

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
<i>Total compensation for Services of General Economic Interest (1+2)</i>		
1) Total compensation granted on the basis of the SGEI Decision	14.82	28.26
2) Total compensation granted on the basis of the SGEI Framework	0	0

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 (Art. 2(1)(b))

- 2) Social services (Art. 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 Art. 2(1)(d)
- 4) **Airports and ports with average annual traffic not exceeding the limit set in Art. 2(1)(e)**

Section 4 <u>Airports and ports with average annual traffic not exceeding the limit set in Article 2(1)(e)</u>
Clear and comprehensive description of how the respective services are organized in your Member State¹
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>The following services have been defined as SGEI:</p> <ol style="list-style-type: none"> a) airport services to support civil aviation at regional aerodromes; b) redevelopment, modernisation and construction of port infrastructure.
Explanation of the (typical) forms of entrustment . If standardized templates for entrustments are used for a certain sector, please attach them.
<p>The management of the service of general economic interest was entrusted to undertakings in the commercial public sector, as explained below.</p> <p><u>AIRPORTS</u></p> <p>SATA GESTÃO DE AERÓDROMOS, SA</p>

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

The concession for the public airport service to support civil aviation at the aerodromes of Corvo, Graciosa, Pico and São Jorge and the Flores air terminal was awarded to SATA Gestão de Aeródromos, SA, by means of a contract of 1 July 2005, which was signed following the publication of the Council of Government Resolution No 102/2005 of 16 June 2005; the concession was awarded for 10 years, renewable in 5-year periods up to a maximum of 20 years. By means of a concession contract renewal agreement dated 30 June 2020, the contract was renewed for a further 5 years, expiring on 1 July 2025.

PORTS

PORTOS DOS AÇORES, SA

By means of Regional Legislative Decree No 30/2003/A of 27 June 2003, three regional port administrations were created (APSM - Administração dos Portos das Ilhas de S. Miguel e Santa Maria, S.A (for the islands of São Miguel and Santa Maria); APTO - Administração dos Portos do Triângulo e do Grupo Ocidental, S.A (for the islands of the so-called 'Triangle' group and the Western group); and APTG - Administração dos Portos da Terceira e Graciosa, S.A (for Terceira and Graciosa)). By means of Regional Legislative Decree No 24/2011/A of 22 August 2011, these authorities were merged into one undertaking, Portos dos Açores, SA.

Portos dos Açores, SA is entirely publicly owned and is responsible for managing the ports in the Autonomous Region of the Azores; this involves operating, maintaining and developing the ports and acting as the port authority.

In 2018, one public investment contract was entered into by the Autonomous Region of the Azores (RAA) and Portos dos Açores, SA, by means of a Council of Government Resolution. The contract relates to the redevelopment of the commercial port of Horta.

In 2019, two public investment contracts were signed for the following work: project to strengthen the protective wall of the quay at the Vila do Porto marina and work to repair and replace the covering of the passenger terminal in Vila do Porto; consultancy services, studies and designs relating to the development of the port of Praia da Vitória and the passenger terminal at the port of São Roque on Pico.

In 2020, six public investment contracts were signed for the following work: construction of a ramp for 'roll-on/roll-off' vessels and ferries and additional work to improve operating conditions and shelter at Porto das Pipas, Angra do Heroísmo; construction of a new passenger terminal at the port of São Roque on Pico; dredging of the port of Calheta on São Jorge; minor works at the ports affected by hurricane Lorenzo; emergency protection for the embankment and wharf at -5 (CD) at the port of Lajes das Flores following damage caused by hurricane Lorenzo; and construction of a jetty at the port of Lajes das Flores following damage caused by hurricane Lorenzo.

In 2021, ten public investment contracts were signed for the following work: repairs to the breakwater at the port of Lajes on Pico following damage caused by hurricane Lorenzo; repairs to the protective layers of the breakwater head and the breakwater itself, repaving of the quayside and upgrading of infrastructure at the Vila do Porto commercial port following damage caused by hurricane Lorenzo; repairs to the breakwater, seawall and infrastructure at the commercial port in Ponta Delgada following damage caused by hurricane Lorenzo; dredging of the port of Casa and purchase of a 'sideloader' container lift to allow containers to be loaded and offloaded independently at the port of Casa; purchase of a dredging pump to clean the seabed at the old port of Madalena; dredging of the ports of Velas and São Roque; construction of a new building to house support activities for the North Marina as part of works to redevelop the seafront in Horta; high-resolution hydrographic survey at the port of Vila do Porto, studies and designs for the construction of the recreational sailing area in Calheta, construction of the passenger terminal in Casa, and construction of the dock for cruise ships at Praia da Vitória; redevelopment of workshops, a warehouse and the operations building at the port of Praia da Vitória.

Average duration of the entrustment (in years) and the proportion of entrustments that are longer than 10 years (in %) per sector. Specify in which sectors SGEI were entrusted with a duration exceeding 10 years and explain how this duration is justified?
<p>The durations are usually as follows for the contracts:</p> <p>a) airport services to support civil aviation at regional aerodromes: 10 years, with the possibility of renewal for 5-year periods, up to a maximum of 20 years;</p> <p>b) redevelopment, modernisation and construction of port infrastructure: 1 to 8 years.</p>
Explanation whether (typically) exclusive or special rights are assigned to the undertakings.
Yes. Specifically, the right to manage the infrastructure entrusted by law or by contract.
Which aid instruments have been used (direct subsidies, guarantees, etc.)?
Direct grant.
Typical compensation mechanism as regards the respective services and whether a methodology based on cost allocation or the net avoided cost methodology is used.
<p>All contracts signed with the regional public-sector undertakings providing public services include clauses to prevent cross-subsidising, allow the costs to be allocated correctly and avoid overcompensation.</p> <p>In order to ensure that the amount of compensation does not exceed what is necessary to cover the costs incurred by fulfilling the obligations, in the contracts entered into with Administrações Portuárias Regionais (currently Portos dos Açores, SA) a number of clauses are included setting out the overall amount of funding and establishing the condition that the financial contribution to be allocated will be proportionally reduced if the undertaking receives additional support via other types of funding.</p> <p>For SATA Gestão de Aeródromos, SA, the costs and investments for which the awarding authority is responsible were set out and it was established that the concessionaire must submit an operating plan each year for the following year, for prior approval, indicating the equipment, conservation/maintenance work or extension work that needs to be carried out at the aerodromes to ensure that they operate normally and develop, as well as a timetable for the work and the related costs.</p>
Typical arrangements for avoiding and repaying any overcompensation.
<p>The Autonomous Region of the Azores carries out and commissions regular checks to guarantee that the undertakings are not receiving more compensation than is necessary to cover the costs incurred by fulfilling the public service obligations.</p> <p>The Region considers this monitoring to be perfectly adequate and welcomes the close relationship it has with these public-sector undertakings in the region for the purposes of supervision and oversight and close monitoring of their activities.</p> <p>SATA – GESTÃO DE AERÓDROMOS, SA</p> <p>SATA Gestão de Aeródromos, SA, as the concessionaire for the public airport service to support civil aviation at the regional aerodromes, is required to submit, for approval by the awarding authority, an operating plan for the following year by July of the previous year, indicating the equipment needed and the conservation/maintenance/extension work it plans to carry out at the aerodromes for which it holds the concession in order to ensure that the aerodromes develop as they should, as well as a timetable for the work and the related costs. In consideration for the provision of services, the concessionaire is entitled to receive the financial compensation set out in the contract.</p>

The same contract also establishes that SATA – Gestão de Aeródromos, SA bears the risks of the concession, while it nevertheless remains possible to restore the financial equilibrium of the concession in the event of force majeure due to unforeseen and inevitable events beyond the control of the concessionaire that have a direct negative impact on the concession, or in the event of abnormal and unforeseen changes to the conditions on which the proposal was based that result in a substantial increase in costs. The financial equilibrium of the concession will be restored by way of direct compensation from the awarding authority to the concessionaire, and the concessionaire must inform the awarding authority of any event that might give rise to the need to restore the financial equilibrium of the concession, within a maximum of 10 days of the event occurring.

SATA – Gestão de Aeródromos, SA is contractually obliged to provide the awarding authority with all information relating to the concession when so requested and to allow duly identified inspection bodies unrestricted access to all facilities and equipment inside the areas covered by the concession.

PORTOS DOS AÇORES, SA

Checks on the use of the funding made available under the contracts entered into with Portos dos Açores, S.A. and on the matching of the funds to the proposed objectives are carried out by means of the requirement on the undertaking to provide any information and clarifications requested by the Region, at intervals decided on by the Region; it is also required to undergo assessments and/or audits carried out by the Region or whoever it appoints for that purpose.

Portos dos Açores, SA is also required to draw up annual progress reports and send them to the Region, as well as final reports on the implementation of the contracts.

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

The contracts are approved by means of a Council of Government Resolution or by a Joint Order of the members of government responsible for ports and finance. They are published in the Official Journal of the Autonomous Region of the Azores (<https://jo.azores.gov.pt/>).

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
€13.99 million	€27.76 million
A: Total amount of aid granted (in millions EUR) paid by national central authorities³	
2020	2021

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

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

B: Total amount of aid granted (in millions EUR) paid by regional authorities⁴	
2020	2021
Airports: €3.99 million Ports: €10.00 million	Airports: €6.16 million Ports: €21.60 million
C: Total amount of aid granted (in millions EUR) paid by local authorities⁵	
2020	2021
Share of expenditure per aid instrument (direct subsidy, guarantees etc.) (if available)	
2020	2021
Direct grant: Airports: €3.99 million Ports: €10.00 million	Direct grant: Airports: €6.16 million Ports: €21.60 million
Additional quantitative information (e.g. number of beneficiaries per sector, average aid amount, size of the undertakings)⁶	
2020	2021
The beneficiaries of the services of general economic interest at airports and ports are citizens and businesses. Portos dos Açores, SA is an SME with an average workforce of 277 staff. SATA Gestão de Aeródromos, SA is a small company with an average workforce of 26 staff.	The beneficiaries of the services of general economic interest at airports and ports are citizens and businesses. Portos dos Açores, SA is an SME with an average workforce of 277 staff. SATA Gestão de Aeródromos, SA is a small company with an average workforce of 26 staff.

5) SGEI compensation not exceeding an annual amount EUR 15 million (Art. 2(1)(a))

- a) Postal services
- b) Energy
- c) Waste collection
- d) Water supply
- e) Culture

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

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

⁶ The Commission would welcome any data that you might have on aid granted under the 2012 SGEI Decision, for example the number of beneficiaries per sector, average amount of aid, amount per aid instrument, 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.

Section 5(e) Culture
Clear and comprehensive description of how the respective services are organized in your Member State⁷
Public investment contract between the Autonomous Region of the Azores and the Teatro Micaelense – Centro Cultural e de Congressos, SA.
Explanation of the (typical) forms of entrustment . If standardized templates for entrustments are used for a certain sector, please attach them.
<p>In 2020, by means of Council of Government Resolution No 38/2020 of 28 February 2020, approval was granted for a public investment contract, awarded on 28 February 2020, between the Autonomous Region of the Azores and the TEATRO MICAELENSE - CENTRO CULTURAL E DE CONGRESSOS, SA, with the aim of setting out the terms of the cooperation between the Autonomous Region and the undertaking with a view to implementing the annual action plan to develop and diversify the cultural activities on offer and promote the region.</p> <p>In 2021, by means of Council of Government Resolution No 300/2021 of 28 December 2021, approval was granted for a public investment contract, awarded on 28 December 2021, between the Autonomous Region of the Azores and the TEATRO MICAELENSE - CENTRO CULTURAL E DE CONGRESSOS, SA, with the aim of setting out the terms of the cooperation between the Autonomous Region and the undertaking with a view to implementing the annual action plan to develop and diversify the cultural activities on offer and promote the region.</p>
Average duration of the entrustment (in years) and the proportion of entrustments that are longer than 10 years (in %) per sector. Specify in which sectors SGEI were entrusted with a duration exceeding 10 years and explain how this duration is justified?
Each year, the region sets the amount of funding to be transferred to the concessionaire by means of a Joint Order of the Regional Ministers responsible for finance and culture. In 2020, the public investment contract was for €825 000.00 and in 2021 it was for €500 000.00.
Explanation whether (typically) exclusive or special rights are assigned to the undertakings.
No.

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

Which aid instruments have been used (direct subsidies, guarantees, etc.)?	
Direct grants under the public investment contract.	
Typical compensation mechanism as regards the respective services and whether a methodology based on cost allocation or the net avoided cost methodology is used.	
Under the public investment contract, financial compensation is based on cost allocation.	
Typical arrangements for avoiding and repaying any overcompensation.	
TEATRO MICAELENSE - CENTRO CULTURAL E DE CONGRESSOS, SA is contractually obliged to fulfil specific reporting requirements and must draw up half-yearly reports and send them to the Region, as well as a final report on the implementation of the contract.	
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
€0.83 million	€0.5 million
A: Total amount of aid granted (in millions EUR) paid by national central authorities⁹	
2020	2021

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

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

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 local 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

f) Financial services

g) Other sectors (please specify)

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

Please also fill out the annexed summary excel file “SGEI Decision 2020 2021” with the total amounts per section for the whole Member State (not per region, local authority or municipality).

3. DESCRIPTION OF THE APPLICATION OF THE 2012 SGEI FRAMEWORK

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

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

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

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

- 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)

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 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 have been received from third parties.

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.

Nothing to report.

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

- carrying out a public consultation in line with paragraph 14 of the SGEI Framework;
- complying with public procurement rules in line with para 19 of the SGEI Framework;
- determining the net avoided cost as required by paras 25-27 of the SGEI Framework;
- determining the reasonable profit level in line with paras 33-38 of the SGEI Framework;

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

Nothing to report.

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

Nothing to report.

SGEI Decision in your Member State		Total amount for whole Member State	
		2020	2021
Article 2(1)(b)	Hospitals providing medical care, including, where applicable emergency services		
Article 2(1)(c)	Health and long term care		
	Childcare		
	Access to and reintegration into the labour market		
	Access to and reintegration into the labour market		
	Social housing		
	Care and social inclusion of vulnerable groups		
	Other social services		
Article 2(1)(d)	Air or maritime links		
Article 2(1)(e)	Airports and ports	13 990 373.82	27 755 255.69
Article 2(1)(a), less than EUR 15 million per year	Postal services		
	Energy		
	Waste collection		
	Water supply		
	Culture	825 000	500 000
	Financial services		
	Others		

SGEI Framework in your Member State	Total amount for whole Member State	
	2020	2021
Postal services		
Energy		
Waste collection		
Water supply		
Air or maritime links		
Airports and ports		
Culture		
Financial services		
Others		