adjustments under national law;
- expenditure on work clothes;
- cost of occupational medicine;
- training and supervision costs;
- official travel expenses (transport expenses) during the performance of the duties;
- costs of materials and supplies for the provision of the service;
- overhead costs and maintenance costs of the premises where the service is provided (if applicable). The costs are eligible, provided that they are not included in the value of the right to use/lease the premises, equipment and means of transport (if applicable) and if there is a methodology developed by the beneficiary showing how they are calculated. The methodology is presented to the Managing Authority in the reporting of these costs;
- rental costs/ costs for right to use the premises, equipment and means of transport (if applicable).

In the event that patronage care services are provided directly by the municipality, the municipality covers all the costs related to the provision of the patronage care service and it must ensure that receipts from fees and any other revenues (if any; for example, advertising revenue) do not exceed the cost of providing the service. In this regard, it is required that the municipality maintain separate accounting records for all revenue and expenditure related to the patronage care service and to financed assets, so that all revenue and expenditure can be traced and compared.

In order to calculate **the net financial effect**, the competent authority is guided by the following scheme:

Costs incurred in connection with the public service obligation or group of public service obligations imposed by the competent authority or authorities contained in a public service contract and/or in a general rule, **less any positive financial results** generated in the operation of the assets and infrastructure provided in accordance with the public service obligation in question, **less receipts from fees** or any other revenue generated in the performance of the public service obligation in question

= net financial effect

The costs of penalties and liquidated damages for the operator are not included in determining the net financial effect.

The revenue and costs must be calculated in accordance with the accounting and tax rules in force and comply with the requirements of Article 5 of the SGEI Decision, as follows:

Costs of operating a public service may include different categories and types of costs depending on the activities falling within the scope of the service. In all cases, it is necessary to provide appropriate explanations for each type of expenditure. Where the activities of the undertaking providing the service are limited to the SGEI concerned, all costs incurred by the undertaking may be taken into account. If the undertaking also carries out other activities falling outside the scope of the SGEI, only the costs associated with the SGEI are taken into account. In calculating the total cost, all direct costs associated with the service are taken into account. The scope of expenditure includes:

- ✓ all operating expenses;
- ✓ costs related to the use and maintenance of the necessary assets in case they are borne by the operator.

The costs of additional services not related to the public service entrusted are not included in the calculation of the compensation. Following the same rule, revenues from such services are also excluded from the calculation of the compensation.

The revenues to be taken into account in the calculation of the compensation include at least all the revenues of the operator resulting from the provision of the SGEI, irrespective of whether they qualify as State aid within the meaning of Article 107 TFEU or not. This means that all funds received by the operator related to the performance of the entrusted SGEI, regardless of their source, form part of the compensation (e.g. fees collected from users).

If the operator holds special or exclusive rights relating to activities other than the patronage care service or benefits from other advantages granted by the municipality or the State, they should be included in its income, irrespective of their classification for the purposes of Article 107 of the Treaty. At the discretion of the granting authority, profits from activities outside the scope of the patronage care service may be transferred in whole or in part to the financing of that service.

The operator may obtain revenues directly linked to the use of the public service assets made available to it as a result of an activity which is not relevant to the quality of the service provided (e.g. revenue from the sale of advertising space). Revenue of this kind should be taken into account and regulated in the entrustment act and must be included in the compensation calculation.

‘Reasonable profit’: this procedure does not allow profit to be made in the performance of the SGEI.

In order to avoid overcompensation, the municipality verifies the actual costs and revenues associated with the service, the performance of the service entrusted with the defined quality parameters and imposes penalties, if any. A check of reasonable profit is not performed as profit is not foreseen.

For the purposes of control of the amount of the compensation and the checks for overcompensation, the service provider (the operator) submits to the administrator (the municipality) quarterly and annual financial statements separately for all its activities, indicating those constituting SGEIs.

When checking for overcompensation, the administrator takes into account the following activities of the SGEI provider:

- (a) provision of hourly mobile integrated health care services for people with disabilities and the elderly in the territory of the municipality concerned;
- (b) provision of psychological support, counselling;
- (c) training and supervision of staff.

The checks to avoid overcompensation are carried out on a quarterly basis, annually and at the end of the period of entrustment.

Where the check reveals that the net cost is exceeded (overcompensation), the supplier is required to refund any overcompensation received.

The way in which overcompensation is controlled must be described in the entrustment act, as also set out in point 5 of Section V above.

VII. Obligations of the municipal councils through/in conjunction with the mayor of the municipality in their capacity as public authority awarding SGEI

With the signature of the administrative contract, the OPHRD MA provides the municipality or municipalities (specific beneficiary and partner or partners) with grants to implement a project proposal for the provision of hourly integrated home health care services: patronage care. The grant awarded by the MA of the OPHRD to municipalities for the provision of integrated social and healthcare services (patronage care) falls outside the scope of State aid rules, as it is an integral part of the municipalities' powers as a local authority and cannot be separated from the exercise of public authority as they are delegated to them by the State.

The municipality, as a specific beneficiary or partner, independently entrusts the provision of the patronage care service, which qualifies as a service of general economic interest (SGEI) in compliance with the requirements of the Decision.

The development of the entrustment act in line with the requirements of the Decision is a commitment of the municipality (applicant or partner), which it undertakes with the conclusion of the grant agreement. Each municipality (specific beneficiary and partner) acquires the status of contracting authority for a service of general economic interest within the meaning of the Commission Decision of 20 December 2011 and the administrator of aid within the meaning of Article 9 of the State Aid Act.

The entrustment of a public service under the SGEI Decision requires the municipality to comply with all the requirements of the SGEI Decision and all the requirements arising for it from the State Aid Act in its capacity as aid administrator.

The requirements of the SGEI Decision are for the most part included in the entrustment act, but there are requirements which are not subject to the entrustment but should be respected by the beneficiary or partner municipalities as follows:

- **Transparency** requirements: information on the amount and conditions under which SGEI aid is granted is to be published pursuant to Article 7 of Decision 2012/21/EU and is subject to reporting under Article 9 of Decision 2012/21/EU.
- requirements relating to **record-keeping**: according to Article 8 of the SGEI Decision, all the information necessary to determine the compatibility of the compensation granted with the requirements of the Decision should be kept for the entire duration of the entrustment and for at least 10 years from the end of the entrustment period. Beneficiaries are required to provide this information in accordance with the requirements of the State Aid Act.
- **Reporting** requirements: Article 9 of the SGEI Decision sets out the requirements for the information to be provided by the Member State to the European Commission every two years as a report on the implementation of the Decision. The information at national level is summarised and submitted by the Ministry of Finance and the aid administrators provide the necessary information to the Ministry of Finance in accordance with the deadlines and requirements specified in the State Aid Act and its Implementing Rules. To this end, the aid administrator is to provide the Ministry of Finance with the information required for the purposes of the report referred to in Article 9 of Decision 2012/21/EU, namely:

- (a) a description of the application of this Decision to the services falling within its scope, including in-house activities;
- (b) the total amount of aid granted in accordance with this Decision, with a breakdown by the economic sectors of the beneficiaries;
- (c) an indication of whether, for a particular type of service, the application of this Decision has given rise to difficulties or complaints by third parties;

and

- (d) any other information concerning the application of this Decision required by the Commission and to be specified in due time before the report is to be submitted.

The grant award contract contains clauses on the **protection of personal data** in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC and the applicable national legislation.



ЕВРОПЕЙСКИ СЪЮЗ
ЕВРОПЕЙСКИ
СОЦИАЛЕН ФОНД

**MINISTRY OF LABOUR AND SOCIAL POLICY
OPERATIONAL PROGRAMME
HUMAN RESOURCES DEVELOPMENT 2014-2020**



ОПЕРАТИВНА ПРОГРАМА
РАЗВИТИЕ НА
ЧОВЕШКИТЕ РЕСУРСИ

MODEL CONTRACT /ENTRUSTMENT ACT/

**FOR GRANTING AID FOR THE OPERATION OF A SERVICE OF GENERAL ECONOMIC
INTEREST — PATRONAGE CARE FOR THE ELDERLY AND PEOPLE WITH
DISABILITIES**

on the basis of Commission Decision 2012/21/EU

TABLE OF CONTENTS

SECTION I. DEFINITIONS AND INTERPRETATION	4
SECTION II. SUBJECT OF THE CONTRACT	4
SECTION III. PLACE OF PERFORMANCE AND DURATION OF THE CONTRACT	5
SECTION IV. COMPENSATION	5
SECTION V. CONTROL OF COMPENSATION AND RECOVERY MECHANISM.....	7
SECTION VI. REPORTING ON ACTIVITIES	8
SECTION VII. SEPARATION OF ACCOUNTS	8
SECTION VIII. RIGHTS AND OBLIGATIONS OF THE PROVIDER	8
SECTION IX. RIGHTS AND OBLIGATIONS OF THE MUNICIPALITY	9
SECTION X. COMPLIANCE WITH STATE AID AND TRANSPARENCY RULES.....	10
SECTION XI. TERMINATION OF CONTRACT	10
SECTION XII. NON-PERFORMANCE OF THE CONTRACT AND PENALTIES	11
SECTION XIII. OTHER PROVISIONS.....	11

This document is a model contract (entrustment act) for the granting of aid for the provision of a service of general economic interest on the basis of the Commission Decision of 20 December 2011 on the application of Article 106(2) TFEU to State aid in the form of public service compensation for patronage care for the elderly and people with disabilities. The clauses, rights and obligations presented are indicative, not binding, not of mandatory character and may be modified when they are applied to a specific project.

Today, [.....], in ____, between:

The municipality of ____, address ____, BULSTAT Registry code ____ and VAT number ____, represented by ____, acting as mayor of the municipality of [.....], hereinafter referred to as **the municipality**, on the one hand,

and

hereinafter referred to as the **SGEI Provider**, on the other hand,

together referred to as the 'parties' and each of them individually as the 'party',

Whereas:

A. Under the conditions laid down in Commission Decision 2012/21/EU 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 (hereinafter "SGEI Decision"), it is possible to grant State aid in the form of compensation to undertakings entrusted with the provision of an SGEI.

B. Activities to meet social needs in relation to health and long-term care are among the SGEIs falling within the scope of the SGEI Decision (Article 2(1)(c)). In this regard, the provision of integrated healthcare and social services for disabled and elderly people in need (patronage care) is defined as an SGEI.

C. Under the Social Assistance Act, social services are carried out by the state, municipalities, etc., with the mayor of the municipality managing social services on the territory of the municipality, which are activities delegated by the State and local activities. The mayor is responsible for meeting the criteria and standards for the provision of social services and is the employer of the managers of these services.

D. The healthcare and social service 'patronage care for the elderly and people with disabilities' of cannot be offered in the municipality under satisfactory quality and affordability conditions[.....] without the intervention of a public authority, which means that a market failure exists. It is therefore necessary to grant compensation for the operation of a service of general economic interest (SGEI) within the meaning of Article 106(2) TFEU.

E. This contract constitutes an act entrusting a service of general economic interest within the meaning of the SGEI Decision.

On the basis of the SGEI Decision and subject to the requirements laid down therein and in accordance with Decision No..... of the Municipal Council of....., the parties concluded the following Contract on the granting of aid for the operation of a service of general economic interest ('the Contract'):

SECTION I. DEFINITIONS AND INTERPRETATION

Article 1 Unless the content requires otherwise, within the meaning of this contract, the terms below have the following meaning:

(1) **SGEI Decision** is a Commission decision of 20 December 2011 on the application of Article 106(2) of the TFEU 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 7, 11.1.2012, p. 7);

(2) **'compensation'** means the financial resources provided under project BG05M9OP001-2.040-0.... '.....' (indicate *project number and name*), which are made available to the SGEI provider to cover the costs of providing the SGEI entrusted in accordance with the conditions detailed in the contract;

(3) **'SGEI'** means the service 'patronage care for the elderly and persons with disabilities' provided on the territory of the municipality [...] entrusted to the SGEI provider under this contract;

(4) **'users'** are persons receiving 'patronage care for the elderly and people with disabilities' in the municipality [...];

(5) **'reasonable profit'**: this contract does not allow a profit to be made in the performance of the SGEI.

SECTION II. SUBJECT OF THE CONTRACT

Article 2 (1) The municipality entrusts and the SGEI provider agrees to fulfil the following obligations as a service of general economic interest: 'patronage care for the elderly and people with disabilities' (SGEI), as agreed in this contract:

1. Provision of integrated health and social services for users, based on the assessment of their individual needs.
2. Provision of psychological support and counselling.
3. Training and supervision of staff involved in the provision of services.
4. Compliance with safety and security requirements, as far as applicable.
5. Compliance with quality requirements for the implementation of the activities, quality control mechanisms (to the extent applicable).
6. Compliance with the 'Methodology for the provision of patronage home care for the elderly and people with disabilities' developed by the Ministry of Health.
7. [...]¹

(2) An SGEI under this contract should be provided by qualified staff in compliance with all the legal requirements for the provision of this type of social service. All persons involved in the provision of 'patronage care for the elderly and people with disabilities' should receive training

¹ The obligations presented are indicative and should be considered and adapted to the specificities of the provision of the service by the municipality concerned.

according to the 'Methodology for the provision of patronage home care for the elderly and people with disabilities' developed by the Ministry of Health.

(3) For the performance of the SGEI, the provider will receive compensation under the terms of this contract and its annexes, subject to the requirements of the SGEI Decision.

Article 3(1) The SGEI provider has the right to collect all the revenues from the SGEI provided, namely the monthly fees payable by the users, set out in the Regulation on the determination and administration of local taxes and service costs on the territory of the municipality [...] ² (if applicable).

(2) The municipality undertakes to inform the users of the arrangements for paying the monthly fees due to the SGEI provider's bank account (if applicable).

Option 1

(3) The fees collected from the users are retained by the SGEI provider and deducted from the amount of the compensation due in accordance with the provisions of Section IV of the contract.

Option 2

(3) The fees collected from the users are transferred from the SGEI provider to the account of the municipality within [...] of receipt.

SECTION III. PLACE OF PERFORMANCE AND DURATION OF THE CONTRACT

Article 4 The place of performance of the SGEI entrusted under this contract is on the territory of the municipality of [...].

Article 5 (1) The contract enters into force on the date of its signature by both parties.

(2) The duration of the contract is 12 months.

SECTION IV. COMPENSATION

Article 6 (1) The municipality undertakes to pay to the SGEI provider a compensation for the provision of services determined in accordance with the rules of this contract (hereinafter referred to as 'compensation').

(2) The compensation will be determined on the basis of Article 5 (2) of the SGEI Decision and covers the net costs of the SGEI provider.

(3) The compensation for the provision of the SGEI will be used by the SGEI provider only to cover the costs of performing the public service obligations under this contract, as agreed therein.

Article 7(1) The amount of the compensation may not exceed the net cost of providing the public service, which is the difference between the costs necessary for the operation of the SGEI and the revenues generated in the operation of the public service.

² *To the extent possible under the legislation in force and in the event that the municipal council of the municipality concerned has set a fee for the users of the SGEI.*

(2) The costs subject to compensation include all reasonable costs incurred in carrying out the SGEI in accordance with the following criteria:

1. The costs were incurred for the operation of the SGEI as follows:
 - wage costs, on the basis of an employment/civil contract, including employer's social security contributions and any adjustments under national law;
 - cost of work clothing;
 - cost of occupational medicine;
 - training and supervision costs;
 - travel expenses (transport expenses) during the performance of duties;
 - costs of materials and supplies for the provision of the service;
 - overhead costs and maintenance costs of the premises where the service is provided (if applicable). The costs are eligible, provided that they are not included in the value of the right to use/lease the premises, equipment and means of transport (if applicable) and if there is a methodology developed by the beneficiary showing how they are calculated. The methodology is presented to the Managing Authority in the reporting of these costs;
 - rental costs/ costs for right to use the premises, equipment and means of transport (if applicable).
2. The costs are incurred by the SGEI provider and are recorded in its accounts;
3. The cost accounting complies with the requirements of the accounting legislation in force and the accounting policies of the SGEI provider;
4. Costs to other suppliers are eligible, subject to i compliance with the requirements of the public procurement legislation (to the extent applicable) and the terms of this contract.

(3) Where the activity of an SGEI provider is limited to an SGEI, the compensation includes all costs incurred by the SGEI provider under the conditions of paragraph 2 above.

(4) Where the SGEI provider also carries out activities outside the scope of the SGEI entrusted, the costs incurred for the SGEI pursuant to paragraph 2 above may cover all direct costs incurred for the provision of the SGEI as well as a proportionate share of the costs common to the SGEI and the other activities.

Article 8 (1) The municipality pays the compensation to the SGEI provider in instalments determined on a pro-forma basis as follows: *[describe the mechanism and frequency of payments]*.

(2) Payments are made on presentation of an invoice from the provider.

(3) Reconciliation and recovery, if necessary, of advance payments, such as compensation, is carried out on a quarterly basis, on the basis of the accounts submitted and copies of the accounting documents submitted by the SGEI provider under the terms of Section VI, upon expiry of the contract.

(4) The maximum compensation for the provision of services to a consumer may not be exceeded when calculating the final amount of the total annual compensation (up to BGN 2016 per user per year).

SECTION V. CONTROL OF COMPENSATION AND RECOVERY MECHANISM

Article 9 (1) Under the procedure laid down in the contract, the municipality controls the amount of the compensation granted to the SGEI provider for the performance of the public service. The control is carried out in order to verify that the compensation complies with the provisions of the contract and the SGEI Decision.

(2) Control under this section is carried out by the municipality through the [...] ³ unit or by external reviewers/auditors appointed by the Municipality. Checks are carried out every three months on the basis of quarterly reports and accounting documents submitted by the SGEI provider and at the upon expiry of the contract.

(3) For the purposes of compensation control, the SGEI provider allows the municipality and/or auditors and their staff to monitor the compensation and check for overcompensation or cross-subsidisation by carrying out financial audits and checks and provides them with all information they may reasonably require.

Article 10 (1) Where, on the basis of the quarterly reports under Article 12 of the contract, it is established that the actual amount of costs incurred by the SGEI provider for the performance of the SGEI is lower than the amount of the compensation paid in advance, there is overcompensation. If the overcompensation does not exceed 10% of the amount of the average quarterly compensation calculated on the basis of the costs actually incurred, it is carried forward to the next quarter and deducted from compensation due for that period. The carry-over of surplus is not allowed during the check of the final accounts under the contract.

(2) Where overcompensation is found to exceed 10% of the amount of the average quarterly compensation, the municipality sends the SGEI provider a recovery request for the amount of the overcompensation.

(3) The SGEI provider pays the amount referred to in Article 10(2) within 1 month of the date of receipt of the recovery request.

Article 11(1) Where, on the basis of data from the annual accounts under Article 12 of the contract, it is established that the actual amount of costs incurred by the SGEI provider for the operation of the SGEI is higher than the amount of compensation paid in advance, the municipality reimburses the difference to the SGEI provider's account within 30 days of the adoption of the annual report referred to in Article 12(2) and taking into account the maximum amount under Article 8(4).

(2) Within one month of termination of the contract, the SGEI provider repays to the municipality the unspent funds from the compensation advanced on the basis of the final report on the implementation of the contract.

³ If the SGEI provider is a municipal undertaking or an administrative unit, another administrative unit in the municipality which is functionally independent of the provider controls the activity. External auditors/verifiers may also be used to ensure the independence of controls.

SECTION VI. REPORTING ON ACTIVITIES

Article 12 (1) The SGEI provider provides the municipality with all the necessary information on the performance of the SGEI and, for this purpose, draws up quarterly reports and a final report after the end of the contract.

(2) The final annual report is submitted within one month of the end of the calendar year and the final report within one month of the end of the contract.

(3) Each report contains a technical and financial part with the following minimum particulars:

1. a technical part containing a description of the activities carried out;
2. a financial part containing a description of:
 - (a) the costs incurred by type and operation, in such a way as to enable a comparison between the financial allocation and the costs incurred and the results achieved. Supporting documents are included as annexes to the financial part;
 - (b) receipts collected from users (if applicable);
 - (c) other receipts from the operation of the SGEI (e.g. from the sale of advertising space).

SECTION VII. SEPARATION OF ACCOUNTS

Article 13 The SGEI provider is obliged to keep separate analytical accounts for activities constituting SGEIs. Accounts and expenditure relating to the contract must be clearly identified and checked in accordance with national law.

Article 14 If the SGEI provider performs activities outside the scope of the SGEI entrusted, the costs and revenues of the public service are separated from the other services in its internal accounts, in accordance with Article 5(9) of the SGEI Decision.

SECTION VIII. RIGHTS AND OBLIGATIONS OF THE PROVIDER

Article 15 (1) The SGEI provider is obliged to:

1. provide SGEIs of good quality and in a timely manner in accordance with the terms of this contract, strictly respecting the provisions of the applicable legislation and the "Methodology for the provision of patronage home care for the elderly and people with disabilities" developed by the Ministry of Health;
2. organise and provide the SGEI entrusted to it in accordance with the criteria and standards laid down in the legal acts for the quality of the service covered by the contract;
3. perform the contract with due care, respecting the principles of economy, efficiency, effectiveness, publicity and transparency, in accordance with best practices in the field;
4. keep accurate and regular records and accounts reflecting the performance of the contract so as to ensure separate accounts for the activities carried out as part of the SGEI;
5. regularly provide the municipality with reports (every quarter) on the performance of the

SGEI, as provided for in that contract, ensuring that the data contained in those reports correspond to the data in the accounting system and documents and are available until the expiry of the retention periods;

6. inform the municipality in good time in the event of insurmountable difficulties which may delay or thwart the proper performance of the contract;
7. spend the funds received by the municipality as compensation solely for the provision of an SGEI [including a reasonable profit];
8. notify the municipality of circumstances preventing or delaying the performance of the SGEI;
9. comply with the reasonable instructions provided periodically by the municipality with regard to the performance of the SGEI entrusted.

(2) The SGEI provider may not subcontract activities except with the express written consent of the municipality and in compliance with the legislation in force.

Article 16 (1) the SGEI provider has the right to:

1. provide the services under this contract and collect statutory monthly fees from the users (where a fee is set by the municipal council);
2. receive the agreed compensation under this contract;
3. require the municipality to provide the necessary information and documentation as well as assistance in connection with the operation of SGEIs;
4. Use a room or rooms located at:....., consisting of..... (describe the premises to be used for the provision of the SGEI) — if applicable;
5. Use a means of transport..... (describe the means of transport) to carry out the mobile work in connection with the provision of the SGEI — if applicable.

(2) The SGEI provider has the right to carry out activities other than the SGEI entrusted, in so far as this does not impede or jeopardise in any way the provision of the SGEI.

SECTION IX. RIGHTS AND OBLIGATIONS OF THE MUNICIPALITY

Article 17 (1) The municipality has the right to:

1. exercise control over the activity of the SGEI provider;
2. issue recommendations on the fulfilment of the SGEI provider's obligations;
3. require the SGEI provider to report annually on the provision of the SGEI and verify how the compensation provided has been used;
4. carry out checks on the quality of the services provided by the SGEI provider in relation to the statutory criteria and standards;

(2) The municipality is obliged to:

1. provide compensation to the SGEI provider as agreed in this contract;
2. render the assistance necessary for the SGEI provider to provide the services covered by the contract.

SECTION X. COMPLIANCE WITH STATE AID AND TRANSPARENCY RULES

Article 18 (1) The SGEI provider must ensure compliance with State aid rules. The compensation payable under this contract is granted in accordance with the SGEI Decision, in view of which the SGEI provider undertakes to comply with the Decision and not to breach its requirements.

(2) The parties are bound under Article 8 of the SGEI Decision by the obligation to keep available, for the duration of the contract and for at least 10 years from the end of the period of entrustment, all the information necessary to determine whether the compensation granted is compatible with the SGEI Decision.

(3) The SGEI provider must comply with the reporting obligations set out in Regulation No N-16 of 23.11.2006 on the procedure for ensuring transparency of financial relations between public authorities and local authorities and public and municipal undertakings and financial transparency within certain undertakings, issued by the Minister for Finance, published in State Gazette No 99 of 8.12.2006 and Commission Directive 2006/111/EU of 16 November 2006 on the transparency of financial relations between Member States and public undertakings as well as on financial transparency within certain undertakings⁴.

(4) If part or all of the compensation paid to the SGEI provider constitutes unlawful State aid, the municipality is entitled, upon request, to receive from the SGEI provider the compensation provided in full, together with the statutory interest.

SECTION XI. TERMINATION OF CONTRACT

Article 19 (1) This contract is terminated:

1. at the end of the duration of the contract;
2. in the event where it is absolutely and objectively impossible to perform the contract, of which the party concerned is required to notify the other party within 10 (ten) days of its occurrence and provide evidence;
3. in the event of the SGEI provider ceasing activity without legal succession;
4. by giving one month's notice to the municipality, in the event of the SGEI provider's major failure to perform, including where:
 - The SGEI provider regularly fails to comply with its obligation to submit the accounts referred to in Section VI within the set deadlines and using the required forms;
 - the services provided do not comply with the regulatory requirements;
 - other substantial breaches of the contract.

(2) The SGEI provider may terminate the contract unilaterally with one month's notice if the municipality fails to fulfil its obligations to provide the necessary compensation under this contract.

⁴ The obligation is in case Regulation No N-16 of 23.11.2006 applies to the provider.

(3) The contract may be terminated by mutual agreement of the parties, expressed in writing. In this case, the balance of the compensation paid in advance must be repaid to the municipality.

SECTION XII. NON-PERFORMANCE OF THE CONTRACT AND PENALTIES

Article 20 (1) In the event that the SGEI provider ceases to perform the SGEI through its own fault, it is liable to pay to the municipality a penalty of [.....]. The penalty does not prejudice the municipality's right to claim damages under the general procedure.

(2) The SGEI provider must repay to the Municipality the funds spent for purposes other than those covered by this contract, together with the statutory interest from the day on which the funds were unduly spent.

Article 21 (1) In the event of failure to perform the tasks entrusted within the time limit laid down in a bilateral protocol, the SGEI provider is liable to pay a penalty of [...] % per day on the value of the activities not carried out for each overdue day.

(2) In the event of poor performance of the tasks entrusted in a bilateral protocol, the SGEI provider is liable to pay a penalty of [...] % per day on the value of the poorly performed activities.

(3) In the event of late payment of the compensation attributable to the municipality, the municipality is liable to pay a penalty equal to [.....] of the value of the amount not paid for each day of delay, up to a maximum of [.....] as agreed in Section VI of this contract.

SECTION XIII. OTHER PROVISIONS

Article 22 The contract may be amended by mutual written agreement of the parties or in the event of a change in the regulations relating to the services provided, with an annex.

Article 23 The parties resolve disputes arising from the conclusion, performance and termination of this contract by negotiated mutual agreement or, failing that, by judicial proceedings before the competent court.

Article 24 All communications and notifications between the parties to this contract must be in writing to be valid. A notification or a communication complies with the requirement to be in writing when sent by fax or e-mail to the addresses below:

[.....]

Article 25 In performing this contract, the parties comply with the requirements of the protection of personal data in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC and the applicable national legislation.

Article 26 For matters not regulated in this contract, the provisions of the legislation in force in the Republic of Bulgaria apply.

MUNICIPALITY:

SGEI PROVIDER:

.....

.....

Mayor of the municipality