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Gemeinnütziger e.V.

Die Zukunft der sozialen Dienste in Europa

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„Die Zukunft der sozialen Dienste in Europa“

5. Oktober 2001, Brüssel



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„The future of social services
in Europe“
5 October 2001, Brussels

Documentation du séminaire
«L'avenir des services sociaux en
Europe»
5 octobre 2001, Bruxelles



Observatorium für die
Entwicklung der sozialen
Dienste in Europa

Geschäftsführung der Koordinierungsgruppe
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Observatory for the
Development of Social Services
in Europe

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I.

Tagungsprogramm

SEMINAR ÜBER DIE ZUKUNFT DER SOZIALEN DIENSTE IN EUROPA

5. Oktober 2001

Zentrum Albert Borschette Raum O/C

Rue Froissart 36

B-1000 Brüssel

Morgen

Moderator: **Robert ANDERSON**

Europäische Stiftung für die Verbesserung der Lebens- und Arbeitsbedingungen

9.30–10.00 **Begrüßung und Einführung**

André SAPIR

Mitglied der Gruppe der Politikberater der Europäischen Kommission
Professor für Wirtschaftswissenschaften, Freie Universität Brüssel

10.00–11.00 **Sitzung eins: Herausforderungen bei der Bereitstellung sozialer Dienstleistungen in Europa**

Gøsta ESPING-ANDERSEN

Professor, Abteilung für Politik- und Sozialwissenschaften,
Universität Pompeu Fabra, Barcelona

11.00–12.30 **Sitzung zwei: Welche Art sozialer Dienstleistungen für die Zukunft?**

Martin KNAPP

Professor für Sozialpolitik und Gesundheitsökonomie,
London School of Economics and Political Science

Edith ARCHAMBAULT

Professorin für Wirtschaftswissenschaften
Universität Paris 1, Panthéon-Sorbonne

12.30–14.00 Mittagessen

Nachmittag

Moderator: **Pierre PESTIEAU**

Professor für Öffentliche Wirtschaft,
Universität Lüttich

14.00–15.30 **Sitzung drei: Wie können qualitativ hochwertige Dienste bereitgestellt werden?**

Pfarrer Jürgen GOHDE

Präsident des Diakonischen Werks der EKD

Frank MULCAHY

Sekretär des Europäischen Behindertenforums,
Internationaler Behindertenverband, Sektion Europa

- 15.30–16.00 Kaffeepause
- 16.00–17.30 **Sitzung vier: Welche Rolle kommt Europa zu?**
Eric VAN DEN ABEELE
Stellvertretender Kabinettsleiter, Ministerium für Wirtschaft
und Forschung, Belgien
Kirtikumar MEHTA
Generaldirektion Wettbewerb, Europäische Kommission,
Direktor für Wettbewerbspolitik, Koordinierung und internationale
Angelegenheiten
Gabrielle CLOTUCHE
Generaldirektion Beschäftigung und Soziale Angelegenheiten,
Europäische Kommission.
Direktorin für soziale Sicherheit und soziale Integration
- 17.30–18.00 **Abschluss des Seminars**
Peter HAUPT
Staatssekretär
Bundesministerium für Familie, Senioren, Frauen und Jugend,
Deutschland

I.

Agenda

SEMINAR ON THE FUTURE OF SOCIAL SERVICES IN EUROPE

5th October 2001

Centre Albert Borschette Room 0/C

Rue Froissart 36

B-1000 Brussels

Morning

Moderator : **Robert ANDERSON**

European Foundation for the Improvement of Living and Working Conditions

9.30–10.00 **Welcome and Introduction**

André SAPIR

Group of Policy Advisers, European Commission
Professor of Economics, Université Libre de Bruxelles

10.00–11.00 **Session One: Challenges facing the provision of social services in Europe**

Gøsta ESPING-ANDERSEN

Professor, Department of Political and Social Sciences
University Pompeu Fabra, Barcelona

11.00–12.30 **Session Two: What type of social services for the future?**

Martin KNAPP

Professor of Social Policy, London School of Economics and Political Science

Edith ARCHAMBAULT,

Professor of Economics, University Paris 1, Panthéon-Sorbonne

12.30–14.00 Lunch offered by the European Commission

Afternoon

Moderator : **Pierre PESTIEAU**

Professor of Public Economics, University of Liège

14.00–15.30 **Session Three: How can services best be provided?**

Rev. Jürgen GOHDE

President, Diakonisches Werk der EKD

Frank MULCAHY

Secretary of the European Disability Forum,
Disabled Peoples' International – Europe

15.30–16.00 Coffee break

- 16.00–17.30 **Session Four: What role for Europe?**
Eric VAN DEN ABEELE
Deputy head of Cabinet, Ministry for the Economy and Scientific Research, Belgium
Kirtikumar MEHTA
Director of Competition Policy, Coordination and International Affairs, DG Competition, European Commission
Gabrielle CLOTUCHE
Director of Social Protection and Social Integration, DG Employment and Social Affairs, European Commission
- 17.30–18.00 **Closure of the seminar**
Peter HAUPT
State Secretary, Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, Germany

I.

Ordre du jour

SÉMINAIRE SUR L'AVENIR DES SERVICES SOCIAUX EN EUROPE

le 5 octobre 2001

Centre Albert Borschette Salle 0/C

Rue Froissart 36

B-1000 Bruxelles

Matin

Président: **Robert ANDERSON**
Fondation Européenne pour l'Amélioration des Conditions de Vie et de Travail

9.30–10.00 **accueil et introduction**
André SAPIR
Groupe des conseillers politiques, Commission européenne
Professeur d'Economie, Université Libre de Bruxelles

10.00–11.00 **première session: Les défis des services sociaux en Europe.**
Gøsta ESPING-ANDERSEN
Professeur, Département des sciences politiques et sociales, Université Pompeu Fabra, Barcelone

11.00–12.30 **deuxième session: Quel type de services sociaux à l'avenir?**
Martin KNAPP,
Professeur de politique sociale, London School of Economics and Political Science
Edith ARCHAMBAULT,
Professeur d'économie, Université Paris 1, Panthéon-Sorbonne

12.30–14.00 déjeuner offert par la Commission européenne

Après-midi

Président: **Pierre PESTIEAU**
Professeur d'économie publique, Université de Liège

14.00–15.30 **troisième session: Comment devrait-on fournir les services sociaux?**
rév. Jürgen GOHDE,
Président, Diakonisches Werk der EKD
Frank MULCAHY
Secrétaire du forum européen d'incapacité, DPI-Europe

15.30–16.00 pause-café

- 16.00–17.30 **quatrième session: Quel rôle pour l'Europe?**
Eric VAN DEN ABEELE,
Chef de Cabinet adjoint, Ministère de l'Economie et de la Recherche scientifique, Belgique.
Kirtikumar MEHTA,
Directeur de politique de la concurrence, de coordination et des affaires internationales, DG »Concurrence«, Commission européenne.
Gabrielle CLOTUCHE,
Directrice de protection sociale et d'intégration sociale, DG »Emploi et affaires sociales«, Commission européenne.
- 17.30–18.00 **clôture du séminaire**
Peter HAUPT,
Secrétaire d'État, Ministère Fédéral de la Famille, des Personnes Âgées, de la Conditions féminine et de la Jeunesse, Allemagne.

I.

Einleitung

Mathias Maucher

Observatorium für die Entwicklung der sozialen Dienste in Europa

Am 5. Oktober 2001 fand in Brüssel das gemeinsam von der EU-Kommission, dem Bundesministerium für Familie, Senioren, Frauen und Jugend (BMFSFJ) und der Beobachtungsstelle für die Entwicklung der sozialen Dienste in Europa getragene Seminar „Die Zukunft der sozialen Dienste in Europa“ statt. Die Veranstaltung brachte Vertreterinnen/Vertreter der Anbieter und Nutzerinnen/Nutzer sozialer Dienste sowie Repräsentantinnen/Repräsentanten der Fachministerien aus zahlreichen EU-Mitgliedsstaaten mit der EU-Kommission zu einer intensiven Erörterung der europäischen Perspektiven bei der Erbringung qualitativ hochwertiger, allgemein zugänglicher und bezahlbarer sozialer Dienste zusammen.

Das Seminar bot den beteiligten Akteuren eine wichtige und geeignete Plattform zum gegenseitigen Meinungs- und Erfahrungsaustausch. Es diente zudem der Diskussion der jeweiligen Einschätzungen und Standpunkte zu zentralen Herausforderungen hinsichtlich Angebot, Organisation, Finanzierung und konzeptionellen Weiterentwicklungen sozialer Dienste. Das Seminar stellte einen Rahmen für die Erörterung der aktuellen Fragestellungen mit hochrangigen Repräsentantinnen/Repräsentanten von EU-Kommission und der beiden mit Fragen sozialer Dienste in einem zusammenwachsenden Europa unmittelbar befassten Generaldirektionen „Beschäftigung und soziale Angelegenheiten“ und „Wettbewerb“ zur Verfügung.

Anknüpfend an die Vorstellung und Analyse der demographischen, ökonomischen und gesellschaftlichen Herausforderungen bei der Erbringung sozialer Dienste in Teil 1 des Seminars kreisten Referate und Diskussion in einem zweiten Teil um Fragen nach Art, Umfang und Ausgestaltung sozialer Dienstleistungen. Dies geschah sowohl aus dem Blickwinkel der Wissenschaft als auch aus Sicht der Träger und Nutzerinnen/Nutzer. Das Seminar bot dabei Raum für eine Bestandsaufnahme und einen Ausblick auf mögliche zukünftige Anforderungen und Innovationen. Schließlich stand die Rolle Europas im Mittelpunkt der Vorträge und Redebeiträge der Teilnehmerinnen und Teilnehmer. Behandelt wurden hierbei insbesondere Fragen nach der Ausgestaltung der vertraglich festgelegten oder politisch bestimmten Kompetenzen seitens der EU-Kommission.

Die Zusammenfassung der Vorträge und der sich daran anschließenden Fragen und Erörterungen im Plenum wird um eine überblicksartige Darstellung der Entwicklungen und verschiedener Stellungnahmen zum Thema „Daseinsvorsorge“ ergänzt. Hierbei liegt der Fokus auf den deutschen Akteuren. Abschließend wird ein Ausblick auf die für die nächsten Monate von der EU-Kommission geplanten Aktivitäten gegeben.

Hintergrundpapiere, Stellungnahmen und Fragekataloge zur Vorbereitung des Seminars am 5. 10. 2001

Zur Vorbereitung des eintägigen Kolloquiums lagen den Teilnehmerinnen und Teilnehmern drei Papiere vor, mit denen der thematische Rahmen der Referate und Diskussionen abgesteckt werden sollte:

1. ein vom Politischen Beraterstab der EU-Kommission unter Federführung von Peter Martin Smith entwickelter Fragekatalog,
2. eine Stellungnahme der Bundesarbeitsgemeinschaft der Freien Wohlfahrtspflege (BAGFW) zur Rolle sozialer Dienste im Rahmen von Daseinsvorsorge und Sozialschutz in den EU-Mitgliedsstaaten sowie
3. ein von der Beobachtungsstelle für die Entwicklung der sozialen Dienste in Europa verfasstes Hintergrundpapier.

Alle drei Papiere sind in der Dokumentation wiedergegeben. Dort ist auch die Tagesordnung abgedruckt, um einen Überblick über den zeitlichen Ablauf des Seminars zu vermitteln.

Zusammenfassung der Vorträge und der Diskussion

Bei den Vorträgen und den anschließenden Diskussionsrunden wurden insbesondere vier Themenfelder angesprochen:

1. Die Herausforderungen für die Erbringung sozialer Dienste im Zusammenhang mit sich wandelnden demographischen, ökonomischen und gesellschaftlichen Rahmenbedingungen
2. Die konzeptionelle Ausgestaltung und Organisation einzelner sozialer Dienstleistungen
3. Der institutionelle Rahmen für die Erfüllung gemeinwohlorientierter Aufgaben
4. Die Rolle und Kompetenzen der EU-Institutionen auf dem Feld sozialer Dienste

André Sapir und Gøsta Esping-Andersen beleuchteten das Feld sozialer Dienste zunächst hinsichtlich der europaweit bedeutsamen, aktuellen wohlfahrtsstaatlichen, gesamtgesellschaftlichen und volkswirtschaftlichen Fragestellungen.

Prof. André Sapir (Politischer Beraterstab der EU-Kommission/Freie Universität Brüssel) arbeitete in seiner Einführung in die Thematik sozioökonomische und strukturelle Faktoren heraus, aufgrund derer sich soziale Dienste in allen europäischen Ländern einem steigenden Anpassungsdruck gegenübersehen. Zu den sozioökonomischen Einflussgrößen zählen dabei die Alterung der Gesellschaft, die Verschiebung der Haushaltsstrukturen, abnehmende Unterstützungspotenziale innerhalb der Familien und die steigende Frauenerwerbstätigkeit. Hierzu zählen auch die zu sozialer Ausgrenzung führenden Risiken wie Suchtabhängigkeit, Verschuldung, Wohnungslosigkeit oder eine mangelnde Integration in das Schul- und Ausbildungssystem. Als strukturelle Faktoren benannte er die stärkere Verflechtung der Volkswirtschaften sowie den technologischen Wandel. Auch verwies er auf Herausforderungen, die im Zusammenhang mit der Konsolidierung öffentlicher Haushalte bestehen und vor allem die finanzielle Basis der sozialen Dienste betreffen.

Prof. Gøsta Esping-Andersen (Universität Pompeu Fabra, Barcelona) knüpfte in seinen Ausführungen an diese Analyse an. Er vertiefte sie im Hinblick auf wohlfahrtsstaatliche Aspekte und stellte die Frage, welche sozialen Dienste als Folge sich wandelnder demographischer, gesellschaftlicher, volkswirtschaftlicher und politischer Rahmenbedingungen für die Zukunft benötigt würden. Der Referent lotete die Potenziale für die Schaffung zusätzlicher Arbeitsplätze – und damit auch für die Erzielung von Erwerbseinkommen – als Folge einer erhöhten Nachfrage nach bislang vorwiegend im Familienkontext erbrachten Betreuungs- und Pflegeleistungen aus. Er arbeitete die neuen Herausforderungen für Politik und Anbieter sozialer Dienste heraus, die sich angesichts der Unterschiede bei der Verteilung von Einkommen und anderer für eine soziale Teilhabe wichtiger Ressourcen ergeben, falls soziale Dienste verstärkt über Märkte vermittelt werden. Der Referent ging in diesem Zusammenhang auch auf die Frage ein, inwieweit die Einführung von Marktmechanismen Verschiebungen bei der Trägerstruktur hin zu einem stärkeren Gewicht privatgewerblicher Anbieter befördert. Hier könnte eine staatliche Verpflichtung zur Garantie eines gleichen Zugangs zu sozialen Diensten die angemessene Reaktion sein. Dazu stehen staatlichen Stellen prinzipiell zwei Strategien zur Verfügung:

1. Sie können rechtliche Bestimmungen erlassen, um den Zugang der in besonderem Maße Bedürftigen auch in vorrangiger Weise gewährleisten zu können.
2. Sie können frei-gemeinnützige und kommunale Träger sozialer Einrichtungen und Dienste bezuschussen, damit diese ein breites Angebot aufrechterhalten können.

In diesem Kontext erläuterte Esping-Andersen die Funktionsprinzipien des „skandinavischen Modells“ der Wohlfahrtsproduktion. Er arbeitete insbesondere die Aspekte Beschäftigungswirkung, Finanzierung und Organisation sozialer Dienste heraus. Esping-Andersen erläuterte verschiedene Verfahren zur Aufteilung (zusätzlicher) finanzieller Belastungen als Folge eines ausgeweiteten Angebots sozialer Dienste und benannte drei Entscheidungsprinzipien zur Verteilung dieser Belastungen:

1. Die Privatisierung der Mehrausgaben, was einer Kostenverlagerung hin zu den Privathaushalten gleichkommt,
2. die Aufteilung zusätzlicher Kosten entsprechend der aktuell gültigen Verteilung zwischen Staat, Unternehmen und Privathaushalten,
3. eine Umschichtung der zusätzlichen Mittel zum Vorteil der (heute noch) schwächsten Bevölkerungsgruppen (wie Kinder, Personen mit geringem Einkommen).

In diesem Zusammenhang zeigte der Referent Elemente einer Handlungsstrategie zur Schaffung einer nachhaltigen finanziellen Basis auf. Esping-Andersen verwies insbesondere auf die Möglichkeit zur Vermögensbildung in einkommensstärkeren Haushalten innerhalb der letzten Jahrzehnte. Dieses Vermögen könne unter Berücksichtigung des Leistungsfähigkeitsprinzips zur Finanzierung von Pflege- und Betreuungsleistungen herangezogen werden. Allerdings lasse sich auch so ein Grunddilemma bei der Finanzierung sozialer Dienste kaum auflösen: einerseits bestehe in allen Ländern der Druck zur Kostenreduzierung, andererseits gebe es eine steigende Nachfrage bzw. den Wunsch nach einer verbesserten Qualität und einer Ausweitung des Angebots. Zudem sei zu berücksichtigen, dass frei-gemeinnützige Träger bei der Erbringung ihrer Dienste und Finanzierung ihrer Einrichtungen auch zukünftig in nicht unwesentlichem Umfang auf öffentliche Subventionen angewiesen blieben.

In der anschließenden Diskussion wurde die Bedeutung ehrenamtlichen Engagements betont. Frei-gemeinnützige Anbieter seien hier die geeignetsten Akteure, um freiwillige Helferinnen/Helfer aktivieren und auch längerfristig in die Strukturen der Erbrin-

gung sozialer Dienste einbinden zu können. Des Weiteren griffen Teilnehmerinnen und Teilnehmer in ihren Redebeiträgen die Frage auf, anhand welcher Kriterien und mit welcher Intention die Produktivität sozialer Dienste messbar sei bzw. gemessen werden sollte.

Im zweiten Teil der Veranstaltung gingen Martin Knapp und Edith Archambault stärker auf Fragen der Organisation und konzeptionellen Ausgestaltung sozialer Dienstleistungen ein.

Prof. Martin Knapp (London School of Economics and Political Science) verwies auf eine länderübergreifend nachweisbare Tendenz zur stärkeren Berücksichtigung der Anliegen und Interessen von Nutzerinnen und Nutzern bei der Erbringung sozialer Dienste. Zunehmend würde davon abgegangen, lediglich den „Input“ zu betrachten. Vielmehr stünde inzwischen der Prozess der Leistungserbringung und die Qualität der Betreuungs-, Unterstützungs- oder Fördermaßnahme deutlicher im Mittelpunkt. Er benannte drei Gründe, die für eine Umorientierung hin auf die Nutzer(innen)perspektive und auf Leistungsbewertungen vom Erfolg der Maßnahme her sprechen:

1. Verschiebungen in der Träger- und Finanzierungsstruktur, verbunden mit der Einführung weicherer Steuerungsverfahren seitens der staatlichen Aufsichtsbehörden,
2. die Notwendigkeit einer stärkeren Integration verschiedener sozialer Dienste,
3. die gewachsene Bedeutung unentgeltlich erbrachter Hilfe. Zudem seien vom Aufbau nutzerfreundlicher Informationssysteme zu sozialen Diensten und der Bündelung der Beratungsangebote Impulse für eine stärkere Berücksichtigung der Betroffenen zu erwarten. Abschließend stellte der Referent die Frage nach den Konsequenzen der Stärkung der Beteiligungs- und Wahlrechte der Nutzerinnen und Nutzer sozialer Dienste, insbesondere im Hinblick auf Trägerlandschaft und Angebotsqualität.

Ausgehend von der Beschreibung der gewandelten Rahmenbedingungen für die Erbringung sozialer Dienste und der damit verbundenen Herausforderungen stellte **Prof. Edith Archambault** (Universität Paris 1 Panthéon-Sorbonne) in ihrem Referat die Vorzüge einer pluralen Trägerlandschaft heraus. Dies ermögliche die Befriedigung einer bezüglich Präferenzen und Werthaltungen heterogenen Nachfrage und befördere zusätzlich in einem Wettbewerb für problemadäquate Lösungen die Entwicklung innovativer Konzepte sozialer Arbeit. Die Referentin sah in institutionalisierten Verfahren zur Bewertung von Art, Umfang und Güte der sozialen Dienste und der damit verbundenen Herstellung von größerer Transparenz ein zeitgemäßes Instrument politischer Steuerung und gesellschaftlicher Kontrolle. Diese seien auch angesichts der öffentlichen Bezuschussung gemeinwohlorientierter sozialer Dienste notwendig. Auch sei die Stärkung des Verbraucher(innen)schutzes mit dem Ziel der Verringerung von Informationsasymmetrien zwischen den Anbietern und Nutzerinnen/Nutzern geboten. Dies könne z. B. durch den Aufbau von Informationsstellen und -systemen zu sozialen Diensten auf lokaler bzw. regionaler Ebene geschehen. Abschließend mahnte Edith Archambault die Entwicklung qualitativer Indikatoren und die Festschreibung geeigneter Bewertungskriterien an, um die bereits eingesetzten quantitativen Kennziffern zur Planung und Bewertung sozialer Dienste sinnvoll zu ergänzen.

Die Ausführungen und Thesen der beiden Vortragenden fanden in der anschließenden Diskussion eine breite Zustimmung und Unterstützung. Zudem wurde eine staatliche Garantie für die Erbringung oder finanzielle Förderung sozialer Dienste gerade für sozia-

le Randgruppen angemahnt. Einzelne Teilnehmer(innen) hoben auch auf sozialräumliche Differenzierungen ab, die häufig schon in unterschiedlichen Stadtteilen zu spürbaren Unterschieden bezüglich Angebotsbreite und -qualität sozialer Dienste führten.

In seinem kurzen Resümee fasste **Robert Anderson** (Europäische Stiftung zur Verbesserung der Arbeits- und Lebensbedingungen, Dublin) die Vorträge und Diskussionen des Vormittags zusammen. Er unterstrich dabei die präventive und aktivierende Funktion vieler sozialer Dienste. Er sah in der besseren Vereinbarkeit von Berufstätigkeit und Pflege- und Betreuungsarbeit – im Rahmen von sozialen Diensten oder innerhalb der Familie erbracht – eine der zentralen zukünftigen Herausforderungen für Unternehmen, Politik und Gesellschaft. Schließlich schlug er eine Brücke zu den Aktivitäten der Europäischen Stiftung zur Verbesserung der Arbeits- und Lebensbedingungen bei der Förderung der Forschung wie des Informations- und Erfahrungsaustausches zu sozialen Diensten, insb. zu den Themen „Qualität der Arbeitsbedingungen“ und „Qualität sozialer Dienste“.

Die fünf Referate und zwei Diskussionsrunden am Nachmittag wurden von **Prof. Pierre Pestieau** (Universität Lüttich) moderiert. Für ihn sollte die häufig gestellte normative Frage „Soll eine Annäherung der verschiedenen Systeme des Sozialschutzes gefördert werden?“ durch die Frage „Werden Binnenmarkt und EU-Institutionen eine Konvergenz der einzelnen Systeme befördern?“ ersetzt werden. Hier könne das Ergebnis nicht vorhergesagt werden, was sich am Beispiel Belgiens, eines „Europa im Kleinen“, mit seinen drei Regionen bzw. Sprach- und Kulturgemeinschaften und einem jeweils unterschiedlich ausgestalteten Angebot sozialer Dienste gut illustrieren lasse.

In einem ersten Block erläuterten je ein Vertreter der Anbieter- und Nutzer(innen)seite eigene Einschätzungen und Standpunkte zu den europäischen Perspektiven sozialer Dienste, ergänzt um Gestaltungsvorstellungen für die Weiterentwicklung sozialer Dienstleistungen. Insoweit rückten auch die institutionellen Rahmenbedingungen für die Erfüllung gemeinwohlorientierter Aufgaben stärker ins Blickfeld. In einem zweiten Block ging es um die Analyse und Bewertung der für das Feld sozialer Dienste relevanten Aktivitäten und Pläne der EU-Institutionen. Zudem wurden die daraus folgenden politischen Implikationen auf nationaler wie auch auf EU-Ebene erörtert.

Pfarrer Jürgen Gohde (Präsident des Diakonischen Werkes der Evangelischen Kirche in Deutschland; in dieser Funktion zz. auch Präsident der BAGFW) nahm die in Art. 34 und 36 der Charta der Grundrechte der Europäischen Union anerkannten Rechte zum Ausgangspunkt seiner Ausführungen. In diesem Zusammenhang sprach er sich dafür aus, die Erklärung zur Zusammenarbeit der EU-Organe mit Nichtregierungsorganisationen stärker mit Leben zu füllen. Jürgen Gohde unterstrich nachdrücklich die Bedeutung der Zielvorgabe eines flächendeckenden Angebots ohne Zugangsschranken für Personen mit einem spezifischen Betreuungs-, Hilfe-, Pflege- und Unterstützungsbedarf. Er zeigte die Vorteile auf, die von einer Stärkung der lokalen Ebene bei der Entscheidung über den Zugang und die konkrete Ausgestaltung des sozialen Dienstes ausgehen. Jürgen Gohde benannte fünf zentrale Werte bzw. Ziele, an denen die Erbringung sozialer Dienste im Rahmen von Gemeinwohlorientierung auszurichten sei:

1. Trägerpluralismus,
2. Sicherung von Zugangsrechten zu sozialen Diensten, d. h. kein Ausschluss von Hilfesuchenden oder bedürftigen Personen aufgrund unzureichender materieller Ressourcen oder als Folge von Informationsdefiziten,

3. Sicherung der Qualität,
4. Stärkung der Partizipationsrechte,
5. Förderung der Befähigung zur Selbsthilfe und Selbstständigkeit.

Was die Anwendbarkeit des EU-Wettbewerbsrechts auf nach einem Solidarprinzip organisierte Einrichtungen bzw. auf Gewinnerzielung verzichtende Dienste angehe, so sah Jürgen Gohde eine besondere Behandlung dieser Dienstleistungen für gerechtfertigt an. Er führte hierfür insbesondere zwei Gründe an:

1. Sie seien wegen ihres Gemeinwohlauftrags und wegen der Einbindung gesellschaftlicher Akteure in besonderer Weise geeignet, sozialen Zusammenhalt zu fördern.
2. Auch könnten so Hilfs- und Unterstützungsangebote unter Berücksichtigung verschiedener Präferenzen und weltanschaulicher Ausrichtungen organisiert werden. Wohlfahrtsverbände als Teil der Zivilgesellschaft seien in besonderem Maße in der Lage, bürgerschaftliches Engagement zu aktivieren und zu bündeln wie auch als Anwälte für sozial benachteiligte Gruppen zu fungieren.

In seinem Vortrag benannte **Frank Mulcahy**, der Sekretär des Europäischen Behindertenforums, drei für die Erbringung sozialer Dienste konstitutive Grundprinzipien:

1. Gleichheit,
2. Partizipation,
3. Unabhängigkeit und Wahlfreiheit.

Den ersten Aspekt bezog er auf die Gleichheit an Bürgerrechten, die – gerade auch bei behinderten Menschen – durch spezifische Förderung herzustellen sei. Ggf. kämen hierfür auch Maßnahmen und Mechanismen einer „positiven Diskriminierung“ in Betracht. Insgesamt seien die zahlreichen sichtbaren wie versteckten Benachteiligungen behinderter Menschen abzubauen, im Wohnumfeld wie am Arbeitsplatz. Die Integration in den Arbeitsmarkt sei auch bei körperlich wie geistig behinderten Menschen das primär zu verfolgende Ziel, um den vielschichtigen Ausgliederungsprozessen nachhaltig entgegenwirken zu können. Bezogen auf das Prinzip der Unabhängigkeit und Wahlfreiheit der Nutzer(innen) sozialer Dienste verwies der Referent auf das hierfür geeignete Instrument zweckgebundener Geldleistungen (v. a. in Form von Gutscheinsystemen). Frank Mulcahy sprach die Besorgnis aus, dass als Folge des Drucks zur Ausgabenreduzierung verstärkt unzureichend ausgebildetes Personal zur Betreuung und Pflege behinderter Menschen eingesetzt bzw. Fachpersonal durch ehrenamtliche Helfer(innen) ersetzt werden könnte. Im Blick auf die europäischen Perspektiven sozialer Dienste sprach sich Frank Mulcahy wie zuvor Pfarrer Jürgen Gohde nachdrücklich für die Einbindung der nicht gewinnorientierten Vereine, Verbände und Stiftungen in die Konsultations- und Entscheidungsprozesse seitens der EU-Kommission aus.

In der Diskussion wurden verschiedene im Lauf des Seminars bereits angesprochene Fragen vertieft. So ging es um Kriterien bei der Ausgestaltung des Rahmens für einen Wettbewerb um die beste Qualität sozialer Dienste. Hier wurde angemahnt, bei deren Festlegung auch die verschiedenen Problemlagen als Maßstab heranzuziehen. Auch wurde über „Filter“ im politischen und gesellschaftlichen Bereich gesprochen, die über eine Thematisierung spezifischer Benachteiligungen wie auch über die Ausrichtung der Diskussionen entscheiden.

Abschließend wurde im Rahmen des Seminars die Rolle der Europäischen Union bei der Ausgestaltung des Handlungsrahmens für soziale Dienste erörtert.

Als Vertreter der belgischen EU-Ratspräsidentschaft verortete der stellvertretende Kabinettschef im Ministerium für Wirtschaft und Forschung, **Eric van den Abeele**, die einzelnen Elemente der Diskussion um die Daseinsvorsorge im EU-Vertragswerk. Das Mandat des Europäischen Rates von Nizza vom Dezember 2000 aufnehmend sollten die Aktivitäten auf europäischer Ebene entlang von vier Leitlinien fortgeführt werden:

1. Stärkung der Rechtssicherheit und Vorhersehbarkeit bei der Anwendung des EU-Wettbewerbsrechts auf die Leistungen der Daseinsvorsorge,
2. Erhöhung der Transparenz bezüglich der Ausgleichsleistungen für Mehrkosten gemeinwohlorientierter Dienste,
3. Entwicklung eines Bewertungsinstrumentariums für diesen Bereich des Dienstleistungssektors,
4. Ausgestaltung eines allgemeinen Rechtsrahmens für Leistungen von allgemeinem wirtschaftlichen Interesse, Art. 16 EG-Vertrag.

Staatliche Unterstützungsleistungen für Anbieter sozialer Dienste bzw. Träger sozialer Einrichtungen seien nach Ansicht Eric van den Abeeles gerechtfertigt, falls die gesellschaftliche Wohlfahrt dadurch befördert werden könne. Kriterien hierfür seien die langfristige Sicherung eines flächendeckenden, qualitativ hochwertigen und plural erbrachten Leistungsangebots, die Nachhaltigkeit der sozialen Entwicklung sowie die Stärkung des territorialen und sozialen Zusammenhalts.

Der Vertreter der EU-Generaldirektion „Wettbewerb“, **Kirtikumar Mehta**, benannte in seinem Referat zwei Kriterien, die zu einer Nichtanwendbarkeit des Wettbewerbsrechts auf Leistungen der Daseinsvorsorge führen: 1. Eine nichtwirtschaftliche Tätigkeit, zu deren Beurteilung vom funktionalen Ansatz des Europäischen Gerichtshofs (EuGH) auszugehen sei. Wenn auch die Grenze zwischen wirtschaftlicher und nichtwirtschaftlicher Tätigkeit fließend sei und immer wieder neu bestimmt werden müsse, so komme dem Kriterium der fehlenden Gewinnerzielungsabsicht eine zentrale Bedeutung zu. 2. Der Binnenhandel gemäß EU-Regelungen werde nicht tangiert bzw. beeinträchtigt. Kirtikumar Mehta sah keinen grundsätzlichen Widerspruch darin, eine Leistung der Daseinsvorsorge auch dann als „wirtschaftlich“ zu charakterisieren, wenn weitere Elemente hinzukämen, die diese Annahme zunächst eher nicht nahe legen würden. In diesem Kontext nannte er vier Punkte:

1. Ein Teil der Träger arbeitet ohne Erwerbszweck.
2. Es gibt Regeln für einen finanziellen Ausgleich oder Umverteilungsverfahren für bestimmte Anbieter,
3. Die Dienstleistungserbringung erfolgt unter staatlichen Auflagen.
4. Aufgrund von Gemeinwohlerwägungen ist staatlicherseits die Zahl der mit der Erbringung des sozialen Dienstes beauftragten Anbieter beschränkt.

Der Vertreter der EU-Generaldirektion „Wettbewerb“ sah weiterhin einen großen Spielraum für die nationalen Akteure bei der Ausgestaltung der Zugangsrechte und Leistungsbestimmungen sozialer Dienste. Abschließend verwies Kirtikumar Mehta auf in der letzten Zeit geänderte Durchführungsbestimmungen für staatliche Beihilfen (Zuschussobergrenze, Unternehmensgröße, Zulässigkeit des Ausgleichs von Mehrkosten) mit besonderer Relevanz für die bezüglich Umsatz, Beschäftigtenzahl etc. häufig im eher kleineren Rahmen erbrachten sozialen Dienste.

In ihrem Beitrag ging **Gabrielle Clotuche** (EU-Generaldirektion „Beschäftigung und soziale Angelegenheiten“) von der deutlicher konturierten Rolle sozialer Dienste bei der Entwicklung eines europäischen Sozialmodells aus. Sie bezog sich hier ausdrück-

lich auf die beim Lissabonner Gipfel gestärkte EU-Strategie zur Bekämpfung von gesellschaftlicher Diskriminierung, Ausgrenzung und Armut. Hierbei seien soziale Dienste ein Schlüsselement. Entsprechend hätten die sozialen Dienste und ihre Träger sowohl in den Vertragstexten als auch in zahlreichen offiziellen EU-Dokumenten in den letzten Jahren eine sichtbarere Berücksichtigung gefunden. Gabrielle Clotuche verwies in diesem Kontext auf erweiterte Kompetenzen der Kommission zur Förderung eines Informations- und Erfahrungsaustausches sowie zur Verbesserung der Koordination von Politiken zwischen den einzelnen EU-Mitgliedsstaaten, gerade im Bereich der vielschichtigen Armuts- und Ausgrenzungsrisiken. Auch die Vertreterin der EU-Generaldirektion „Beschäftigung und soziale Angelegenheiten“ unterstützte das Ziel, im Zusammenhang mit der Frage nach der Anwendbarkeit des EU-Wettbewerbsrechts eine größere Rechtssicherheit für das Feld sozialer Dienste erreichen zu wollen. Darüber hinaus sei deren spezifischere Berücksichtigung in der Diskussion, Rechtsfortentwicklung und Verfahrensentwicklung auf EU-Ebene anzustreben. Ihr sei jedoch bislang kein Fall bekannt, bei dem die Anwendung der Regeln der Kommissionsmitteilung „Leistungen der Daseinsvorsorge in Europa“ (20. 9. 2000) zu einer Beeinträchtigung der Dienstleistungserbringung – und damit im Ergebnis zu einer für die Bürgerinnen und Bürger schlechteren Qualität – geführt hätte. Gabrielle Clotuche verwies schließlich auf die in vielen EU-Mitgliedsstaaten sichtbare Tendenz, privatgewerbliche wie nicht gewinnorientierte Träger in die öffentliche Leistungserbringung verstärkt einzubinden.

In der anschließenden **Diskussion** wurden in zahlreichen Redebeiträgen die Aspekte „stärkere Rechtssicherheit“ und „bessere Planungssicherheit“ im Bezug auf die Anwendbarkeit des EU-Wettbewerbsrechts auf soziale Dienste als eines der drängendsten Probleme benannt. Zudem wurden die Vorzüge eines pluralen Angebots sozialer Dienste unter starker Einbindung des frei-gemeinnützigen Sektors unterstrichen. Wettbewerb sei zunächst über die Güte der sozialen Dienste zu gestalten, nicht vorrangig über den Preis der Dienstleistung. Dieser Herausforderung könnten sich dann alle Träger gleichermaßen und mit ähnlichen Startbedingungen stellen. Dieser Ansatz würde insbesondere dann unterstützt, wenn vergleichbare Bewertungsmaßstäbe für die Qualität einer sozialen Dienstleistung verfügbar und allgemein anerkannt wären.

In seinem Schlusswort bezog sich **Staatssekretär Peter Haupt** (Bundesministerium für Familie, Senioren, Frauen und Jugend) auf die zentrale Rolle sozialer Dienste zur Realisierung sozialer Rechte und ging in diesem Zusammenhang auch auf die EU-Grundrechtscharta, die EU-Sozialagenda und die in Lissabon definierten strategischen Ziele der Europäischen Union ein. Er ermunterte dazu, bei den Debatten um die Weiterentwicklung sozialer Dienste die Chancen einer Ausrichtung auf die Leistungsqualität in den Vordergrund zu rücken und eine zu starre Fixierung auf Preise und Kosten aufzugeben. Derartige Chancen machte Staatssekretär Peter Haupt auch in der Beschäftigungswirkung sozialer Dienste aus. Des Weiteren bewertete er die Impulse durch einen Wettbewerb um eine nutzeradäquate Qualität sozialer Dienstleistungen positiv. Die politische wie gesellschaftliche Zielvorgabe hierbei sei die Verbesserung der Lebensqualität. Dies könne realisiert werden durch eine stärkere Ausrichtung von Planung und konkreter Leistungserbringung auf die Nutzer(innen) bzw. die bedürftigen Menschen. Schließlich dürfe nicht vergessen werden, dass gerade die Schwächeren in der Gesellschaft die professionell und effizient geführten sozialen Dienste benötigen und darauf auch ein Recht hätten. Insoweit seien bei der Modernisierung sozialer Dienste auch Verbraucherschutz Elemente stärker zu berücksichti-

gen. So könnten Lösungen ausgestaltet werden, die den sozialen Problemen möglichst gut gerecht würden.

Aktivitäten und Initiativen auf EU-Ebene zum Thema „Daseinsvorsorge“

Ein entscheidender Impuls für die national wie auf europäischer Ebene intensiv geführte Diskussion um den Stellenwert und den rechtlich-institutionellen Rahmen für die Erbringung sozialer Dienste ging zweifelsohne von der novellierten Mitteilung der Kommission der EU zu „Leistungen der Daseinsvorsorge in Europa“ (20. 9. 2000) aus [KOM (2000) 580]. Aufbauend auf einer ersten Mitteilung aus dem Jahr 1996 (96/C 281/03) wurde vonseiten der EU-Kommission mit diesem Dokument ein maßgebender Bezugspunkt für die Weiterentwicklung von Rolle und Ausrichtung sozialer Dienste als essenziellem Bestandteil der Leistungen der Daseinsvorsorge gesetzt. Diese befindet sich im Spannungsfeld von europäischem Binnenmarkt- und Wettbewerbsrecht (Art. 81, 82, 86 II und 87 EG-Vertrag) einerseits und der nationalstaatlicher Regelungskompetenz unterworfenen Ausgestaltung des Systems sozialer Sicherheit gemäß länderspezifischen Traditionen, Prinzipien und Strukturen andererseits.

Dieser Mitteilung folgte Ende 2000 die Erklärung des Europäischen Rats von Nizza (7.–9. 12. 2000). Sie enthielt zum einen ein klares Plädoyer für die Stärkung der Rechtssicherheit und Vorhersehbarkeit im Zusammenhang mit der Anwendung EU-wettbewerbsrechtlicher Bestimmungen auf Leistungen von allgemeinem wirtschaftlichen Interesse, Art. 16 EG-Vertrag, zu denen auch die sozialen Dienste zu rechnen sind. Zum anderen erging an die EU-Kommission der Auftrag, bis zur Tagung des Europäischen Rats in Laeken (14.–15. 12. 2001) einen Bericht über die Umsetzung dieser Vorgabe zu erstellen. Dieser „Bericht für den Europäischen Rat in Laeken – Leistungen der Daseinsvorsorge“ [KOM (2001) 598] wurde am 17. 10. 2001 vorgelegt.

Neben der EU-Kommission waren im Laufe des Jahres 2001 auch andere EU-Organe intensiver mit dem Thema „Daseinsvorsorge“ und den Implikationen für freige-meinnützige und kommunale Träger sozialer Dienste befasst. So fand am 6. 3. 2001 eine Anhörung im Ausschuss für Wirtschaft und Währung des Europäischen Parlaments statt. Mitte September legte der Wirtschafts- und Sozialausschuss seine Stellungnahme „Private Sozialdienste ohne Erwerbszweck im Kontext der Daseinsvorsorge in Europa“ (12./13. 9. 2001) vor [WSA (2001) 1120 – SOC/067] vor. In dieser wird die Rolle der sozialen Dienste als ein Schlüsselement der jeweiligen nationalen Sozialschutzsysteme unterstrichen. Auch enthält sie die Forderung nach mehr Klarheit und Vorhersehbarkeit bezüglich der Anwendbarkeit des EU-Wettbewerbsrechts auf die Erbringung sozialer Dienste, insbesondere auf Basis eines rechtlich verbindlich festgeschriebenen Kriterienkatalogs. Zudem hebt die Initiativ-Stellungnahme die Gemeinwohlorientierung und die Potenziale sozialer Dienste bei der Aktivierung und Einbindung bürger-schaftlichen Engagements hervor. Schließlich liegt auch vonseiten des Ausschusses der Regionen eine vom Fachausschuss „Beschäftigung, Wirtschaftspolitik, Binnenmarkt, Industrie, KMU“ erarbeitete Stellungnahme (CdR 470/2000 – COM 6-027) vor (20. 9. 2001).

Begleitung des Prozesses von deutscher Seite

Die Initiativen und Aktivitäten auf europäischer Ebene wurden vonseiten der Bundesregierung – vertreten durch das Bundesministerium für Familie, Senioren, Frauen und Jugend –, der Spitzenverbände der freien Wohlfahrtspflege und der kommunalen Spitzenverbände eingehend begleitet und kommentiert. Die Stellungnahmen zur Daseinsvorsorge gehen hierbei von einem (auch im Sinne der Nutzerinnen/Nutzer sozialer Dienste) konstruktiv auszugestaltenden Spannungsverhältnis aus: Einerseits wird die Entwicklung von Leitlinien und Zielen für Aktivitäten der EU in Bezug auf soziale Dienste als eigenständiges Element des Sozialschutzes nachdrücklich unterstützt. Dies gilt gerade auch hinsichtlich der Zusammenarbeit der Mitgliedsstaaten zur Bekämpfung sozialer Ausgrenzung (Art. 137, 1j EG-Vertrag) und zur Beschäftigungsförderung (Art. 137, 1h EG-Vertrag). Demgegenüber sind vonseiten der EU jedoch die einzelstaatlichen Kompetenzen zur Definition sozialer Dienste, zur Ausgestaltung dieser Angebote und zur Beauftragung der Anbieter auf der Grundlage nationaler Rechtsvorschriften wie Gepflogenheiten zu beachten. Auch ist die Anknüpfung an gewachsene Trägerlandschaften und bewährte Kooperationsverfahren zu gewährleisten.

Vor Veröffentlichung der novellierten Mitteilung der EU-Kommission wurde vom Bundesministerium für Familie, Senioren, Frauen und Jugend ein von einer im Deutschen Verein für öffentliche und private Fürsorge angesiedelten Ad-hoc-Arbeitsgruppe initiiertes und erarbeitetes Positionspapier „Soziale Dienste in Europa – Ihr Beitrag zur Daseinsvorsorge und zum Sozialschutz in den Mitgliedsstaaten der Europäischen Union“ (13. 9. 2000) vorgelegt. Im weiteren Verlauf koordinierte der Deutsche Verein für öffentliche und private Fürsorge eine gemeinsame Stellungnahme der Spitzenverbände der freien Wohlfahrtspflege und der kommunalen Spitzenverbände zur Stellung der sozialen Dienste im Rahmen der Daseinsvorsorge in Europa (15. 11. 2000). Bei einem im Rahmen der Aktivitäten des Observatoriums für die Entwicklung der sozialen Dienste in Europa vom Deutschen Verein für öffentliche und private Fürsorge organisierten Workshop auf dem Deutschen Fürsorgetag in Hamburg (14./15. 11. 2000) wurden die Diskussionen in Form einer europäischen Expertentagung fortgeführt. Angestoßen durch diesen Workshop wurde in Abstimmung mit einem Mitarbeiter aus dem Politischen Beraterstab der EU-Kommission auch die Idee für das Anfang Oktober veranstaltete Seminar geboren.

Einer erneuten Stellungnahme der Bundesregierung vom 13. 6. 2001 – „Stellungnahme der Bundesrepublik Deutschland zu den Arbeiten der EU-Kommission gemäß Ziffer E 45 der Schlussfolgerungen des Europäischen Rates von Nizza“ – gingen Ende 2000 Konsultationen zwischen den Spitzenverbänden der freien Wohlfahrtspflege, den kommunalen Spitzenverbänden, dem Politischen Beraterstab der EU-Kommission sowie der EU-Generaldirektion „Wettbewerb“ voraus. Die Generaldirektion „Wettbewerb“ unterstrich bei diesem Gespräch u. a. ihre Position, dass ein „sozialer Zweck“ bzw. eine „solidarische Ausrichtung“ einer gemeinwohlorientierten Dienstleistung sowie die fehlende Gewinnerzielungs- und -ausschüttungsabsicht zwar notwendige, jedoch noch keine hinreichenden Kriterien für eine nichtwirtschaftliche Tätigkeit und damit für die Nichtanwendbarkeit des EU-Wettbewerbsrechts darstellen würden.

Im ersten Quartal 2001 wurden von verschiedenen Verfassungsorganen, Sozialpartnern und Wohlfahrtsverbänden ebenfalls Positionspapiere zu den mit Leistungen der Daseinsvorsorge im EU-Binnenmarkt verknüpften Herausforderungen erarbeitet.

Erwähnt seien an dieser Stelle beispielhaft die Stellungnahme des Bundesrats (16. 2. 2001), der Arbeitsgemeinschaft der Spitzenverbände der Freien Wohlfahrtspflege des Landes Nordrhein-Westfalen (23. 2. 2001) sowie des Deutschen Gewerkschaftsbundes (DGB), ebenfalls vom Februar 2001.

Neuere Entwicklungen und Aktivitäten auf europäischer wie nationaler Ebene

Nach Abschluss des Seminars vom 5. 10. 2001 in Brüssel hatte die EU-Kommission einen Berichtsentwurf für den Europäischen Rat in Laeken zu „Leistungen der Daseinsvorsorge“ (17. 10. 2001) [KOM (2001) 598] vorgelegt, der vom Europäischen Rat angenommen wurde. Soziale Dienste fanden dort keine besondere Erwähnung. In ihrem Bericht kündigte die EU-Kommission neue Maßnahmen an, mit denen die Rechtssicherheit und Transparenz bei der Anwendung der beihilferechtlichen Vorschriften auf die Finanzierung von Leistungen von allgemeinem wirtschaftlichen Interesse erhöht und die Bewertung der Qualität derartiger Leistungen im Interesse der Bürger verbessert werden sollen (vgl. zu Details: EU-Kommission: Europäische Kommission setzt sich für hochwertige Leistungen der Daseinsvorsorge in Europa ein [online], Pressemitteilung vom 17. 10. 2001 [Stand: 4. 3. 2002], verfügbar im Internet <http://www.europa.eu.int/rapid/start/cgi/guesten.ksh?p_action.gettxt=gt&doc=IP/01/1427|0|RAPID&lg=DE>).

U. a. stellt die EU-Kommission klar, dass sie sich weiterhin für den Erhalt und den Ausbau hochwertiger Leistungen der Daseinsvorsorge in Europa einsetzen wird. Sie kommt dabei zu dem Schluss, dass die derzeitigen Bestimmungen des EG-Vertrages flexibel genug sind, um den Besonderheiten der Leistungen von allgemeinem wirtschaftlichen Interesse Rechnung zu tragen. Für den Bereich der staatlichen Beihilfen wird die Kommission in einem Zwei-Stufen-Plan 2002 zunächst Leitlinien für staatliche Beihilfen zugunsten von Leistungen von allgemeinem wirtschaftlichen Interesse erarbeiten (vgl. Nr. 34 des Berichts). In einem nächsten Schritt ist dann geplant, bestimmte Kategorien von Beihilfen im Bereich der Daseinsvorsorge per Verordnung in Form einer Gruppenfreistellung von der Notifizierungspflicht auszunehmen (vgl. Nr. 35). Zudem sind ergänzende Maßnahmen angedacht, um die EG-Vorschriften und -Grundsätze bezüglich der Auswahl der Dienstleister klarer zu fassen (vgl. Nr. 39–45). Auch soll die Qualität der Leistungen von allgemeinem wirtschaftlichen Interesse mittels Berichtssystemen auf der Basis noch zu entwickelnder Bewertungsmethoden regelmäßig überprüft werden (vgl. Nr. 47–53). Zu dieser Frage ist für Mitte dieses Jahres eine weitere Mitteilung angekündigt. Schließlich soll die Ausgestaltung eines allgemeinen Rechtsrahmens für die Daseinsvorsorge, Art. 16 EG-Vertrag, vorangebracht werden. Dies betrifft unmittelbar den Anwendungsbereich der EU-Binnenmarkt- und Wettbewerbsregeln auf soziale Dienste. Im Kern sind hier erneut Fragen nach der Abgrenzung einer wirtschaftlichen von einer nichtwirtschaftlichen Tätigkeit, Kriterien für eine mögliche Beeinträchtigung des Binnenmarkthandels sowie die Definition der Bagatellfälle angesprochen.

Auf deutscher Seite wurden die weiteren Schritte wiederum intensiv und zeitnah begleitet, so zunächst mittels einer mit den Säulen des Deutschen Vereins abgestimmten Stellungnahme der Bundesregierung zum Berichtsentwurf der EU-Kommission (2. 11. 2001) bzw. zum Bericht der EU-Kommission für den Europäischen Rat in Laeken zu Leistungen der Daseinsvorsorge (5. 11. 2001). Die neueren Entwicklungen wurden zudem in einer Stellungnahme der Bundesarbeitsgemeinschaft der Freien Wohlfahrts-

pflege (BAGFW) vom 20. 11. 2001 unter dem Titel „Nicht gewinnorientierte Soziale Dienste in Europa – Stellungnahme der Bundesarbeitsgemeinschaft der Freien Wohlfahrtspflege (BAGFW) zum aktuellen Stand der Beratungen der Europäischen Union (EU) zur Daseinsvorsorge“ aufgegriffen. Am 12. 12. 2001 schließlich fasste der Bundesrat anlässlich des Europäischen Rates in Laeken erneut eine EntschlieÙung zu Leistungen der Daseinsvorsorge, in der die Kommission darin bestärkt wird, im Jahr 2002 in enger Absprache mit den Mitgliedsstaaten einen Gemeinschaftsrahmen für staatliche Beihilfen im Bereich der Leistungen der Daseinsvorsorge vorzulegen. Nach Ansicht des Bundesrates sollte in diesem Rechtsrahmen u. a. die Verantwortung der nationalen, regionalen und örtlichen Träger von Daseinsvorsorgeleistungen für deren Evaluierung nachdrücklich betont werden.

Ausblick

Diese Initiativen verdeutlichen, dass – zumindest aus Sicht der deutschen Akteure – zu einzelnen Aspekten und Fragen im Zusammenhang mit der europäischen Dimension der „Daseinsvorsorge“ und damit auch neuartigen Herausforderungen für die Erbringung sozialer Dienste weiterhin Diskussions- und Klärungsbedarf besteht.

Anlässlich einer von der Landesarbeitsgemeinschaft der Freien Wohlfahrtspflege (LAGFW) Niedersachsen gemeinsam mit der Bank für Gemeinwirtschaft (BfG) Hannover am 6. 2. 2002 in Hannover organisierten Informationsveranstaltung unter dem Titel „Soziale Dienste und europäische Integration – Die neue Mitteilung zur Daseinsvorsorge und ihre Auswirkungen auf die niedersächsische Wohlfahrtspflege“ erläuterte ein Vertreter der EU-Kommission die Herangehensweise und die Grundpositionen der EU-Kommission im Rahmen der genannten Aktivitäten. Die beteiligten Akteure auf regionaler und nationaler Ebene wurden erneut zu einem intensiven Dialog mit der Kommission über inhaltliche Fragen ermuntert.

Im Rahmen des Seminars zu zukünftigen Herausforderungen und europäischen Perspektiven bei der Erbringung sozialer Dienste konnten zwar zahlreiche Punkte angesprochen werden. Für einige Aspekte fehlte jedoch die Zeit für intensivere Erörterungen. Insofern wurde von zahlreichen Teilnehmerinnen und Teilnehmern die Idee einer Weiterführung der Diskussion innerhalb eines ähnlichen Rahmens nachdrücklich begrüÙt. Hier könnte an die intensive und konstruktive Zusammenarbeit zwischen EU-Kommission und Bundesministerium für Familie, Senioren, Frauen und Jugend bzw. dem Observatorium für die Entwicklung sozialer Dienste in Europa bei der Konzeptionierung und Durchführung des Seminars – einem im EU-Rahmen durchaus „innovativen“ Element der Kooperation – angeknüpft werden.

Frankfurt/Main, 25. 2. 2002

Der Verfasser bedankt sich ausdrücklich bei Chris Freestone, Praktikant am ISS, für die wertvolle Unterstützung bei der Erstellung der Kurzfassungen der Referate und der Diskussionen.

I.

Introduction

Mathias Maucher

Observatory for the Development of Social Services in Europe

On 5 October 2001, a seminar on “The Future of Social Services in Europe”, organised jointly by the European Commission, the German Federal Ministry for Family, Senior Citizens, Women and Youth and the Observatory for the Development of Social Services in Europe, took place in Brussels. This event provided an opportunity for representatives of providers and users of social services and representatives of the relevant ministries in several EU Member States to meet with the EU Commission for an intensive discussion on the future of high-quality, universally accessible and affordable social services in Europe.

The seminar was an important and appropriate forum for the exchange of ideas and experiences, where participants were able to discuss their respective points of view and their assessments of the central challenges involved in the provision, organisation, funding and further development of social services. It also provided a framework for the discussion of current issues with high-ranking representatives of the EU Commission and of the two directorates-general directly involved in the issues of social services in a Europe on the road to unity – “Employment and Social Affairs” and “Competition”.

The day began with a presentation and analysis of the demographic, economic and social challenges involved in the provision of social services. This was followed by talks and discussions on type, scope and format of social services. The seminar took into account both the academic point of view and the positions of providers and users; it was also an occasion for taking stock and looking ahead to possible future needs and innovations. The role of Europe was pivotal to the talks and contributions of all participants. The issues covered dealt primarily with how the EU Commission should shape competences agreed upon in treaties or determined by politics.

The following summary of the talks and plenum discussions will be supplemented by an outline of developments and position papers on the topic of services of general interest, particularly from a German point of view. In conclusion, we will present an overview of the activities planned by the EU Commission for the next few months.

Background papers, statements and questions in preparation for the seminar of 5 October 2001

In preparation for the one-day colloquium, participants had been provided with three papers presenting the thematic framework of the conference papers and discussions: a list of questions prepared by Peter Martin Smith and the EU Commission’s Group of Policy Advisors, a statement by Germany’s Federal Association of Voluntary Welfare Organisations on the role of social services within the scope of services of general inter-

est and social protection in EU Member States, and a background paper by the Observatory for the Development of Social Services in Europe. These documents, as well as the agenda of the seminar, can be found in the documentation.

Summary of talks and discussions

The talks and discussions covered four main topics:

1. the challenges involved in providing social services at a time of changing demographic, economic and social conditions;
2. the conceptual format and organisation of individual social services;
3. the institutional framework for the fulfilment of their public-interest mission;
4. the role and responsibilities of EU institutions in the area of social services.

In their survey of the field of social services, André Sapir and Gøsta Esping-Andersen concentrated on issues of current interest across Europe with regard to the welfare state and to overall social and economic questions.

In his introduction, **Prof. André Sapir** (Group of Policy Advisors/Université Libre de Bruxelles) presented some of the socio-economic and structural factors that have been placing growing pressure on social services in all the countries of Europe. Socio-economic factors include an aging society, shifts in household structures, declining support potential within the family and greater participation of women in the labour force. Risks leading to social exclusion, such as addiction, debt, homelessness or lack of integration in the education system complicate the picture. As structural factors, he mentioned increasing economic globalisation and technological change. He also pointed out challenges threatening the financial basis of social services as a result of the consolidation of public budgets.

Prof. Gøsta Esping-Andersen (Universitat Pompeu Fabra, Barcelona) continued along the same lines. He looked more closely at the welfare state aspects and raised the question of which social services would be needed in future as a result of changing demographic, social, economic and political conditions. He explored the potential for the creation of new jobs – and with this the creation of income – which could grow as a consequence of increased demand for the type of care services that, until now, had been provided mainly within the family context. He explained the challenges that will face policy-makers and providers of social services in view of increasing differences in the distribution of income and other important resources for social inclusion if more and more social services are offered on a market basis. In this connection, he also examined the extent to which introducing market mechanisms would encourage shifts in the provider structure towards more privately run commercial services. An appropriate reaction of state authorities to such a tendency could perhaps be a commitment to ensure equal access to social services. According to Prof. Esping-Andersen, governments have two main strategies at their disposal:

1. they can pass laws guaranteeing priority access for the particularly needy;
2. they can subsidise charitable and municipal operators of social institutions and services to ensure that these can continue to offer a broad range of services.

Prof. Esping-Andersen explained the modalities of the “Scandinavian model” of welfare

production, and went into a more detailed analysis of the financing and organisation of social services as well as their effect on employment. He explained various procedures to distribute the additional financial burden of a broader range of social services and named three principles on the basis of which decision-makers could distribute this burden:

1. privatising the additional expenditure, in other words shifting the costs to private households;
2. distributing the additional costs in accordance with the current ratio of distribution between the state, companies and private households;
3. reallocating additional resources to the advantage of the (still) weakest segments of the population (children, low-income persons).

In this connection, the speaker outlined the elements of a strategy that could create a sustainable financial basis. In particular, he pointed out the possibility of asset-building in high-income families over the last few decades. This increased wealth could be drawn upon, on the basis of the affordability principle, to finance care services. However, the speaker stressed, the fundamental dilemma of financing social services is exceedingly difficult to solve: on the one hand, all countries are feeling pressure to cut costs, and on the other, demand for improved quality and a greater range of services is growing. A further aspect to be considered is that charitable providers, to be able to offer their services and finance their institutions, will continue to depend to a rather large extent on public subsidies.

The **discussion** which followed the talks stressed the importance of voluntary commitment. Charitable providers, it was thought, were the best suited bodies to activate volunteers and integrate them on a long-term basis into the structures of social services provision. Participants also raised the question of what criteria should be used to measure the productivity of social services, and what purpose would be served by such an evaluation.

In the next session, Martin Knapp and Edith Archambault concentrated on the organisation and conceptual format of social services.

Prof. Martin Knapp (London School of Economics and Political Science) spoke of a general tendency in all countries to give more attention to the needs and interests of the users of social services, with less and less planners restricting their considerations to “input” alone. Nowadays, Prof. Knapp explained, the actual process of providing the service and the quality of the care or support measure have become much more central. He named three reasons why such a reorientation towards user perspective and quality assessment could lead to better results:

1. shifts in the provider and financing structure and the introduction of softer control methods by state supervisory authorities;
2. the necessity to better integrate a variety of social services;
3. the growing importance of unpaid voluntary help. The speaker also explained that creating user-friendly information systems on social services and pooling advisory services were likely to provide impulses for a stronger consideration of users. In conclusion, Prof. Knapp raised the issue of what consequences greater user participation and a growing number of options offered to users would have, particularly with regard to the overall provider landscape and to the quality of the services offered.

After describing the conditions now affecting the provision of social services and the challenges of these changes, **Prof. Edith Archambault** (Université de Paris 1 Panthéon-Sorbonne) focused on the advantages of a pluralistic provision of social services. This, she explained, would make it possible to satisfy a heterogeneous demand as to preferences and values and to encourage innovative concepts of social work within a competition for suitable solutions. The speaker expressed her belief that an institutionalised procedure to assess the type, scope and quality of social services, together with the greater transparency this would bring about, would be suitable, modern instruments of political control and social monitoring. In view of the public subsidies paid to not-for-profit social services, she said, such instruments were also necessary, as was improved consumer protection to reduce the information asymmetry between providers and users. Improved consumer protection could take the form of social services information centres and systems at local or regional level. In conclusion, Edith Archambault suggested that developing qualitative indicators and suitable assessment criteria would be a sensible complement to the existing quantitative planning and assessment systems of social services.

The two speakers' explanations and hypotheses found wide approval and support in the discussion that followed their talks. Participants also suggested a government guarantee for the provision or sponsoring of social services, especially for marginalised social groups. A few participants also pointed out the existence of a kind of geographic and social differentiation often leading to noticeable differences in the range and quality of social services, often in different districts of one and the same city.

In his short recapitulation, **Robert Anderson** (European Foundation for Living and Working Conditions, Dublin) summed up the morning's talks and discussions. He stressed the preventive and activating function of many social services and suggested that improving the compatibility of employment and care – provided either through social services or within the family – would be one of the central challenges of the future for companies, policy-makers and society as a whole. Finally, he encouraged cooperation with the European Foundation for Living and Working Conditions in sponsoring research and exchanges in the area of social services, particularly with regard to topics such as quality of working conditions and quality of social services.

The five talks and two rounds of discussion held in the afternoon were moderated by **Prof. Pierre Pestieau** (Université de Liège), who would like to see the frequently asked normative question "Should convergence of the various systems of social protection be encouraged?" replaced by the question "Will the single market and EU institutions foster a convergence of the various systems?" According to Prof. Pestieau, the result cannot be predicted – as is well illustrated by Belgium, a "mini-Europe" of three regions and three linguistic and cultural communities, each with its own, differently designed range of social services.

In the first afternoon session, a provider representative and a user representative put forward their respective assessments and viewpoints on the future of social services in Europe and described their ideas for the further development of social services. They agreed that institutional conditions for the fulfilment of the public-interest mission of social services were also gaining in importance. The second session dealt with the analysis and assessment of the activities and plans of EU institutions that are relevant for

the area of social services. Political implications at national and EU level were also discussed.

Pastor Jürgen Gohde (President of the Service Agency of the Protestant Church in Germany and, in this capacity, currently chairman of the Federal Association of Voluntary Welfare Organisations) began his talk by reminding listeners of the rights recognised by Articles 34 and 36 of the European Union's Charter of Fundamental Rights. In this context, he expressed his wish to see the declaration of cooperation between EU bodies and NGOs infused with more life. Pastor Gohde especially underscored the importance of universal coverage without access restrictions for persons with specific help, care or support needs. He outlined the advantages of increasing the influence of local organisations in decision-making on access to social services and on the concrete form these services should have. He named five central values or guidelines for the orientation of social services so as to best promote public interest:

1. plurality of providers;
2. guarantee of access to social services – i.e. no one with needs or seeking help should be excluded on the grounds of insufficient material resources or inadequate information;
3. quality assurance;
4. strengthening participation rights;
5. support for active self-help and self-reliance.

Referring to the application of EU competition law to institutions organised along the lines of the solidarity principle and to not-for-profit services, Jürgen Gohde gave two particular reasons why these services should merit special treatment: 1. because of their public interest mission, and because of the involvement of various social actors, such services are particularly well suited to foster social cohesion; 2. help and support services can then be organised to take various preferences and ideological orientations into account. As part of civil society, welfare organisations are particularly well suited to activate and focus civic commitment and to act as representatives for socially disadvantaged groups.

In his contribution, **Frank Mulcahy**, secretary of the European Disability Forum, named three constituent principles for the provision of social services:

1. equality;
2. participation;
3. independence and freedom of choice.

The first aspect, he said, referred to equality of civil rights which – especially in the case of disabled people – would have to be achieved by means of special support measures. This may also involve measures and mechanisms of “positive discrimination”. Generally speaking, Mr. Mulcahy said, the important thing was to reduce the many visible and hidden disadvantages faced by disabled people, both at home and at work. Integration into the employment market was – also for physically and mentally disabled people – the primary objective, the most important factor to prevent many-faceted exclusion processes. Speaking about the principle of independence and freedom of choice for users of social services, Mr. Mulcahy pointed out that an appropriate instrument for this was specifically earmarked money benefits (e.g. in the form of a voucher system). He expressed his concern that cost-cutting pressures would lead to more and more inadequately trained personnel being employed to provide care and other services to disabled people, and that professionals would increasingly tend to be

replaced by volunteers. In terms of the future of social services in Europe, Frank Mulcahy, like Pastor Jürgen Gohde before him, stressed the importance of integrating not-for-profit groups, organisations and foundations in the EU Commission's consultation and decision-making process.

The discussion provided an opportunity to examine in greater detail many of the questions that had already been raised – for instance, the criteria that could be applied to constructing a competitive framework for the best quality of social services. Participants warned that such criteria should also take into account the great variety of problem situations. The discussion also focused on political and social “filters” that sway public debate and determine which disadvantages are considered topical and which are not.

The last session of the seminar gave participants an opportunity to discuss the role of the European Union in shaping the scope of action for social services.

As representative of the Belgian presidency of the European Union, the deputy head of cabinet in the Ministry for the Economy and Scientific Research, **Eric van den Abeele**, drew attention to the individual elements of the discussion on services of general interest in the EU treaty. In accordance with the mandate of the Nice European Council of December 2000, activities at European level should be continued along four main guidelines:

1. strengthening legal certainty and predictability in the application of EU competition law on services of general interest;
2. increasing transparency with regard to compensation for additional costs in services of general interest;
3. developing evaluative instruments for this area of the service sector;
4. devising a general legal framework for services of general economic interest, Art. 16 EC.

According to Eric van den Abeele, state subsidies for providers of social services or operators of social institutions are justified whenever they lead to an improvement in the welfare of society judged on the basis of the following criteria: long-term assurance of universal, high-quality and pluralistic range of services, durability of social development, and enhancement of territorial and social cohesion.

The representative of the EU Directorate-General for competition, **Kirtikumar Mehta**, named two criteria for the exclusion of services of general interest from the application of competition law:

1. The activity is non-economic along the lines of the ECJ's functional approach. Even though there may be no clear-cut dividing line between economic and non-economic activity, a distinction that requires continual re-definition, absence of any profit-making intention remains central.
2. Trade between Member States pursuant to EU regulations is not affected or impeded. Kirtikumar Mehta did not see any fundamental contradiction in describing a service of general interest as “economic” even though elements were involved which did not a priori suggest the assumption of an economic nature. He gave four examples:
 1. part of the organisation works on a not-for-profit basis;
 2. there are modalities for a financial compensation or distribution procedure for specific providers;
 3. the provision of the service is subject to government conditions;

4. public interest considerations limit the number of government providers for this social service.

The representative of the EU Directorate-General for competition expressed his belief that national actors continue to have a large leeway for defining access rights and conditions of social service provision. He concluded his talk by pointing out the recently amended implementation provisions for state subsidies (ceilings, company size, permissibility of compensation for additional costs) and their particular relevance for social services, which are often provided on a smaller scale in terms of their turnover, numbers of employees, etc.

Gabrielle Clotuche (EU Directorate-General for employment and social affairs) began her contribution to the seminar by describing the clear role of social services in the development of a European social model. She referred specifically to the EU strategy for combating social discrimination, exclusion and poverty as re-stated at the Lisbon summit. She explained that social services were a key element of this strategy and that in the last few years they and the organisations providing them had been taken into increasingly evident consideration in treaty texts as well as in many official EU documents. In this context, Gabrielle Clotuche pointed out the expanded responsibilities of the Commission to promote exchanges and improve the coordination of policies between the individual EU Member States, especially in the area of the many risks of poverty and exclusion. The representative of the Directorate-General for employment and social affairs also supported the aim of achieving greater legal certainty for social services in terms of the application of EU competition law. She also believed they should be taken into more specific consideration in general discussion as well as in legal and procedural development at EU level. However, she explained, she was not aware of any case so far where application of the rules described in the communication from the Commission on “Services of General Interest in Europe” (20 September 2000) had had a negative effect on the provision of a service – and consequently to a drop in quality for the population. Gabrielle Clotuche concluded her talk by pointing out the tendency, visible in many EU Member States, to integrate both private, commercial organisations and not-for-profit providers into the public provision of services.

In the discussion that followed these talks, many speakers mentioned the aspects of “stronger legal certainty” and “improved predictability” with regard to the application of EU competition law on social services as one of the most urgent problems. They also underscored the advantages of a pluralistic offer of social services integrating the charitable sector. Any competition should concentrate on the quality of the social services rather than on their price; quality would then be a challenge facing all providers equally and from similar starting points. This approach would be particularly well served if comparable evaluation standards were available and universally recognised for assessing the quality of a social service.

In his closing lecture, **State Secretary Peter Haupt** (German Federal Ministry for Family, Senior Citizens, Women and Youth) referred to the central role of social services in implementing social rights; in this context, he mentioned the EU Charter of Fundamental Rights, the EU social agenda and the strategic aims of the European Union as defined in Lisbon. He suggested that debate on the further development of social services should concentrate on the potential advantages of quality orientation and abandon an excessively rigid focus on prices and costs. State Secretary Haupt saw similar advan-

tages in terms of the effect of social services on employment. He also gave a positive assessment of the impulses of competition to achieve a user-adequate quality of social services. The political and social objective of social services, he said, was improving the quality of life. This could be done by orienting planning and the services themselves more strongly to their users or to needy people in general. Finally, he said, we should not forget that it is the weaker members of society who need professional and efficient social services, and who have the right to receive them. This approach could lead to solutions that were best adapted to meet existing social problems. In this context, efforts to modernise social services should take elements of consumer protection into increased consideration.

EU activities and initiatives on the topic of “services of general interest”

The revised Communication from the Commission on “Services of General Interest in Europe” (20 September 2000) [COM (2000) 580] undoubtedly provided a decisive impulse to the discussion on the value and legal and institutional scope of social services now being conducted at both national and European levels. Continuing along the lines of its first communication on this subject in 1996 (96/C 281/03), the Commission, with this document, sets a significant milestone for the further development of the role and orientation of social services as an essential component of services of general interest. As a whole, services of general interest are in a field of tension between single market and competition law (Articles 81, 82, 86 II and 87, EC treaty) on the one hand and, on the other, the authority of Member States to organise their social security systems along the lines of national traditions, principles and structures.

The September 2000 communication was followed by the declaration of the Nice European Council (7–9 December 2000), which contained a strong plea for greater legal certainty and predictability in connection with the application of EU competition law on services of general interest, Art. 16 EC, which also include social services. The EU Commission was also instructed to prepare a report on the implementation of these objectives prior to the Laeken European Council (14–15 December 2001). This “Report to the Laeken European Council – Services of General Interest” [COM (2001) 598] was submitted on 17 October 2001.

In the course of 2001, several other EU bodies examined the topic of “services of general interest” and its implications for charitable and municipal providers of social services. On 6 March 2001, for instance, a hearing was held by the European Parliamentary Committee on Economic and Monetary Affairs. In mid-September, the Economic and Social Committee published an opinion on “Private not-for-profit social services in the context of services of general interest in Europe” (12/13 September 2001) [ESC (2001) 1120 – SOC/067]. This document emphasizes the role of social services as a key element of the various national social protection systems and includes a call for more clarity and predictability with regard to the application of EU competition law on the provision of social services, particularly on the basis of a fixed, legally binding list of criteria. The own-initiative opinion also stresses the public-interest orientation and the potential of social services for activating and integrating civic commitment. Finally, an opinion was also submitted by the Commission on employment, economic policy, single market, industry, SMEs of the Committee of the Regions (20 September 2001) [CdR 470/2000 – COM 6-027].

German involvement in the process

Initiatives and activities at European level were closely followed and commented by the German government – represented by the Federal Ministry for Family, Senior Citizens, Women and Youth –, by the central federations of voluntary welfare organisations and by the central association of local authorities. Opinions on services of general interest are based on the idea of a relationship that should be constructive (also in the sense of the users of social services): on the one hand, German bodies expressly support the development of guidelines and objectives for EU activities in the area of social services as an independent element of social protection. This applies particularly to the joint efforts of the Member States to combat social exclusion (Art. 137, 1j EC) and promote employment (Art. 137, 1h EC). On the other hand, however, it is the EU's responsibility to respect the authority of the individual Member States to define social services, to design the range of services they wish to offer and to commission providers on the basis of national laws and customs. New activities must also be embedded in existing provider structures and be in line with proven cooperation practices.

Prior to the publication of the revised Communication from the Commission, the German Federal Ministry for Family, Senior Citizens, Women and Youth presented a position paper – “Social services in Europe – their quality as services of general interest and their contribution to social protection in the Member States of the European Union” (13 September 2000) – initiated and drawn up by an ad-hoc working group associated to the German Association for Public and Private Welfare. As things developed, the German Association for Public and Private Welfare co-ordinated the publication of a position paper presenting a joint opinion of the central federations of voluntary welfare organisations and the central association of local authorities on the position of social services within the scope of services of general interest in Europe (15 November 2000). The discussions were continued at a workshop organised by the German Association for Public and Private Welfare (in the framework of the activities of the Observatory on the Development of Social Services in Europe) on the occasion of the German Welfare Congress in Hamburg on 14/15 November 2000 in form of a European expert meeting. The idea for the early October seminar, elaborated in conjunction with a member of the EU Commission's Group of Policy Advisors, was an upshot of this workshop.

A second opinion of the German government – “Opinion of the Federal Republic of Germany on the work of the EU Commission pursuant to point E 45 of the conclusions of the Nice European Council” – was issued on 13 June 2001 as a follow-up to consultations held in late 2000 between the central federations of voluntary welfare organisations, the central association of local authorities, the EU Commission's Group of Policy Advisors and the EU Directorate-General for competition. In these talks, the Directorate-General for competition stressed its position that the “social purpose” or “solidary orientation” of a service of general interest as well as its lack of profit-making and profit distribution intent constituted indispensable but not sufficient criteria for a non-economic activity and consequently for the non-application of EU competition law.

In the first quarter of 2001, several German constitutional bodies, social partners and welfare organisations also published position papers on the challenges involved in the provision of services of general interest in the EU single market. Worthy of mention

here are the opinions of the German Bundesrat (16 February 2001), of the Association of Voluntary Welfare Organisations of the State of North Rhine-Westphalia (23 February 2001) and of the German Trade Union Association, also published in February 2001.

Recent developments and activities at European and national level

Following the Brussels seminar of 5 October 2001, the EU Commission published a draft report to the Laeken European Council on “Services of General Interest” (17 October 2001) [COM (2001) 598], which was approved by the Council. Social services were not mentioned explicitly in the report. The Commission announced new measures to increase legal certainty and transparency in the application of state aid rules to the funding of services of general economic interest and an improved system of evaluation of the performances of such services to the benefit of citizens (for more details cf. press release, 17 October 2001, “European Commission promotes high-quality Services of General Interest in Europe” [http://www.europa.eu.int/rapid/start/cgi/guesten.ksh?p_action.gettxt=gt&doc=IP/01/1427|0|RAPID&lg=EN]). In the report, the Commission emphasizes its commitment to maintaining and developing high-quality services of general interest in Europe. It confirms that the existing Treaty rules are sufficiently flexible to take account of the specificities of services of general interest. In the area of state aid, the Commission will, in a two-phased approach planned for 2002, first establish Community guidelines for state aid granted for services of general economic interest (cf. no. 34 of the report). In a subsequent step, the Commission plans to adopt legislation in the form of a block exemption releasing certain aid granted in the area of services of general interest from the obligation of prior notification to the Commission (cf. no. 35). Additional measures have been envisaged to further clarify the Community rules and principles applicable to the selection of the provider of services of general interest (cf. nos. 39-45). The Commission will also develop a system of regular evaluation of the quality of services of general interest on the basis of new evaluation methods (cf. nos. 47-53). A further communication on this subject will be published later this year. And finally, the Commission will continue its efforts to define the general legal framework for services of general interest, Art. 16 EC. This will directly affect the area of application of EU single market and competition rules to social services. Essentially, the questions at issue here are, once again, the distinction between economic and non-economic activity, the criteria for a possible impairment of trade between the Member States and the definition of what constitutes a trivial case.

In Germany, these steps were once again followed closely and commented, for instance in opinions of the federal government – coordinated with the heads of the German Association for Public and Private Welfare – on the Commission draft report (2 November 2001) and on the Commission report to the Laeken European Council on services of general interest (5 November 2001). Recent developments were also referred to in an opinion of the Federal Association of Voluntary Welfare Organisations published on 20 November 2001 under the title “Not-for-profit social services in Europe – an opinion of the Federal Association of Voluntary Welfare Organisations on the current state of consultations of the European Union (EU) on services of general interest”. And finally, on the occasion of the Laeken European Council, the Bundesrat passed a second resolution on services of general interest on 12 December 2001; in it, it encourages the Com-

mission to work together with the Member States throughout 2002 in order to elaborate a Community framework for state aid in the area of services of general interest. The Bundesrat believes that one of the things this legal framework should stress is the responsibility of national, regional and local providers of services of general interest for the evaluation of these services.

Outlook

All these initiatives make it quite clear that – at least from the German point of view – there is a continued need for further discussion and clarification with regard to individual aspects and issues of the European dimension of services of general interest, and that this also involves a discussion of the new types of challenges to the provision of social services.

On the occasion of an information meeting on “Social services and European integration – the new Communication on services of general interest and its effect on the welfare services of Lower Saxony” organised by the Regional Association of Voluntary Welfare Organisations of Lower Saxony together with the Hanover-based Bank für Gemeinwirtschaft (BfG) and held on 6 February 2002 in Hanover, a representative of the EU Commission explained the Commission’s approach and positions with regard to these activities. The regional and national bodies involved in these issues were once again encouraged to continue their intensive dialogue with the Commission.

The seminar on the future challenges regarding the provision of social services in Europe provided a forum that examined a great number of points. However, there was not always sufficient time for in-depth examination of individual topics. Many participants found that it would be a good idea for talks to be continued in a similar framework at a later date. Such a follow-up could pick up the thread of the intensive and constructive cooperation between the EU Commission, the German Federal Ministry for Family, Senior Citizens, Women and Youth and the Observatory for the Development of Social Services in Europe in preparing and holding the seminar – a truly “innovative” element of European cooperation.

Frankfurt/Main, 25 February 2002

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I.

Introduction

Mathias Maucher

Observatoire pour le Développement des Services Sociaux en Europe

Le 5 octobre 2001, un colloque conjoint de la Commission de l'Union européenne, du Ministère fédéral allemand de la Famille, des Personnes âgées, de la Condition féminine et de la Jeunesse (BMFSFJ) et de l'Observatoire pour le développement des services sociaux en Europe s'est tenu à Bruxelles. Il portait sur «L'avenir des services sociaux en Europe». A cette occasion, des représentant(e)s des prestataires et des utilisateurs de services sociaux ainsi que des représentant(e)s des Ministères de tutelle d'un grand nombre d'Etats membres de l'Union européenne ont mené, avec la Commission européenne, un débat intensif sur les perspectives de prestation des services sociaux de haute qualité, accessibles à tous et abordables en Europe.

Ce colloque a offert à tous les acteurs impliqués une plate-forme importante et appropriée d'un échange mutuel d'opinions et d'expériences. En outre, il a permis de débattre des différentes appréciations et des points de vue sur des défis centraux posés par l'offre, l'organisation, le financement et les développements conceptuels des services sociaux. Par ailleurs, il a permis de discuter de questions d'actualité avec des représentant(e)s de haut rang de la Commission européenne et des deux directions générales «Emploi et Affaires sociales» et «Concurrence», chargées directement des services sociaux dans une Europe en intégration.

Après une première partie consacrée à la présentation et à l'analyse des défis démographiques, économiques et sociaux dans le domaine de la prestation de services sociaux, les exposés et le débat de la deuxième partie du colloque ont porté sur des questions relatives au type, à la portée et à l'organisation des services sociaux. Ces questions ont été abordées tant du point de vue scientifique que dans l'optique des organismes gérants et des utilisateurs de services. Le colloque a permis de dresser un état des lieux et de faire une prévision des possibles exigences et innovations futures. Enfin, le rôle de l'Europe s'est trouvé au centre des exposés et des interventions des participant(e)s qui ont notamment traité les questions d'organisation des compétences fixées par les traités ou par décision politique de la Commission européenne.

Le résumé des exposés ainsi que des questions et des débats en plénière est complété par un aperçu des développements et avis sur les «services d'intérêt général». Cet aperçu met l'accent sur les organismes gérants allemands. En conclusion, sont présentées les activités envisagées par la Commission au cours des mois à venir.

Documents d'informations de base, avis et questionnaires de préparation de la conférence du 5 octobre 2001

Pour préparer le colloque d'une journée, les participant(e)s disposaient de trois documents censés de tracer le cadre thématique des exposés et débats: 1. un questionnaire

élaboré par le Groupe des conseillers politiques sous la direction de M. Peter Marin Smith, 2. un avis du Comité fédéral des oeuvres sociales privées (BAGFW) sur le rôle des services sociaux dans le cadre des services d'intérêt général et de la protection sociale dans les Etats membres de l'UE, 3. un document d'informations de base rédigé par l'Observatoire pour le développement des services sociaux en Europe. Ces documents font partie de cette documentation ainsi que l'ordre du jour qui donne un aperçu du déroulement chronologique du colloque.

Résumé des exposés et des débats

Les exposés et les rondes de discussion étaient axés sur les quatre sujets suivants :

1. Les défis à relever pour la prestation de services sociaux dans des conditions cadre démographiques, économiques et sociales en mutation
2. L'approche conceptuelle et l'organisation de certains services sociaux
3. Le cadre institutionnel pour l'accomplissement des missions orientées sur l'intérêt général
4. Le rôle et les compétences des institutions européennes en matière de services sociaux.

André Sapir et Gøsta Esping-Andersen ont traité le sujet des services sociaux tout d'abord en évoquant les questions importantes qui se posent actuellement dans toute l'Europe sur l'Etat providence, la société en général et l'économie nationale.

Dans son introduction, le **Professeur André Sapir** (Groupe des conseillers politiques de la Commission européenne/Université libre de Bruxelles) a exposé les facteurs socio-économiques et structurels obligeant de plus en plus les services sociaux dans tous les pays européens à s'adapter. Parmi ces facteurs d'influence socio-économiques figurent le vieillissement de la société, la redistribution des budgets, la diminution du potentiel de soutien familial et l'augmentation du nombre de femmes exerçant une activité professionnelle. En font également partie les risques entraînant l'exclusion sociale, tels que la toxicomanie, l'endettement, le fait de ne pas avoir de domicile ou encore une intégration insuffisante dans le système d'enseignement scolaire et professionnel. Comme facteurs structurels, il a évoqué l'interdépendance plus marquée des économies nationales et les mutations technologiques. Par ailleurs, il a attiré l'attention sur les défis liés à la consolidation des budgets publics et qui affectent surtout la base financière des services sociaux.

Lors de son intervention, le **Professeur Gøsta Esping-Andersen** (Université Pompeu Fabra, Barcelone) a enchaîné sur cette analyse en approfondissant les aspects d'Etat providence et en se demandant quels services sociaux seront nécessaires à l'avenir, vu les changements des conditions cadre démographiques, sociales, d'économie nationale et politiques. Il a évalué le potentiel de création d'emplois supplémentaires - et donc l'obtention d'un revenu salarial - résultant d'une demande croissante de services de prise en charge et de soins qui, par le passé, étaient en grande partie assurés par les familles. Il a souligné les nouveaux défis auxquels devront faire face les politiques et les prestataires de services sociaux du fait des disparités de distribution des revenus et d'autres ressources importantes pour participer à la vie sociale, si les services sociaux sont de plus en plus fournis par le marché. Dans cet ordre d'idées, le conférencier s'est

également demandé dans quelle mesure l'introduction d'instruments de marché favoriserait une restructuration des organismes gérants, en conférant plus de poids aux prestataires commerciaux privés. Une réaction appropriée pourrait être l'engagement de l'Etat à garantir un accès égal aux services sociaux. Pour ce faire, les autorités publiques peuvent adopter en principe deux stratégies : 1. prendre des dispositions légales permettant de garantir aux personnes particulièrement nécessiteuses, un accès prioritaire aux services, 2. accorder des subventions aux organismes communaux et privés gérants des institutions et des services sociaux afin qu'ils puissent maintenir une vaste offre de services. Dans ce contexte, M. Esping-Andersen a présenté les principes de fonctionnement du «modèle scandinave» de la production de services d'aide sociale en expliquant notamment l'effet créateur d'emplois, le financement et l'organisation des services sociaux. Par la suite, il a décrit différentes procédures permettant de répartir les charges financières (supplémentaires) engendrées par une offre plus large de services sociaux. D'après lui, cette répartition peut se faire en appliquant trois principes : 1. privatiser les dépenses supplémentaires, ce qui équivaut à un report des coûts sur les ménages privés, 2. répartir les coûts supplémentaires selon le système de répartition actuellement en vigueur entre l'Etat, les entreprises et les ménages privés, 3. redistribuer des fonds supplémentaires en faveur des groupes (aujourd'hui encore) les plus vulnérables de la population (comme les enfants, les personnes à faible revenu). Le conférencier a ensuite exposé les éléments d'une stratégie d'action visant à créer une base financière durable. Il s'est en particulier référé à la possibilité pour les ménages à revenu élevé de se constituer un patrimoine au cours des dernières décennies. Ce patrimoine pourrait servir à financer des services de prise en charge et de soins en se basant sur le principe de la capacité économique des ménages. Cependant, même ainsi, il ne sera pas possible de résoudre le dilemme de fond du financement des services sociaux : d'une part, il existe dans tous les pays une pression visant à réduire les coûts, d'autre part, il y a une demande, voire un souhait croissant de voir s'améliorer la qualité des services et s'étendre l'éventail de l'offre. En outre, il convient de tenir compte du fait que les organismes privés d'utilité publique de l'action sociale resteraient tributaires, à l'avenir également et dans une mesure non négligeable, des subventions publiques pour assurer leurs services et financer leurs institutions.

Le **débat** qui a suivi a fait ressortir toute l'importance de l'engagement bénévole. Il a été constaté que les prestataires privés d'utilité publique sont les acteurs les mieux à même de mobiliser les bénévoles et de les intégrer, à plus long terme, dans des structures de prestation de services sociaux. Dans leurs interventions, les participant(e)s ont aussi demandé quels sont les critères et l'intention avec lesquels la productivité des services sociaux est mesurable ou devrait être mesurée.

Dans une deuxième partie, M. Martin Knapp et Mme Edith Archambault ont approfondi la question de l'organisation et des approches conceptuelles des services sociaux.

Le **Professeur Martin Knapp** (London School of Economics and Political Science) a évoqué une tendance décelable dans tous les pays: les besoins et les intérêts des utilisateurs sont de plus en plus placés au cœur de la prestation des services sociaux. D'après lui, c'est de moins en moins l'«input» qui est seulement au centre d'intérêt mais beaucoup plus le processus de la prestation et la qualité des mesures de prise en charge, de soutien et d'aide. Il a cité trois raisons pour cette réorientation vers les utilisateurs et sur l'évaluation du succès d'une mesure : 1. les changements intervenus au niveau de la

structure des organismes gérants et de financement liés à l'introduction par les autorités publiques d'inspections de procédures de contrôle plus souples, 2. la nécessité d'une intégration plus poussée des différents services sociaux, 3. l'importance accrue des aides apportées gratuitement. De plus, la mise en place de systèmes d'information faciles à utiliser sur des services sociaux et le regroupement des offres d'assistance conseil donneront encore plus d'impulsions pour une plus large prise en considération des personnes concernées. Enfin, le conférencier s'est penché sur les conséquences d'un renforcement des droits de participation et d'élection des utilisateurs des services sociaux, en particulier sur la structure des organismes gérants et la qualité de l'offre.

Après avoir tracé le cadre général transformé dans lequel s'inscrit la prestation des services sociaux et énoncé les défis qui en découlent, M^{me} le **Professeur Edith Archambault** (Université Paris 1 Panthéon-Sorbonne) a mis en avant dans son exposé les avantages que comporte un paysage pluraliste des organismes d'action sociale. Selon elle, ceci permet de répondre à une demande hétérogène en termes de préférences et de valeurs et, dans un contexte de concurrence entre des solutions adaptées aux problèmes, de favoriser l'élaboration d'approches innovatrices du travail social. A son avis, une procédure d'évaluation institutionnalisée sur le type, la portée et la qualité des services sociaux et la plus grande transparence qui en résulte représentent un instrument moderne d'orientation politique et de contrôle par la société, d'autant plus nécessaire que les services sociaux orientés sur l'intérêt général sont subventionnés par l'Etat. Il convient également de renforcer la protection des consommateurs en vue de réduire les asymétries d'information existant entre les prestataires et les utilisateurs de services. Ceci pourrait se faire p. ex. par la création de centres et de systèmes d'information sur les services sociaux à l'échelon local et/ou régional. Enfin, M^{me} Edith Archambault a insisté sur la nécessité de développer des indicateurs qualitatifs et d'établir des critères d'évaluation appropriés afin de compléter de manière utile les indices quantitatifs appliqués dans la planification et l'évaluation de services sociaux.

Au cours du **débat** qui a suivi, les explications et les thèses avancées par les deux conférenciers ont été largement approuvées et soutenues par le public. Il a été demandé que l'Etat garantisse la prestation et la promotion financière des services sociaux, surtout en faveur des groupes sociaux marginalisés. Quelques participant(e)s ont également évoqué la différenciation d'espaces sociaux, qui se traduit très souvent par un écart sensible entre la gamme et la qualité des services sociaux offerts dans différents quartiers de la même ville.

En résumant brièvement les exposés et les débats de la matinée, **M. Robert Anderson** (Fondation européenne pour les conditions de vie et de travail, Dublin) a mis en exergue la fonction préventive et mobilisatrice d'un grand nombre de services sociaux. Il a estimé qu'une meilleure conciliation de l'activité professionnelle et des services de soins et de prise en charge fournis, soit par des prestataires externes, soit au sein de la famille, constitue l'un des principaux défis futurs auxquels les entreprises, la politique et la société doivent faire face. Finalement, il s'est référé aux activités mises en oeuvre par la Fondation européenne pour les conditions de vie et de travail, activités axées sur la promotion de la recherche et sur l'échange d'informations et d'expériences sur les services sociaux, et, en particulier sur la «Qualité des conditions de travail» et la «Qualité des services sociaux».

Les cinq exposés et les deux rondes de discussion de l'après-midi ont été animés et dirigés par le **Professeur Pierre Pestieau** (Université de Liège). D'après lui, la question normative fréquemment posée «Faut-il promouvoir le rapprochement des différents systèmes de protection sociale?» devrait être remplacée par «Le marché intérieur et les institutions européennes vont-ils promouvoir la convergence des différents systèmes?» Le résultat ne serait pas prévisible, ce qu'illustre très bien l'exemple de la Belgique, une «Europe à petite échelle» avec ses trois régions, ses trois communautés linguistiques et culturelles, chacune avec une offre de services sociaux organisée d'une façon différente.

Dans un premier temps, un(e) représentant(e) des prestataires et des utilisateurs ont, chacun, donné leur appréciation et leur point de vue respectif sur les perspectives des services sociaux en Europe, qu'ils ont complétés par des idées et des approches relatives au développement futur des services sociaux. Ceci a permis d'attirer également l'attention sur l'importance des conditions cadre institutionnelles pour l'accomplissement des missions orientées sur l'intérêt général. Un deuxième temps a été consacré à l'analyse et à l'évaluation des activités en cours ou prévues par les institutions européennes dans le domaine des services sociaux. Dans ce cadre, on a également débattu des conséquences politiques à l'échelon national et européen.

Le **pasteur Jürgen Gohde** (Président de la Diakonisches Werk de l'Eglise protestante en Allemagne et, en cette qualité, également président en exercice du BAGFW) a, en guise d'introduction de son intervention, évoqué les droits reconnus dans les articles 34 et 36 de la Charte européenne des droits fondamentaux. A ce propos, il a exhorté à «donner plus de vie» à la déclaration en faveur d'une coopération plus étroite entre les organes de l'Union européenne et les organisations non gouvernementales. M. Jürgen Gohde a insisté sur l'importance d'une offre à large échelle, accessible aux personnes ayant des besoins spécifiques de prise en charge, d'aide, de soins et de soutien. Il a mis en évidence les avantages qui découlent d'un renforcement d'un niveau local ayant plus de pouvoir lors de la prise de décisions sur l'accès et l'aménagement concret des services sociaux. Cinq valeurs ou objectifs centraux devraient régir la prestation des services sociaux orientés sur l'intérêt général:

1. la pluralité des organismes,
2. la garantie d'accès aux services sociaux, ce qui signifie que les personnes désemparées ou nécessiteuses ne peuvent être exclues par manque de ressources matérielles ou d'informations,
3. l'assurance de qualité,
4. le renforcement des droits participatifs,
5. la promotion de la capacité d'entraide et d'autonomie.

Parlant de l'application du droit européen de la concurrence, M. Jürgen Gohde estime qu'il est justifié d'accorder un régime spécial aux institutions solidaires, ou aux prestataires de services non lucratifs. Pour étayer cette thèse, il a avancé notamment deux raisons:

1. Grâce à leur mission d'intérêt général et à leur force d'intégration d'autres acteurs sociaux, ces services sont particulièrement aptes à promouvoir la cohésion sociale.
2. Ils permettent également d'organiser des offres d'aide et de soutien tout en tenant compte des différentes préférences et orientations idéologiques. En tant que composante de la société civile, les oeuvres sociales privées sont particulièrement en mesure de mobiliser, de regrouper l'engagement citoyen et de se faire l'avocat des groupes sociaux défavorisés.

Dans son exposé, **M. Frank Mulcahy**, secrétaire du Forum européen des personnes handicapées, a énoncé trois principes fondamentaux constitutifs régissant la prestation de services sociaux:

1. l'égalité,
2. la participation,
3. l'indépendance et la liberté de choix.

Pour ce qui est du premier aspect, il s'est référé à l'égalité des droits civiques qui, surtout dans le cas des personnes handicapées, doit être rétablie par le biais d'une aide spéciale revêtant éventuellement la forme de mesures ou d'instruments d'une «discrimination positive». A son avis, il faut éliminer les nombreuses discriminations visibles et dissimulées auxquelles les personnes handicapées doivent faire face, tant au niveau du logement que du travail. L'intégration dans le marché du travail doit, également dans le cas des personnes ayant un handicap physique ou mental, constituer l'objectif premier pour lutter d'une façon durable contre les complexes processus d'exclusion. Concernant le principe de l'indépendance et de la liberté de choix des utilisateurs des services sociaux, le conférencier a qualifié de particulièrement approprié l'instrument des aides financières liées (surtout sous forme de systèmes de bons). M. Frank Mulcahy a déclaré craindre que la pression vers une réduction des dépenses n'amène à embaucher du personnel de prise en charge et de soins des personnes handicapées qui n'est pas suffisamment qualifié, ou à remplacer le personnel qualifié par des bénévoles. Quant aux perspectives des services sociaux en Europe, M. Frank Mulcahy a insisté, à l'instar du pasteur Jürgen Gohde, sur la nécessité de faire participer les associations, les fédérations et les fondations non lucratives aux processus de consultation et de décision au niveau de la Commission européenne.

Le débat a ensuite permis d'approfondir différents points déjà abordés au cours du colloque. Il s'agissait, à titre d'exemple, des critères à établir pour aménager un cadre de concurrence permettant d'obtenir la meilleure qualité possible des services sociaux. A ce propos, on a rappelé la nécessité de tenir compte des différents problèmes lors de la détermination de ces critères. Les «filtres» existant dans la politique et dans la société et qui déterminent si une discrimination spécifique est mentionnée dans le débat ainsi que l'orientation même du débat, ont également été évoqués.

Le colloque s'est terminé sur la question du rôle à jouer par l'Union européenne dans la configuration du cadre d'action des services sociaux.

Le Chef de cabinet adjoint auprès du Ministère de l'Economie et de la Recherche scientifique, M. Eric van den Abeele a, en sa qualité de représentant de la présidence belge à l'Union européenne, énuméré les différents éléments du débat sur les Services d'intérêt général dans les traités européens. Suivant le mandat du Conseil européen de Nice en décembre 2000, les activités européennes devraient être guidées par quatre lignes directrices: 1. l'amélioration de la sécurité juridique et de la prévisibilité dans l'application du droit européen de la concurrence sur les services d'intérêt général, 2. la création d'une plus grande transparence dans le domaine des aides de compensation qui sont accordées en cas de coûts supplémentaires engendrés par les services orientés sur l'intérêt général, 3. la mise en place d'un dispositif d'évaluation pour ce secteur du tertiaire, 4. le développement d'un cadre juridique général pour les services d'intérêt économique général en vertu de l'article 16 du traité. M. Eric van den Abeele juge opportun l'octroi d'aides publiques en faveur des prestataires de services sociaux ou des

organismes gérants d'institutions sociales à condition qu'ils contribuent à améliorer le bien-être social. Pour cela, les critères suivants doivent être remplis : garantir à long terme une offre de prestations à large échelle, de haute qualité et plurielle, promouvoir un développement social durable et renforcer la cohésion sociale et territoriale.

Dans son exposé, le représentant de la Direction générale de la concurrence de l'Union européenne, **Kirtikumar Mehta**, a retenu deux critères montrant que le droit européen de la concurrence n'est pas applicable aux services d'intérêt général:

1. une activité «non-économique» selon l'approche fonctionnelle de la Cour de Justice européenne. S'il est vrai que la frontière entre activité économique et non-économique est floue et doit sans cesse être redéfinie, le fait qu'il n'y ait pas intention de générer des bénéfices revêt quand même une importance centrale.
2. Le fonctionnement du marché intérieur selon les règles européennes n'est pas affecté, voire même compromis.

M. Kirtikumar Mehta estime qu'il n'est en principe pas contradictoire de qualifier d'économique une prestation de services d'intérêt général, même si elle réunit encore d'autres éléments qui, au premier abord, ne laissent pas supposer son caractère économique. Dans ce contexte, il a mentionné quatre points:

1. Une partie des organismes gérants n'ont pas de but lucratif.
2. Il existe des règles de compensations financières ou des processus de redistribution en faveur de certains prestataires.
3. La prestation de services est soumise à certaines conditions imposées par l'Etat.
4. Pour des raisons d'intérêt général, le nombre de prestataires chargés des services sociaux est limité par l'Etat. Le représentant de la Direction générale de la concurrence de l'Union européenne considère que les acteurs nationaux disposent d'une large marge de manœuvre pour organiser les droits d'accès et les dispositions relatives aux prestations de services sociaux. M. Kirtikumar Mehta a enfin rappelé les changements intervenus au niveau des dispositions d'application pour l'octroi d'aides publiques – le plafond des aides, la taille de l'entreprise, l'autorisation de compensations pour coûts supplémentaires. Ces dispositions revêtent un intérêt particulier pour les services sociaux offerts le plus souvent à plus petite échelle pour ce qui est du chiffre d'affaires, du nombre d'employés etc.

Dans son intervention, M^{me} **Gabrielle Clotuche** (Direction générale pour l'emploi et les affaires sociales de l'Union européenne) a préconisé une définition plus claire du rôle des services sociaux dans le développement d'un modèle social européen. Elle s'est explicitement référée à la stratégie européenne de lutte contre la discrimination sociale, l'exclusion et la pauvreté, stratégie renforcée lors du sommet de Lisbonne. A son avis, les services sociaux constituent un élément clé de cette stratégie. Il en résulte une prise en considération plus visible des services sociaux et des prestataires de services dans les textes des traités et dans un grand nombre de documents officiels de l'Union européenne au cours des dernières années. Dans ce contexte, M^{me} Clotuche a rappelé les compétences élargies de la Commission en vue de promouvoir l'échange d'informations et d'expériences ainsi que d'améliorer la coordination des politiques menées par les différents Etats membres de l'Union européenne, en particulier dans le domaine très complexe des risques de pauvreté et d'exclusion. La représentante de la Direction générale pour l'emploi et les affaires sociales de l'Union européenne souhaite également créer plus de sécurité juridique dans l'application du droit européen de la concurrence sur les services sociaux, qui, par ailleurs, devraient être pris en considération

plus spécifiquement dans le débat et dans le développement continu du droit et des procédures de l'Union européenne. Elle ne connaissait cependant pas un seul cas où l'application des règles établies dans la Communication de la Commission relative aux «services d'intérêt général en Europe» (20.09.2000) a affecté la prestation de services et, donc, détérioré la qualité des services destinés aux citoyen(ne)s. Enfin, M^{me} Clotuche a signalé la tendance à une intégration plus forte des organismes privés non lucratifs dans la prestation des services publics, tendance que l'on observe dans de nombreux Etats membres de l'Union européenne.

Dans le **débat**, un grand nombre d'intervenants ont identifié comme l'un des problèmes les plus urgents «l'amélioration de la sécurité juridique» et de la «prévisibilité» dans l'application du droit européen de la concurrence aux services sociaux. En outre, les avantages d'une offre plurielle de services sociaux impliquant fortement le secteur privé d'utilité publique ont été soulignés en rappelant cependant que la concurrence doit se faire par la qualité et non pas, en priorité, par le prix des services sociaux. Ainsi, tous les organismes gérants pourraient faire face à ce défi de la même manière et dans des conditions de départ à peu près égales. Cette approche pourra certainement être appuyée une fois que des critères d'évaluation comparables, permettant de mesurer la qualité d'un service social, auront été établis et seront reconnus par tous.

Dans ses mots de clôture, le **secrétaire d'Etat Peter Haupt** (BMFSFJ) a souligné le rôle central des services sociaux dans la réalisation des droits sociaux et il s'est référé, dans ce contexte, à la Charte européenne des droits fondamentaux, à l'Agenda social européen et aux objectifs stratégiques établis par l'Union européenne à Lisbonne. M. Haupt a invité à profiter des débats sur le développement futur des services sociaux pour faire avancer l'aspect de la qualité de la prestation et abandonner une position trop axée sur la question des prix et des coûts. Le secrétaire d'Etat Peter Haupt a également identifié des chances pour ce qui est de la création d'emplois par les services sociaux et a jugé positives les impulsions résultant d'une plus grande concurrence en vue d'une qualité de service social plus adaptée à l'utilisateur. Ceci s'inscrit dans l'objectif politique et social d'améliorer la qualité de vie. Cet objectif peut être atteint en orientant davantage la planification et la réalisation concrète des prestations sur les utilisateurs, ou sur les personnes qui en ont besoin. Enfin, il convient de ne pas oublier que ce sont justement les personnes les plus vulnérables de la société qui ont besoin et qui ont le droit à des services sociaux professionnels et gérés d'une façon efficiente. De cette manière, il est possible d'élaborer des solutions particulièrement adaptées aux problèmes sociaux. Dans cette mesure, la modernisation des services sociaux doit être effectuée en accordant une place également plus importante à la protection des consommateurs.

Les activités et les initiatives entreprises au sujet des «services d'intérêt général» à l'échelon européen

La Communication révisée de la Commission relative aux « services d'intérêt général en Europe » du 20 septembre 2000 [Kom (2000) 580] a, sans aucun doute, donné l'impulsion décisive au débat intensif sur l'importance et le cadre juridico-institutionnel des services sociaux mené tant à l'échelon national qu'euro-péen. Avec ce document, la Commission a créé, sur la base d'une première communication datant de l'année 1996

(96/C 281/03), une référence déterminante pour le rôle et l'orientation futurs des services sociaux en tant que partie essentielle des services d'intérêt général. Ces services sont réglementés, d'une part, par le droit européen régissant le marché intérieur et la concurrence (art. 81, 82, 86 II et 87 du traité CE), et, d'autre part, par le système de sécurité sociale relevant de la compétence réglementaire nationale et organisé selon les traditions, principes et structures des Laender.

Cette communication a été suivie fin 2000 par la déclaration du Conseil européen de Nice (7 au 9 décembre 2000) plaidant clairement en faveur d'un renforcement de la sécurité juridique et de la prévisibilité dans l'application des dispositions du droit européen de la concurrence aux services d'intérêt économique général, art. 16 du traité, dont font également partie les services sociaux. Par ailleurs, la Commission a été chargée de présenter d'ici le Conseil européen de Laeken (14 au 15 décembre 2001), un rapport sur la mise en oeuvre de cet objectif. Ce «rapport sur les services d'intérêt général rédigé à l'intention du Conseil européen de Laeken» [KOM (2001) 598] a été soumis le 17 octobre 2001.

Au cours de l'année 2001, en plus de la Commission, d'autres organes de l'Union européenne ont accordé plus d'attention au sujet des «services d'intérêt général» et de leurs implications pour les organismes privés et communaux gérants des services sociaux. Ainsi, le 6 mars 2001, une audition a eu lieu à ce propos au sein du Comité économique et monétaire du Parlement européen. A la mi-septembre, le Comité économique et social a rendu son avis relatif aux «services sociaux privés sans but lucratif dans le contexte des services d'intérêt général en Europe» (12/13 septembre 2001) [CES (2001) 1120 - SOC/067]. Cet avis souligne le rôle des services sociaux en tant qu'élément clé des systèmes de protection sociale nationaux et réclame plus de clarté et de prévisibilité dans l'application du droit européen de la concurrence sur les services sociaux et en particulier sur la base d'un catalogue de critères contraignants juridiquement. En outre, l'avis d'initiative fait ressortir l'orientation axée sur l'intérêt général des services sociaux et leur potentiel de mobilisation et d'intégration de l'engagement citoyen. Le Comité des Régions a, par sa commission technique «Emploi, politique économique, marché intérieur, industrie, PME/PMI», également élaboré un avis portant sur ce sujet (CdR 470/2000 - COM 6-027) (20 septembre 2001).

Accompagnement du processus du côté allemand

Le Gouvernement fédéral représenté par le BMFSFJ, les Organisations centrales des oeuvres sociales privées et le Comité fédéral des Autorités locales ont suivi de près et ont commenté les initiatives et activités entreprises à l'échelon européen. Les différents avis sur les services d'intérêt général plaident – également dans l'intérêt des utilisateurs des services sociaux – en faveur d'un rapport de force constructif : Tout d'abord, ils soutiennent explicitement le développement de lignes d'orientation et d'objectifs régissant les activités européennes en matière de services sociaux en tant que composante autonome d'une protection sociale. Ceci vaut en particulier pour la coopération des Etats membres dans la lutte contre l'exclusion sociale (art. 137 1j du traité CE) et de la promotion de l'emploi (art. 137, 1h du traité). Toutefois, l'Union européenne doit respecter les compétences nationales dans le domaine de la définition des services sociaux, de l'aménagement des offres de services et du choix des prestataires sur la

base de la réglementation et des traditions nationales. Il faut, en outre, tenir compte du tissu d'organismes gérants qui s'est développé au cours des années et des procédures de coopération ayant fait leurs preuves.

Avant la publication de la Communication révisée de la Commission, le BMFSFJ a présenté une prise de position, lancée et rédigée par un groupe de travail ad hoc associé à l'Association allemande de l'Action sociale publique et privée, intitulée «Les services sociaux en Europe et leur contribution aux services d'intérêt général et à la protection sociale dans les Etats membres de l'Union Européenne» (13.09.2000). Par la suite, l'Association allemande de l'Action sociale publique et privée a coordonné la formulation d'un avis commun des organisations centrales des oeuvres sociales privées et du Comité Fédéral des Autorités Locales, portant sur le rôle des services sociaux dans le cadre des services d'intérêt général en Europe (15.11.2000). Les discussions ont été poursuivies lors d'un atelier organisé par l'Association allemande de l'Action sociale publique et privée (lié aux activités de l'Observatoire pour le Développement des Services Sociaux en Europe) dans le cadre de la Journée allemande de l'action sociale à Hambourg (14/15.11.2000) sous forme de séminaire d'experts européens. Cet atelier a également donné l'idée d'organiser ce colloque début octobre, en concertation avec un collaborateur du Groupe des conseillers politiques de la Commission de l'Union européenne.

Le nouvel avis du Gouvernement fédéral datant du 13 juin 2001 et intitulé «Avis de la République fédérale d'Allemagne sur les travaux de la Commission de l'Union européenne conformément au chiffre E 45 des conclusions du Conseil européen de Nice» a été précédé par des consultations entre les organisations centrales des oeuvres sociales privées, le Comité Fédéral des Autorités Locales et le Groupe des conseillers politiques de la Commission ainsi qu'avec la Direction générale de la concurrence de l'Union européenne. Lors de ces consultations, cette dernière a réitéré sa position selon laquelle une «fin sociale», ou une «orientation solidaire» d'un service orienté sur l'intérêt général ainsi que l'absence de réalisation et de distribution de bénéfices constituaient, certes, des critères nécessaires mais toutefois insuffisants pour parler d'une activité non-économique et que le droit européen de la concurrence ne serait pas applicable.

Au cours du premier trimestre 2001, différents organes constitutionnels, des partenaires sociaux et des associations d'action sociale ont également soumis des prises de position sur les défis liés au rôle des services d'intérêt général dans le marché intérieur de l'Union européenne. Sont cités à titre d'exemple les avis du Conseil fédéral (16.02.2001), du Comité régional des oeuvres sociales privées de la Rhénanie du Nord Westphalie (23.02.2001) ainsi que de la Confédération allemande des Syndicats (DGB) (également en février 2001).

Les récents développements et les activités au niveau européen et national

Après la tenue du colloque du 5 octobre 2001 à Bruxelles, la Commission a présenté pour le Conseil européen de Laeken un projet de rapport relatif aux «Services d'intérêt général» (17.10.2001) [KOM (2001) 598] qui a été adopté par le Conseil européen. Les services sociaux n'y ont pas trouvé une mention spéciale. Dans son rapport, la Commission a annoncé de nouvelles mesures visant à améliorer la sécurité juridique et la trans-

parence dans l'application des règles sur les aides d'Etat pour le financement de prestations d'intérêt économique général, ainsi que le système d'évaluation de la qualité de ces services dans l'intérêt des citoyens (pour plus de détails, cf. l'IP de la Commission du 17 octobre 2001 «La Commission européenne veut promouvoir des services d'intérêt général de haute qualité en Europe»). Dans ce rapport, la Commission souligne son engagement à maintenir et à développer des services d'intérêt général de haute qualité en Europe. Elle conclut que les dispositions actuelles du traité CE sont suffisamment souples pour tenir compte des spécificités des services d'intérêt économique général. Dans le domaine des aides d'Etat, la Commission envisage d'adopter en 2002 une approche en deux temps et élaborera dans un premier temps des lignes directrices sur les aides d'Etat pour des services d'intérêt économique général (voir n° 34 du rapport). Dans un deuxième temps, il est prévu d'exempter, par un règlement, certaines aides du domaine des services d'intérêt général, de l'obligation de notification préalable sous la forme d'une exemption par catégorie (voir n° 35). De surcroît, des mesures complémentaires sont prévues. Elles visent à clarifier davantage les règles et principes communautaires applicables à la sélection du fournisseur de services d'intérêt général (voir n° 39 à 45). La qualité des services d'intérêt économique général doit être contrôlée régulièrement grâce à un système de rapports se basant sur des méthodes d'évaluation qui doivent encore être définies (voir n° 47 à 53). Une autre communication sur cette question a été annoncée pour le courant de l'année. Elle vise à faire progresser la création d'un cadre juridique général pour des services d'intérêt général, art. 16 du traité CE. Ceci concerne directement le domaine d'application des règles communautaires du marché intérieur et de la concurrence sur les services sociaux. De nouveau, il s'agit de savoir comment distinguer une activité économique d'une activité non-économique, quels sont les critères à retenir pour une restriction du commerce intérieur et quels cas de bagatelle faut-il prévoir.

Du côté allemand, les étapes suivantes ont été de nouveau accompagnées de façon intensive et en temps réel, ce qui s'est traduit tout d'abord par un avis rendu par le Gouvernement fédéral et concerté avec les piliers de l'Association allemande. Il portait sur le projet de rapport de la Commission européenne (02.11.2001), ou sur le rapport au sujet des services d'intérêt général de la Commission européenne à l'intention du Conseil européen de Laeken (05.11.2001). De plus, les développements les plus récents sont repris dans un avis présenté par le Comité fédéral des oeuvres sociales privées (BAGFW) le 20 novembre 2001 et intitulé «Les services sociaux non-lucratifs en Europe - avis du Comité fédéral des oeuvres sociales privées (BAGFW) à propos de l'état actuel des délibérations de l'Union Européenne (UE) sur les services d'intérêt général». Le 12 décembre 2001, le Conseil fédéral a finalement adopté à l'occasion du Conseil européen de Laeken une nouvelle résolution relative aux services d'intérêt général dans laquelle il invite la Commission à présenter en 2002, en étroite concertation avec les Etats membres, un cadre communautaire pour les aides d'Etat dans le domaine des services d'intérêt général. D'après le Conseil fédéral, ce cadre juridique doit faire ressortir la responsabilité qu'ont les organismes nationaux, régionaux et locaux gérants des services d'intérêt général dans l'évaluation de ces services.

Perspectives

Ces initiatives illustrent – du moins du point de vue des acteurs allemands - qu'il existe toujours un besoin de débat et de clarification concernant certains aspects et certaines questions liés à la dimension européenne des «services d'intérêt général» et en ce qui concerne les nouveaux défis à relever pour la prestation des services sociaux.

Une manifestation d'information organisée conjointement par le Comité régional des oeuvres sociales privées du Basse-Saxe (LAGFW) et la Bank für Sozialwirtschaft (BfS) de Hanovre s'est tenue le 6 février 2002 à Hanovre et portait sur «Les services sociaux et l'intégration européenne – la nouvelle communication relative aux services d'intérêt général et ses conséquences pour les oeuvres sociales en Basse-Saxe». A cette occasion, un représentant de la Commission a expliqué la démarche et les positions de base adoptées dans le cadre des activités mentionnées. Les acteurs régionaux et nationaux impliqués ont été de nouveau invités à engager un dialogue intensif sur les questions de fond avec la Commission.

Le colloque sur les défis futurs et les perspectives européennes des services sociaux a, certes, permis d'aborder un grand nombre de points, toutefois, certains aspects n'ont pu être approfondis par manque de temps. Ainsi, de nombreux participants ont accueilli très favorablement l'idée de poursuivre le débat dans un cadre similaire. Ceci permettrait de continuer la coopération intensive et constructive qui s'est développée entre la Commission européenne et le BMFSFJ ou l'Observatoire pour le développement des services sociaux en Europe, lors de la conception et la réalisation du colloque, qui représente un élément de coopération tout à fait innovateur dans le cadre de l'Union européenne.

Francfort/Main, 25 février 2002

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III.

**Positionspapier, Fragenkatalog, Hintergrundpapier/
Position paper, list of questions for discussion,
background note/
Avis, liste de questions, note de base**

**Central Organisations of Non-statutory Welfare Organisations/Central Association of Local Authorities/Federal Ministry for Family Affairs, Senior Citizens, Women and Youth of the Federal Republic of Germany:
Joint position paper**

“Social Services in Europe – Their Contribution to the Services of General Interest and Social Protection in the Member States of the European Union”

Social services are indispensable elements of social protection and social security in Europe. They form part of the tried and tested structures and institutions that are committed to the providing of Services of General Future to the people in the Member States by executing specific tasks in the interest of the common weal.

Particularly children, young persons, families, older persons and individuals in special life situations require social services. They have a major importance for the individual life organisation of broad segments of the population and for the productivity and quality of life of a modern society.

Social services are mainstays of the social protection systems in the European welfare states. At the same time, they serve to translate into reality the laws that make a welfare state. They are delivered by a wide variety of local authorities, voluntary organisations and associations, whose co-operation with the European Union has already been acknowledged in the Treaty, and they have a large range of organizational features. Social services employ qualified staff and are thus pools of professional competence. Their professional staff provide these services in concrete life situations to members of all segments of the population and problem groups in our societies.

Multiple changes, such as demographic transition, the socio-structural change in living conditions and forms of living, the modernisation of gender roles, the shifting of values, as well as altered economic and fiscal framework conditions involve profound challenges for the social services. They can repercute on the legislator, the administrative authorities as well as on the entities that bear the costs of social services, the organisation of the services and the responsible institutions, the professionalism required and the concrete service items themselves.

Social services are largely based on the local and regional levels and come under the responsibility of the Member States and their territorial authorities. The Member States have tight-meshed and historically evolved systems of social services that have substantially contributed towards their social development. But these services are also indispensable contributors towards fulfilling the aims and tasks of the European Union as spelled out in Articles 2 and 3 of the Treaty Establishing the European Community, by which all Member States are bound, such as ensuring a high level of social protection, equality between men and women, raising of the standard of living and quality of life as well as economic and social cohesion. Social services are first and foremost the object of national policies. Moreover, they are directly or indirectly affected by a number of Community policies pursued in other political fields.

Both the challenges faced by all Member States and the intensified co-operation among the latter in the social arena as a result of the European Councils of Lisbon and Feira render it necessary for the issue of social services to be incorporated into the European debate as a separate element of social protection. Social services not only have an immense significance in terms of social policy and national economy, but also play an important role when it comes to implementing employment policies and combating social exclusion at the local level.

It is important/indispensable to (We must) jointly consider which policy the Member States and their institutions responsible may pursue to live up to the importance of services and cope with these challenges jointly with all players involved.

The Member States should intensify and build policies that:

- are able to guarantee that the Member States retain a comprehensive network of high-quality and universally accessible array of social services in the future;
- continue to ensure and extend a pluralistic service offer by local and voluntary non-profit-making providers that secures the persons seeking assistance the maximum freedom of choice. Particular attention should be awarded to the role and importance of non-governmental organisations;
- set up and extend a partnership-based co-operation between non-governmental and governmental institutions;
- promote the exchange and sharing of ideas and information about issues relevant to a quality-oriented onward development of efficient and effective service schemes among all actors. This should involve the beneficiaries of social services and be responsive to their needs and demands. Particular importance must be given to approaches towards enhancing the involvement of the recipients of social services;
- work towards the creation of an integrated spectrum of social services;
- ensure that sufficient information is made available to the service users;
- promote and encourage the professional discourse among the operators on issues pertaining to the planning, setting up and modernisation of the services;
- regularly examine the framework conditions obtaining for the providers of social services and ameliorate them, where necessary;
- take into account the special situation of social NGOs that execute a wide diversity of indispensable functions of the civil society in addition to providing social services;
- step up the promotion of research and scientific co-operation in this field;
- ensure that sufficient official data are made available.

Under the direction of the European Commission guidelines and objectives for political discussion and as a basis for formulating appropriate policies in the European Union should be discussed and agreed upon, incorporating corresponding measures. These should be drafted in line with national legal provisions and customs, but at the same time open up new perspectives of cross-border co-operation and implementation of Community social rights. Implementation of the measures is first and foremost a task incumbent on the Member States.

Berlin, 13 September 2000

Peter-Martin Smith
European Commission/Group of Policy Advisors

Seminar on the future of social services in Europe, Brussels, 5 October 2001: Some questions for discussion

The basic issue to be addressed by service providers, users and public authorities at the European seminar revolves around the question of how to ensure high quality social services at an affordable price to all of the population in the future. Since there is no obvious answer to such a question there remains very substantial subject for debate among all the interested actors. In order to stimulate debate, the following is a non-exhaustive list of possible question related to the underlying issue. Speakers and participants are not expected to follow this list which is provided only.

1. Challenges facing the provision of social services in Europe

Are current systems of provision sustainable (socially, politically and financially)?

Do existing systems meet the needs of users?

How have risks changed and do social services reply adequately to the risks that the population faces today?

Will entitlement to certain services continue to be linked to employment status in future?

Which is the optimum combination of universality, quality and cost of social services?

Is cash a proper substitute for care in public provision of social services?

2. What type of social services for the future?

What changes need to be made to European systems of provision for health care?

Is unemployment insurance an effective instrument for protection against loss of employment?

Will public pension systems prove adequate in meeting the needs of an ageing population?

Can minimum income provision adequately protect against poverty?

How well are the needs of the disabled being catered for?

Are the specific needs of working parents being properly met?

Will ageing change the nature as well as the quantity of social services required?

How do extensive periods out of employment affect the demand for social services?

3. How can services best be provided?

What role can the family be expected to play in future for the provision of care?

Will the market play an increasingly important role in social service provision?

Does voluntary work substitute or complement publicly or privately financed provision?

What do we mean by quality in the field of social services and how can it be ensured?
How can users be associated more closely with the definition of services on offer and the forms of their provision?

4. What role for Europe?

Should convergence between different European systems of provision of social services be promoted?

Do some national systems seem to cope better than others in meeting current challenges?

Is there such a thing as best practice for social services?

How do European Single Market and competition policies affect the current provision of social services?

Will the changes currently in the pipe-line lead to increased conflict between providers of social services and European rules?

Is it possible to conceive of competition between service providers on a non-market basis?

Brussels, 21 September 2001

Dr. Georg Albers/Hans-Georg Weigel
Observatory for the Development of Social Services in Europe

The Future of Social Services in Europe

Background paper for the Brussels seminar prepared by the Observatory for the Development of Social Services in Europe

Introduction

Social policies and social service delivery and finance systems in the European Union are undergoing far-reaching changes and are facing major challenges, which will become even more acute with the scheduled accession of countries from Central and Eastern Europe. Behind these changes lie multiple causes, such as demographic transition, socio-structural change in living and working conditions, the modernisation of gender roles, changing values, as well as altered economic and fiscal framework conditions. As a consequence we can expect both an increase in and shift in the type of demand for personal social services of all kinds.

Given that social policies at the EU level and in individual Member States are likely to change over the coming years, it will be necessary to develop effective and innovative policies, to test different policy scenarios, to explore the implications and effects of policy decisions on the quantity and quality of social services supplied.

As recently as ten years ago, policy-makers and scholars could work on the assumption that social and health policy were largely a matter for Member States and purely of national concern. Initially, and according to the Treaty of Rome, the EU had only a most limited competence in social affairs. This changed with the Treaties of Maastricht and Amsterdam, when EU competencies were somewhat expanded. Especially, the European Councils of Lisbon and Feira intensified co-operation among the Member States introducing the new instrument of the "Open Co-ordination" in order to steer the modernisation of social protection by Political Guidelines. This rendered it necessary for the issue of social services to be incorporated into the European debate as a separate element of social protection.

Within the framework set by the Maastricht and Amsterdam Treaties, social security, health care and social services will be organised according to the principle of subsidiarity. This means that the EU would gain only as much legal and political competence as needed, whereas Member States would retain the highest level of policy-making capacity possible. At the same time, however, this basic framework is being tested from various sides.

The relationship between the application of European competition regulations and the maintenance and improvement of EU member states' established structures for services of general interest is one topic of last years' Communication from the European Commission on services of general interest. Concerns have been expressed by not-for-profit providers in Member States as to the provision of social services and Community

action. The European Council at its meeting in Nizza has taken note of the Commission communication on services of general interest and invites the Council and the Commission to continue their discussions in the framework of these guidelines and the provisions of Article 16 of the Treaty. The European Council notes the Commission's intention to consider, in close cooperation with the Member States, ways of ensuring greater predictability and increased legal certainty in the application of competition rules relating to services of general interest. The Council and the Commission will report on the implementation of these guidelines for the European Council in December 2001.

1. What are Social Services – the question of types and definitions

What is the core of Social Services? This is not an academic question but a major policy issue. Social rights are realised by social services. Unfortunately, cross-national understanding of social service systems in Europe and their different policy implications remain very incomplete. Definitions of social services vary across countries and within them. This can be seen as a major handicap to a European approach to problem solving.

Although it will be very difficult to reach an agreed definition, it may be worth starting with a working definition, which tries to include different dimensions and points of views. As opposed to the very wide definition of social services adopted by the United Nations, it would be useful to reach a basic definition that can illustrate and throw light more specifically on social systems in Europe (or more narrowly those of EU members). Therefore the proposed definition of social services is as follows:

Services relating to persons are characterised by simultaneous and location-specific interactions between two persons and/or groups of persons with different needs.

Social services are professional services performed by social workers and social education workers, as well as by volunteers as part of the civil society.

Social services are provided by for-profit and not-for-profit organizations as well as local authorities.

Social services are organisational structures which constitute the general institutional (legal, contractual and financial) conditions for the remunerated professional rendering of social services relating to persons.

The social benefits system of a welfare state includes the totality of rights stipulated by law including types of benefits, competent organisations with the responsibility to provide the insured with benefits and financing.

Social services produce personal services, which are characterized by the integration of clients into the process of production. Production and quality depend greatly on the interaction of providers and clients: production and consumption occur at the same time.

This working definition should provide a starting point for further debates on a way to build consensus about what we all mean when we talk of social services.

2. Who delivers social services – the welfare mix issue

Does it matter who is providing social services? In every country of the European Union we have a different form of the welfare mix. This means that the type of organisation producing welfare goods differs widely. Although we are not confronted with the extremes of a state monopoly on the one hand and of a pure market situation on the other hand, nearly every variation in between is found, with different involvement of not-for-profit organisations as service providers.

The remarkable thing is that the situation is shifting in almost every country. Those where traditionally social services have been delivered mostly by public authorities are tending to change towards a structure, where NGOs or for-profit providers are given a bigger part. To a smaller extent, this can also be found the other way around. In this context, informal service providers play an important role. Some countries are moving away from strong traditions of informal provision and some are returning to a more self-help orientated policy.

What has not been answered up till now is which kind of welfare mix is the optimum in order to produce accessible and affordable social services of a high quality standard. It seems that in almost every part of Europe there is a trend towards free market provision. But there are different points of view whether this is a positive development or if this is a danger. Equally strong is the trend towards greater use of the voluntary and non-profit sector. Especially the voluntary sector may substitute for care within families or provide services that neither public administrations nor private firms are willing and able to do. The question of who is bearing the financial responsibility is essential in case of not-for-profit provision of social services.

In this respect, the question is not about whether social services should be provided by for-profit-organisations at all. But it is more related to the issue, which type of service production should dominate. This leads to the question of the responsibility for and the purpose of social service production.

3. How social services are provided – the quality issue

All over Europe, there is a growing concern on quality issues. With the reshuffling of responsibilities and increasing competition between providers, it is not always clear just how standards are to be set, by whom, or who is to enforce them. There is a need for high quality standards for all people. In addition, the increasing number of for-profit services and the increasing reliance on user fees in not-for-profit services both pose different challenges for regulation and threaten the precarious link between quality and equity of service provision.

Quality debates apply to all social service areas but have become particularly prominent in fields where over-demand poses the greatest challenges, as in care for the elderly in a rapidly and disproportional ageing Europe.

The call to explore and improve quality, efficiency and effectiveness of social services in virtually all countries also stimulates several other areas for debate.

One area concerns employment in social services: the need for greater professionalisation among both paid and voluntary workers, improved methods of staff recruitment and greater attention to the implications of promoting informal social service work which tends to be done by women.

A second area of concern is the current lack of coordination in the regulation of social services. Ways of improving coordination and cooperation across providers, target populations and programs are currently under debate on a national level and are increasingly becoming European level issues.

The third area of importance in current debates on quality concerns innovation. There is a great potential and need for cross-national learning from the evolving responses of EU Member States to similar social problems, such as innovative approaches to dealing with social exclusion, promoting participation, and strengthening client-orientated approaches and client rights.

4. Social services for what and whom – the democracy and policy issue

Social services should be universal services available to all citizens according to their needs and their rights. Against this background different categories of social services exist such as child care facilities available to all families or services available to elderly and their families. One of the main reasons why social services are needed at all is to provide a higher degree of social cohesion. This is a major challenge in all European countries. Social services become in this respect a tool for fighting exclusion and contributing to the search for more social justice.

There is an obvious link to the democratic question. Only people who are included in society are truly citizens with all rights. Social services are situated exactly at this link. They are some kind of intermediate agencies which are supposed to close the gap between excluded individuals and the society.

Democracy can't work without social justice – and social inclusion is a precondition for social justice. Therefore social service providers can not just be a normal enterprise – they have a politically relevant function as an enabler for socially excluded people to participate in society.

This doesn't mean that for-profit providers can't fulfil this function. But the control of this function needs more attention than the work of "normal", commercial enterprises in any other field.

An important question for the future is the limit on the ability of national budgets to finance ever more costly social services and the search for alternative methods.

Restricted public funding stands in contradiction to the rights of certain user groups to specific services as defined in legislation and to citizen's expectations for quality services. However, there is a corresponding reluctance of citizens to agree to higher levels of taxation to finance such services. As a result, we need a model of social services which can be financed under current conditions but which meets a modern definition

of social services that cover the needs of all citizens, particularly the most vulnerable persons but open to all.

This raises the question who is to guarantee the access of excluded people to social services. Is there any European consensus on the respective roles of the Member State and of the European Union in this respect?

There are not only legal differences in guaranteed rights all over the union, but there might be a different understanding in how far this issue is central for the innovation debate. Are innovations mainly orientated on cost cutting or is the main objective the improvement of access?

Frankfurt/Main, 27 August 2001

IV.

Beiträge der Experten/Papers of the experts/ Contributions des experts

André Sapir

European Commission/Group of Policy Advisors; Université Libre de Bruxelles

Welcome and introduction

I would very much like to welcome you on behalf of the Commission and the co-organisers, the German Ministry and the Frankfurt Observatory. I'm delighted to welcome everyone to this meeting, which indeed is a great novelty. It's a great opportunity to meet such a wide range of actors.

I think we can all agree that this is a very timely meeting because everywhere, and probably especially in Europe, social services are undergoing very important changes. It may be useful to recall some of the main drivers of these changes, some of the fundamental elements that are of importance here. As we see it, there are a number of them.

First, there is a whole variety of what I would call socio-economic factors. The first one, the most obvious one, is the aging of the population. Throughout Europe – at different rates evidently – the population is aging very rapidly. On the whole, this means a great increase in the demand for social services, and a change in the composition of this demand. Additionally, within all of our societies, there are also slow, but nevertheless great changes in household composition, which also have great implications for demand for social services. And related to this point is obviously the issue of female participation in the labour force.

Now, these three elements – the aging of the population, the change in household composition and the greater participation of women in the labour force – all interact with one another. Moreover, the interaction between these social changes and the demand of social services goes in both directions. This is perhaps clearest in the case of the participation of women in the labour force. The participation of women impacts on the demand of social services, and the supply of social services obviously impacts greatly on the participation of women in the labour force. We have to keep these factors in mind as we all recall the Lisbon targets, which aim at increasing the rate of employment in all our societies by as much as ten percentage points over a period of ten years. So the interaction between the achievability of the Lisbon goals and the social services that underpin this achievability is clearly very important.

Now besides changes of a socio-economic nature, there is a broader trend: all the transformations that are taking place as a result of technological change, globalisation, and all factors implying structural change. Structural change is not going to slow down in the future. It has been quite rapid over the last ten or twenty years, and one may

expect this to continue. Structural change brings a lot of benefit – better reallocation of labour, higher productivity, and greater efficiency – but it also involves a number of social costs. There again, social services have an important role to play both in facilitating social change and also – as we certainly have seen in the last decade – in helping those groups of the population that are marginalized, or at risk of being marginalized, and that are making a greater demand on social services.

At the same time we see that, on the whole, productivity in social services – in services in general but probably in social services in particular – has risen less rapidly than in other sectors of the economy. In a sense, this means that the share of GDP devoted to social services is increasing. So there is increasing demand, and at the same time the fact that productivity is rising less rapidly in the provision of social services than elsewhere in the economy means that expenditure on social services, or the share of income devoted to social services, has been rising faster than GDP.

Another aspect of the issue is that on the side of the providers we have a variety of actors throughout Europe. We do not have only public actors, the public social services, even though they generally provide a big chunk of services, but we have two other kinds of actors: one which is very well represented in this room, i.e. the NGOs, and then a third category, which is not actually represented here, the private providers of social services. And so we see that not only is there in our different countries a different range of service providers, a different role being played by these three types of actors – public, private and NGOs – but also that the relative importance of those three types of actors is in a state of change.

Now if we focus for a moment on the public providers, we see that public provision of social services is funded through taxation. We have different traditions in our different countries about the way we go about doing this, about the kind of taxes we use, – social security taxes or general taxes – but in any case financing comes to a large extent from taxation. Now if we are faced with rising costs for the reasons that I described before, we must ask ourselves how we can finance our social services, and in particular how we can finance them via taxation. Does this mean that we need higher taxation? This problem has now been recognised very widely, not only by people involved in social services, but also by finance ministers and heads of state. This is what people often refer to as the sustainability of public finances. With an aging population and rising demand for social services the cost of which is rising more rapidly than general income, there is clearly pressure to the extent that those services are provided particularly through public financing.

The efforts undertaken in all of our countries, mainly in the run-up to the Monetary Union in the course of the last decade – putting order in our public finances, cutting public deficit, cutting the public debt – are certainly helping, because as a result one item on the budget, i.e. repayment of the debt, the interest burden that we have to face, has decreased. That is indeed what we need to do in order to ensure the sustainability of our public finances in the face of this inter-generational problem caused by the aging of the population. So from the wider perspective of public finances, the steps that have been taken have certainly been in the right direction. But nobody believes that what has been done so far is sufficient: we have started tackling the problem, but more issues are emerging.

Speakers during the day will have great opportunities to present some of the other challenges. But perhaps I should say a word here about the policy side.

It is clear that policy-makers' interest is not only from this public finance side, the sustainability of public finances and making sure that indeed resources are sufficient in order to provide services of quality. That is certainly the aim of all our Member States: to have services of high quality, to have as universal as possible a coverage, and to maintain the balance of our public finances. But there are also issues of a regulatory nature concerning both all of our national governments and national actors, and, one has to recognise it, Community actors. We will be hearing about that at the end of the day, including the Commission's views in this matter.

So maybe I should repeat what Rob Anderson said about the goals of the workshop: our goals, the goals of the Commission, the goals of the group of policy advisers in convening this meeting together with our co-organisers, I think the agenda is very clear: to bring people together and to have an exchange of views. As the Chairman said, it is exceptional that we have been able to bring together such a wide variety of actors from the provider side, from the user side, and also from the side of government, both national governments and the Community instances that are involved here. Of course nobody thinks that the goal of meetings such as this is to try to come up with a unique solution. In matters of social services, and in matters of services of general interest throughout Europe, we have different histories, we have different cultures, we have different issues. So all of us have to work within our own environment, but at the same time we do face common problems, some of which I expounded on in my introduction. Perhaps the general environment and the drivers of change that I mentioned earlier on are shared by all of us, but they impact differently in our different countries given our different histories and our different organisation.

And so our purpose is precisely to listen and have this exchange of views as to your experiences. Relate your experiences to one another and try to see what can then be achieved back home, in a sense, based on this exchange of views. This is why the workshop has been structured so that after introductory remarks within each session there's plenty of time for the discussion. We want to encourage all participants here to be very active in the discussion.

Now maybe one last word in closing: As the Chairman indicated, all of you have received a file with a number of documents: one document prepared by the Frankfurt Observatory, and one document prepared by Peter Smith in the group of policy advisers, whom I want to thank for all the work in the organisation of this seminar. He's really been the key person here. This is a document you may want to use in the debate: the questions discussed are questions the group of policy advisers thought would be useful, but obviously you are free to discard this document and to say that you feel that the issues are not those that have been laid down, and that the real issues are elsewhere.

So without further ado I will give back the floor to the Chairman and wish everyone a very fruitful seminar.

Gøsta Esping-Andersen

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Challenges facing the provision of social services in Europe

André Sapir has more or less laid out exactly what I thought I was going to say, and he has done it better than I am able to. So there was a moment when I thought I should maybe just go back home. Some of the themes I am going to take up will be quite repetitive of what André Sapir has just said. I am going to elaborate maybe a little more on some of the issues and end up with one of the questions that I think are still very open, namely, how are we going to finance a need that objectively exists: services for the frail elderly. I should add in parentheses that the question we are dealing with here is almost totally parallel to the other great issue facing Europe today: how are we going to finance and establish an ample network of services for children. The issue is just about the same, and I think the answers end up being very similar. So, if anyone is concerned about how Europe should increase its supply of day-care and other services for children, the answer will be just about the same.

I think that standard economists would start with a kind of puzzle: if there is a growing need and growing demand for services, then supply ought to follow. And this clearly is not really happening in social services. Many people have been trying to figure out what is going on. The answer boils down to three or four factors.

The first of these factors is: there are positive impulses in society that should stimulate the growth of services in their own right. One is that we are getting wealthier. The richer we are, the more we are able to devote resources to non-basic essentials like eating and a roof over our head. The same goes for families: the richer a family, the more they are able to buy themselves nannies and day-care, or services for their elderly. The question in the long run is how much our wealth is going to grow over the next twenty, thirty, forty years, when the crunch gets worse than it is today. That is, can we rely purely on economic growth, on income growth? The answer is probably no.

And that leads us to the second driving force that André Sapir discussed in greater depth, namely the problem of the productivity lag, or what many people call the cost-disease problem. Here I have a table that illustrates the problem of the productivity lag in two kinds of services.

One is personal services, or consumer services – eating out, entertainment, laundry services and the like, car wash if you want – and the other is social services: services to children, families, the elderly, and health. Now this shows a medium-longer-run trend in the relative productivity of these services compared to manufacturing by showing changes in the ratio of productive output in these two service areas. What you can see is that there are minuses just about everywhere, and in some cases very big minuses. That is an indicator for the scope and intensity of the problem of this productivity lag, or gap, between the different types of services and manufacturing. This is exactly what fuels the problem of how we should pay for our services. The services easily price themselves out of the market, and any mother who happens not to live in Scandinavia or

Table 1: The growing productivity gap. Trends in the ratio of service-to-manufacturing productivity 1983–95

	Personal services	Social services
USA	-47	-62
Denmark	-30	-2
Sweden	-60	-54
France	-41	+4
The Netherlands	-19	-28

Note: Productivity = GDP per person in constant prices. Trend measures percentage changes 1983–95

Source: OECD data files on service statistics on value added and employment

France will know that private day-care for her small children is probably out of the reach of the family budget, at least if they are a median-income family. It is simply too expensive: about 10 million lire a year in Italy and the equivalent wherever else you go in the private market for child-care. The same goes for elderly care. A full-time nurse with professional qualifications to deal with an Alzheimer's-afflicted elderly – no family will be able to afford that unless they are extremely rich. The problem accelerates over time, and that is why families individually will have difficulty financing it. But this acceleration also affects the alternative, or one of the great alternatives, namely public provision. Only here it translates into a need for additional tax revenue to cover the additional cost of services over time. No matter, therefore, whether there is loss of consumption for the family, or whether this loss is subsidised away by the government: in the long run it comes through the back door in terms of the difficulties governments have in financing expanding social services.

There is a third group of driving forces, an umbrella for various basic factors, some of which André Sapir also mentioned. But there is one in particular that I would like to note: the changing nature of households themselves. Perhaps this could be discussed in terms of the time constraint of families. Families are no longer able to self-serve. In the "old" society, when our parents or grandparents were young, self-servicing in families constituted 99.9 percent of social servicing in Europe. It was daughters or grandparents or other kin that did the caring for their family members. As 80 percent – as in the case of Denmark, or close to that in many other countries – of women are now working, time available for care work in the family is disappearing very rapidly and very dramatically. Furthermore Europe's employment objectives are likely to entail a reduction of time available for caring within families.

There is another factor which can be put under the umbrella, namely that the nature of the need is changing and the risk increasing due to longevity. That is, the very intensive needs of frail elderly are becoming more intense by the very fact that people are living longer. So Alzheimer's disease, for example, may afflict a larger number of people for a larger part of their life.

There is a fourth factor that economists usually forget but I think is crucial here, and it has to do with income distribution. We can think of two extremes: a very unequal income distribution à la Latin America. The rich have a lot of money and they can 'service themselves to death' as they are able to purchase the services they need. But the problem is that the service providers are extremely badly paid; consequently, the great majority of workers will be unable to afford the services they themselves produce. I think the United States is moving in a Latin direction: increasingly unequal distribution of income, and a growing number of families unable to afford services. On the extreme opposite side, the problem could be defined as a too egalitarian distribution of incomes basically indicating a fairly equal distribution of wages. If you have a very equal distribution of wages – as in Sweden for instance – you have the problem of very high labour costs. Production of services therefore becomes very expensive.

These four factors all influence, over the long and medium haul, the ability of economies to increase social services. I think the most crucial factor is the changing role of women in society. This is, I think, the starting point for how we deal with the policy dilemmas.

Now there are four, and only four, possible ways how we can produce welfare in our society. We can produce it in the family, which is the traditional mode; we can produce it in the market, by purchasing ourselves a nanny; we can produce it in non-profit, non-market type NGO activities; and finally we can produce it in the public sector. When we discuss policy-making we usually are overly fixed on what the government does or does not. I think that in order to get a good analysis we need to look at the combination of these four possible sources of welfare production. We might also think of it in individual terms: the package of welfare that any individual in our society has is actually a combination of inputs from these four sources.

As I said, traditionally, care for the frail elderly was almost exclusively familialised. This is still very much the case in southern Europe, in Japan and also in large parts of continental Europe. The problem now is what I would call acute family failure due largely to the changing role of women but also to the changing nature of the need: an increasing demand for intensive caring. No normal family member can really take care of a person with advanced Alzheimer's disease. The task is simply too overwhelming. Some countries – with Scandinavia in the lead – defamilialised servicing and caring as early as thirty, forty years ago. Other countries seem not to have followed the trend, and this may be because alternative means of providing the services were available. One such means might be the market. Markets of course work, but very imperfectly, precisely because of the cost problem. Services are priced out of the market for most families. As a rule of thumb we might say that families with median or less than median income are simply not able to afford the kinds of services they need. There are countries – the UK and the US stand out – where market provision of caring for the elderly is quite prominent, about 30 percent in the US and more or less the same, 25 percent, in Britain.

The bottom line so far, if our aim is to satisfy a growing need for services, seems to be a double 'family and market failure'. If there is failure, one could say, well, let it be. It is an individual problem, let families deal with it as they like. But the problem is that this has very severe collective social repercussions. The most severe one might be called the

poverty trap: those families that most desperately need to augment their labour supply in order to rise above poverty or increase household income, typically through the wife's labour, are the ones least able to afford the caring market for either child services or services for the elderly. In other words, the failure to assure adequate provision of care for children or for the aged will probably enhance poverty risks and inequalities in our society, perhaps reproducing them by locking a large number of families into a poverty trap. In this sense there is a collective as well as an individual problem associated with the lack of care.

Non-profit alternatives are very much being discussed in Europe today, and some countries – I think Germany stands out here – do have a very large network of non-profit-type care organisations. Going beyond Germany and looking at the advanced world at large, one begins to be more cautionary about the role of NGOs or similar organisations. One of the basic lessons is that they usually require very heavy public subsidy in order to be able to function. The second generally obvious lesson is that they require personnel that is as professionalised as in the public sector, and that means very high costs. This is one reason for the need for subsidies. And in some countries – I would suggest Italy as a model, a bad model – NGO organisations seem to function best where they are least needed and worst where they are most needed. In the Mezzogiorno, for example, non-profit-type organisations are virtually non-existent. Up in the rich areas of Italy such as Modena, Reggio Emilia, etc., they are very strong. This is a problem which I think is related to social capital.

My personal conviction, and I think many agree with me, is that government is essential if our goal is universal and equal access to care. Exactly what the government should do is less clear, but government cannot be avoided. It can either establish a regulatory framework for professional standards or subsidise away the cost-disease. That of course means tax financing of the services.

Now why has this seemed to work in Scandinavia and not in the rest of Europe? My second table gives some basic overview figures of the huge discrepancies in welfare state servicing intensity in Europe.

	Service-transfer ratio	% 65+ receiving homehelp
Nordic countries	.34	20
Continental Europe	.08	4
Southern Europe	.07	1
USA + U.K.	.09	8 ⁽¹⁾

⁽¹⁾ Public and private

I have simply bunched countries into four groups: the Nordic countries, continental Europe, southern Europe and a US/UK group – and showed the ratios of their expendi-

ture on services to expenditure on income transfers in governments. As you can see, except for the Nordic countries where the ratio is about .34, the other countries are virtually purely transfer welfare states. They hardly service at all. That shows up clearly in the right-hand column, because one of the very intensely needed services in terms of elderly care is home help services, the example I used here. You can see that about 20 percent of 65-and-older households receive home help services in Scandinavia. In continental and southern Europe home help services are virtually non-existent, and there is a certain degree of provision in the US/UK. Again, about a third of that is private and two-thirds is public, and these services are very highly targeted to needy families. It is an old assistance tradition, which is also the case with regard to southern European service provision.

In other words we have a little puzzle here. Why and how do they do it in Scandinavia, and why doesn't it seem to be working anywhere else in Europe, or for that matter in North America?

One of the reasons has to do with financing structure. The general-revenue tax-based welfare states of Scandinavia are much more amenable to financing collective services than are employment-based social-insurance contribution systems such as prevail in continental Europe. A second reason is, I think, a crowding-out effect in terms of public finances. In continental Europe, the very heavy expenditure burdens on pension transfers due to early retirement as a means of managing unemployment over so many years largely crowds out the ability to re-channel money and resources over to more care-intensive expenditure. There is a final reason also mentioned by André Sapir: the Maastricht criteria put another lock on governments' abilities to increase expenditures over the past ten years. All these factors clearly conspire to reproduce this very low level of servicing capacity among the welfare states of most of continental Europe.

However, there are lessons to be learned from Scandinavia, and not necessarily very positive ones. One in particular is linked to the economic difficulties of the Swedish model in the nineteen nineties. Those of you who are familiar with Sweden will have noticed a very dramatic decrease in public services. I think several hundred thousand jobs were cut during the nineties – primarily in the social services of the Swedish welfare state. Although some of them are now being reconstructed, the cuts had secondary effects that were also quite problematic: for example a very sharp decline in female labour force participation and very high growth in female unemployment. If we combine that with a very sharp drop in services, we see clearly the debility of the Scandinavian model, its weaknesses in face of adverse economic conditions or adverse cycles, at least in this case. The very fragile financial basis of the huge apparatus that was in a way the pride of the Swedish welfare state becomes easily threatened under adverse economic conditions. Here we might actually generalise this lesson to the rest of Europe: if we are to establish an adequate network of social services all over Europe, we must count on very good long-term economic conditions in order to sustain our goal.

Now if this is what we want – and I think everybody here in this room probably would like governments in Europe to help the growth of these elderly services that are just as needed as child services – this poses great dilemmas in terms of policy-making. What should the criteria for decision-making be? And how should we finance this challenge?

Beforehand, I think, we have to note that services to the frail elderly, like the added pension burden due to aging, constitute an additional – and I would like to underline the word “additional” – cost of aging. We already have a cost of aging, in the sense of resources devoted to pensions and retired households in general. What we are talking about is an additional cost, and we are fairly well equipped to calculate more or less what that additional cost is. Unfortunately the accountants doing this come up with rather pessimistic numbers, that is, they are very big numbers. The question then becomes how do we cover this additional cost in an equitable way, and in a way that at the same time promotes maximum welfare – because that, after all, is our aim.

First, I think – and this is my position here – we must assume that the goal is an egalitarian coverage of need. I think we need to avoid the poverty traps I mentioned earlier, the collective negative effects of not assuring equality of access to these services. In other words, our goal must be universal provision for those in need.

I also assume that we all agree that outsourcing care is much more efficient than family care: much more productive, much more professionalised. It is therefore in the public collective interest that it be outsourced from the family, or defamilialised.

Thirdly, I think we probably all agree that a preventive policy is preferable to a curative policy. It is preferable for the aged to continue living in their own homes, for us to help them remain in their homes rather than putting them in residential care or in nursing homes. In other words, a preventive policy is probably preferable.

Now, having said that – and people can disagree or agree – how would we allocate the cost? There are basically only three answers. We can allocate the cost to the working-age population through higher taxes on work, on employment. My understanding of the German reform – the recent reform of the care insurance in Germany – is that by and large the German formula has been to shift the additional cost of care for the aged onto the working population through higher contribution rates, a tax on employment if you like. The problem with financing heavily reliant on the working population is that it may have adverse secondary effects. It may, to put it bluntly, eat the hand that feeds us: a tax increase on employment raises the cost of labour, pricing less productive workers out of the market. And this is exactly one of the great employment-side problems that most of continental Europe faces. High contributions associated with employment may have a very negative effect, for example, on youth employment or on employment of less productive workers. In other words, we risk unemployment as a result of too much reliance on financing by the working population. This approach may also be questioned on a strict criterion of equity: is it fair for the entire cost to be loaded onto the working-age population?

We could allocate the entire additional cost onto the elderly themselves. For example, we might introduce a surtax on excess retirement income, i.e. retirees would pay an additional social contribution to cover their own risk and needs. Now many would immediately say this is unacceptable, that we have to safeguard the welfare of the aged. But there are a couple of things indicating that this may be much more equitable than it seems.

One: a large number of pension households in many European countries have indeed excess pension income, or retirement income. In most countries, their income package is generous and high. The median pensioner household, even in countries like the United States or Britain, has about 80 percent of the median income in the population – that is, a very good income position. The share of retiree households with what might be called excess income is also very large. I have calculated that in the case of Italy, a country I know very well, the average retiree household has about a 30 percent income surplus that they don't spend. They retransfer it within the family to the children and grandchildren. We have data also from Germany that tells exactly the same story. Now of course, the children of rich, aged pensioners are very happy about this. I think, though, that if we looked at this as a social distribution mechanism we would conclude that it is a very perverse redistribution of what initially was public money, taxed on the working population. In other words, the working population is being taxed to provide welfare for the aged, and the aged are then funnelling it back, privatising it through intra-family redistribution.

There is a second argument for why financing the additional cost of aging through pensioner contributions might be more equitable than it seems. A progressive surtax on pensioners might be seen as intra-generationally fair – that is, fair among pensioners – considering that rich pensioners are those who were also rich when they were younger, those who are likely to live much longer than the poor pensioners. This would make it a very progressive surtax – or contribution, or whatever you want to call it –, in both senses of 'progressive', on pensioners themselves. The more progressive the better, because that would be equitable and fair.

A third: retirees as a whole might be defined as a solidaristic risk group pooling the risks for their own possible frailty as they march through their – let us say – their retirement careers.

But there are also good arguments for why it might not be equitable to load the entire additional cost of aging on the aged themselves. One of them is that frailty in old age is a life-course risk. It is not just a risk of the aged. It is a risk that probably begins in childhood and evolves through our life as we march through it, albeit in a very unequal way. Some people are probably born with a much greater risk of frailty in old age than others are. If this is so, we probably also need to introduce an inter-generational equity concern – that is, spreading the risk between the generations and also within any given cohort. I don't have a formula for how exactly to spread the risk equitably between generations – I will make one possible suggestion shortly – but one might for example consider a policy that is now being developed in Europe, reduction of early retirement. Part of the caring need might be financed as a dividend of early retirement postponement – that is, a part of the tax savings derived from reducing early retirement might go into a fund that would constitute a base for financing services for the frail elderly.

But there is also one thing that we should not forget in terms of inter-generational equity: those we hire to provide the caring services will be paying a large part of the price themselves in terms of taxation. Thirty to forty percent of the income of a care provider will be automatically taxed in terms of either social contributions or in terms of general revenue for the welfare state. This is exactly why the Nordic model is viable.

The system in Scandinavia is largely auto-financed in terms of both day-care for children and elderly care. The providers – which account for almost the entire cost of providing the services – are paying a large part of the party themselves.

To provoke controversy, I would like to suggest three decision roles as a kind of preliminary conclusion here. Decision role or principle number one would be: privatising care responsibilities would be an obviously cheap solution for government but an awfully expensive solution for society. It should be avoided. And privatising here could mean either unpaid work by daughters or grandmothers, or marketed services.

A second principle – and this one is complicated – would be a criterion allocating the additional financial cost according to a variant of what a very noted economist called Musgrave has called a fixed proportional shares principle. It is not easy to explain exactly what he means by that. The idea is that we take as just any given distribution of the costs of aging that exists between the generations now. Let us say that Denmark, or Germany, or the Netherlands is now rather satisfied that the distribution of the costs of aging is rather fairly and justly distributed among the generations. This country might then decide to lock in its method of covering the additional cost of aging. That is the idea of the fixed proportions principle. We simply follow an allocation decision-making system that says, well, we have arrived at what our citizens deem to be a just distribution of the burdens between the generations. The additional cost of aging or services that are going to be needed will be levied in terms of exactly that system of just distribution that we already have decided upon.

A third principle – and here I would like to jump a bit more into philosophy, or the philosophy of justice – is that as far as care for the elderly and for children is concerned, we have a wonderful win-win situation. Namely, a Rawlesian criterion of justice, which is that any change in the given situation should be to the greatest benefit of those who today are the weakest. It is a very egalitarian principle of justice. If we decided upon following this principle, the outcome would also be perfectly Paretian in the sense that it is the most efficient allocative system that we can conceive. Economists like the word “the Paretian frontier”, and that is exactly what a Rawlesian solution in my view would accomplish. In this sense, there is one piece of very good news in terms of decision-making: a very egalitarian policy is probably also the one that, from a national economic point of view, is also the most efficient.

Only two small points in conclusion. One of them – again, moving from good news to somewhat more problematic news – has to do with the productivity and growth issue that should finance the rise of services in general. It is quite clear that the great productivity dividend that will be needed to finance these services will come from what you might call the hard economy, the very competitive economy, the one that is producing the wonders of economic efficiency and technological breakthroughs etc., that André Sapir mentioned earlier. Now this is a double-edged sword because the more productive the hard economy, the more the gap in productivity will grow between social services and, say, manufacturing, or the go-go economy if you like. That will raise the tensions in terms of the cost problem of services. But on the other hand, the economy needs to be highly productive in order to finance that lag in productivity in the first place. In other words, what this boils down to as far as I can see are potential distribution conflicts that can become very intense indeed between those who are in

the hard economy and those who are benefiting either on the producer side, or on the benefit side in the soft servicing economy. Here I think we have the seeds of possible conflicts that can be very severe indeed. We do see them in Scandinavia in fact.

A second closing point has to do with social accounting. When we monitor the costs of our social policies, including services, we normally examine only government accounts. We look at how much government is spending, and we look for deficits on the government accounts etc. This is wrong accounting as far as the welfare state in general is concerned, and here is a good illustration in terms of services. What would happen if let us say Denmark or Sweden were to privatise all their social services tomorrow? They would disappear from the public accounts and Scandinavian public accounts would look fantastic. And it would be a great savings and I think accountants would look admiringly at those good politicians in Scandinavia. The problem is it would not save them a cent. The burden would just have to be picked up elsewhere. It could be picked up in the market, so households would have to take it out of their own pocket directly instead indirectly as was the case before. But households would not save anything. Or it might of course be taken up again by mothers or daughters or free unpaid family workers, in case of which we would have a huge production loss, and the individual family would have a huge income loss. In other words, again, a very expensive result.

I think the place to start is actually with the European Union's accountants and Eurostat. All of Europe's national accounts systems have to start building an accounting system that is much more transparent in terms of what is the real cost of providing services. Only with that in hand will we also be able to make clearer decisions about whether NGOs are more efficient than governments in providing services and at the same time whether they offer equal quality. Without this kind of accounting system, we will not even be able to answer such simple questions, which I think are exactly the kinds of questions that Europe is asking here today.

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What type of social services for the future?**Outcomes and markets**

If we were asked the question ‘What type of apples for the future?’ our discussion today would be much easier and probably shorter. The characteristics of apples and of apple markets would mean that we might feel inclined to leave the choice of future types of apple to consumers expressing their preferences through their purchases. The basic qualities of an apple can be determined by looking at its colour, smell and taste. If the apple we eat is no good we would not buy that particular variety again. We do not have to worry too much about the motivations of the people selling apples, provided that the product they sell is worth the price they charge. Nor do we have to worry too much about the people who eat the apples, because the great majority have the ability to decide what is a good apple and what is not, and to take their custom elsewhere if they do not get consumer satisfaction.

One of the problems that social services pose for us is that they do not share many of these characteristics with apples or with the vast majority of goods and services. The outcomes of social care are intangible, of long gestation, multi-dimensional and inherently embodied in the user. The provision of social services is often not competitive, and anyway we are talking about an ‘experience good’ in which the quality of the service can only be ascertained by using it, and when the process of switching from one provider to another can be injurious to health and quality of life. It does not matter who provides the care, because we are talking about a ‘relational service’ in which the attitudes that care staff and their managers bring to the interface with users can have such a bearing on quality and outcomes. Moreover, many users of social care are either inexperienced in the market, or through their very needs may not have the capabilities or the opportunities to act as informed, empowered consumers. Indeed, some users of services are there compulsorily or with considerable reluctance.

Responding to user preferences

Although we should not push it too far, the comparison with apples points up some of the major challenges that face us in designing and improving social care systems. The true test of the quality of a social care service is its ability to improve the welfare and quality of life of the people who use it. But it is very difficult to measure those effects. Consequently, when judging whether social care is good or not we have basically three options. The first is to ignore user outcomes and simply rely on measures of service inputs and volume to judge how well we are doing. A second option is to try to assess quality of care, although this is obviously not the same as assessing user quality of life. Thirdly, we can try to measure user welfare and quality of life directly by ascertaining

users' own views. Of course, as already noted, users are not always well placed to act in this way.

Many social care systems across Europe are certainly getting better at moving from the first to the second option, and from the second to the third, but none has yet gone far enough. In particular, none has adequately addressed the need to give users a broad and informed choice; that is, none responds well enough to the needs and preferences of the people who use their services.

Such a situation is unsupportable as a principle for deciding what services to provide. If nothing else, each new generation of users will demand a greater role in the assessment and improvement of service quality. In turn, this will almost certainly mean having to develop new service modes and for existing services to respond to new demands. However, until we develop the means by which we can elicit users' views and the systemic willingness to respond to them, we will not be able to plan what types of social services will be needed in the future.

This is a major challenge in its own right, but it is made more difficult by three pervasive trends in European social care: changes to the mixed economy of care, changes to the boundaries of care, and changes in the supplies of carers. What do these trends imply for the promotion of user choice?

The mixed economy challenge

It is helpful to distinguish three dimensions of a mixed economy of care. The first is funding, where the options include public finance (from taxation or social insurance), charitable funding, user fees and some lesser sources. Over recent years many EU countries have seen quite marked changes in the balance of funding, in particular between tax-based and user funding. The second dimension is provision, where the standard distinction can be made between public, voluntary, private and informal care sectors. A feature of many countries has been the growth of contracting out of public responsibilities by transferring public funds to the voluntary and private sector providers. Third is regulation, where decisions need to be made as to what is to be regulated (inputs, quality or outcomes?) by whom (statutory bodies, users, relatives or independent agencies?) and how (through annual inspections or the contracting process?).

Many countries have experienced significant changes in this mixed economy of care. There has been a move away from what some people would see as bureaucracies to more market-like forms. Reimbursement arrangements have changed, with the intention of realigning incentives and influencing prices, for example. There has been a greater readiness to contract out, and a concomitant shift away from public ownership. And there has been more supply-side regulation to protect users and to improve service quality (Forder, 2001).

How does this changing mixed economy impact on user choice? It potentially has effects in a number of domains. For many people the challenge of the changing mixed economy is to maintain pluralism in service type and/or providing agency, fearing that markets may lead to monopoly provision and the narrowing of consumer choice.

Another fear is that these changes might alter the supply-side, squeezing out providers whose services are highly valued by users but who cannot compete in terms of, say, economies of scale. For a user of a service as personal as social care, it is often important that the care staff and/or the organisation share ethnic group, religion, or culture. Organisational and personal motives can be important too. For example, given the difficulties of judging quality, social care systems are often inherently characterised by a marked degree of asymmetric information: providers are better informed than users as to the nature and quality of the services provided, and perhaps also of some of the likely outcomes. A user therefore needs to place considerable trust in the provider, as does any agency that is contracting with that provider. That trust needs to relate both to the motivations of the provider and to his competence or abilities in delivering care (Kendall and Knapp, 2000)

Another reason why the changing mixed economy could impact upon users and their opportunities to influence service volume and quality is because we still do not really know the future shape of competitive social care markets. In the UK, for example, there has been quite a rapid rate of closure of small care businesses, particularly those providing residential care for older people, and quite rapid growth in the market share of corporate providers. But the market has certainly not yet settled down, and we do not know what will be the impact on the quality of care, the range of choice and so on. Similarly, we do not really know what are the long-term effects on voluntary or non-profit organisations delivering services. A number of people have expressed fears that market forces might damage the comparative advantages of voluntary agencies, these advantages being pivotal in attracting public funding. For example, an organisation that provides a distinctive service responsive to the preferences of users might find itself forced through the contracting or regulatory processes to deliver services that are more and more similar to each other and to those in the public sector (what DiMaggio and Powell, 1983, famously called 'coercive isomorphism'). The transaction costs of regulation and contract agreement might similarly erode the comparative cost-effectiveness advantage for non-profit providers. The famous flexibility of many non-profit agencies, as demonstrated in their ability to innovate and respond in some ways to the needs of users, might also be compromised by a more interventionist contracting framework (Kendall and Knapp, 1996, ch. 7; Kendall et al., 2002).

The boundary challenge

Many social care users have multiple needs, leading to their use of multiple services, perhaps delivered by multiple agencies. One of the major concerns of social care systems in European and other countries has been to put in place coordinating mechanisms at strategic and individual levels in order to ensure that needs are responded to effectively, efficiently and equitably. A good example would be the development of case or care management arrangements, handing responsibility to individual professionals to match services to the assessed needs of individual people. Another example would be the growing emphasis on strategic inter-agency coordination and joint funding.

These coordination challenges are enduring, but they are made more complicated by the tendency of boundaries to move. For example, the boundaries between social care, health care, education, housing, income maintenance, pensions and criminal justice

are all pertinent to various groups of social care users. Well-intentioned and often successful public policy reforms that shift one or more of those boundaries, often with the intention of improving the overall responsiveness of the public system to the multiple needs of individuals and communities, can complicate matters considerably. For example, the widely supported closure of remote, run-down long-stay psychiatric and 'mental handicap' hospitals in many countries has raised a whole new set of tasks for social care agencies. These agencies are often the primary carers for former hospital residents, but they also have the task of ensuring that individuals get appropriate access to the health care, housing, income support and other services for which they have a need and to which they have a right. These boundary difficulties pose major questions for care agencies and professionals. Think, then, what challenges they pose for individual users.

A short diversion is perhaps appropriate here. Another obviously important set of boundaries is between member states within the EU. Access to social care across countries has rarely been addressed by the European Commission, and yet some governments in high cost countries are beginning to wonder about the possibilities of discharging some of their responsibilities by providing services for their citizens in low cost countries. (Of course, something like this already happens within some countries.) It is highly probable that the great majority of social care users will not want to move great distances to receive their care. Indeed, this would be directly in conflict with the principles of many social care systems, which are to support individuals within their communities. Nevertheless, this cross-national boundary question – the provision of long-distance services – also urgently needs consideration at national and European levels.

The caregiver supply challenge

The third trend with potentially major implications for user choice is in the availability of caregivers: the people who actually provide the care. Crudely we can distinguish three groups of caregivers: family members, unpaid volunteers and paid staff. (Women easily outnumber men in all three categories of carer, raising broader questions about gender that are not addressed in this paper but which clearly warrant attention.) Social care is heavily reliant on family and volunteer carers, and will surely remain so unless there is a revolution in public finance to allow large numbers of new paid care staff to be employed in order to replace the unpaid carers.

Who delivers the care is a fundamental concern. Social care is the delivery of personal services in which the 'relational' dynamic is key. The distinction can be made between 'caring labour' and 'labour services providing care' (Folbre and Weisskopf, 1998). With caring labour the motivations are central: there is empathy, commitment, altruism, and a genuine relationship of love or affection in which caring can be its own reward. On the other hand, labour services providing care can be motivated by a much greater span of concerns, including the need to earn a salary. Users of services, other things being equal, are probably going to prefer 'caring labour'.

Clearly a question for the future, therefore, is whether the supply of family (and volunteer) carers can be maintained. And if not, what are the qualities of paid care staff that need to be fostered so that users are sensitively supported? Unfortunately, in some

countries, social care is a low-status, low-paid occupation. There is a high turnover of staff, many of whom have no or few qualifications. Consequently, securing an increased supply of (paid) 'caring labour' in what are highly competitive labour markets is not going to be straightforward.

Again we can see the challenge for users and any initiatives to improve their influence in decision making. The importance of who delivers their care cannot be underestimated.

Taking things forward

Putting greater emphasis on user participation in decision making, in particular on ensuring that services respond to the assessed needs and expressed preferences of users, has to be one of the primary objectives of social care across Europe. The difficulties of doing so, however, are legion. We need to be working to help users to play more active roles, and to help societies to plan and design their services with this objective in mind. But involving users more is a major challenge to providers (who need to be more responsive and more participative), to funders (who should consider whether to shift money to the users in direct payments) and to regulators (who should try to involve users in making judgements). To return to the opening theme, social care is not at all like an apple, and national and European policies for such a personal service similarly need to be distinguished from those that might apply to many other goods and services.

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What type of social services for the future?

What are the “social issues” of the 21st century for which the various providers of social services will have to find quantitative and qualitative answers? Three can be noted:

The challenge of aging and the provision of care for the dependent elderly. These two facets of the issue can evolve at different rhythms.

The 80-plus segment of the population is growing at a faster rate than the 60-plus group, but they are in better health and able to live as couples until a higher age. As a result, social services must provide a range of adequate services – household help, home nursing care, home hospital care, retirement homes offering varying degrees of medical services, hospitals – and ensure that the thresholds met in the course of aging can be crossed.

Is there a dependent-care benefit system (cf. Germany), and if so, how are these benefits paid out? In services or in cash? This is one of the main factors affecting how social services are financed. What financial structure is possible? (user participation – service-based or income-based – social security, insurance companies, mutual benefit societies, family or neighbourhood unpaid services, participation of local structures and/or employers)

Where should retirement homes be located? Close to the family environment, which is 80% urban, or in areas where manpower is cheaper? What links should there be with hospitals and how are hospital services affected by aging (specifically in terms of the length of stays – short, medium or long-term – and the role of nursing and accommodation services)? Where should palliative care be offered, and should it be of a medical nature? What about guardianship of the dependent elderly?

Reconciling professional and family life. As time goes on, social services will be less and less covered by women within the family. Women who have not stopped working to raise their children will not stop to care for their parents (cf. Scandinavia).

All countries suffer from a scarcity of child-care structures for young children, especially those countries where children start school at a later age. Public day-care centres often have too few places available and too little capacity to adapt to increasing flexibility in parents’ working hours. And what about child-care during school holidays? After school? Associations often come up with innovative solutions adapted to the needs of parents and having educational value for the children, but these child-care structures are not always permanent. What ongoing professional training is available for the staff of these child-care structures, where workers are often not highly skilled? What mixture should be sought between commercial financing and non-profit financing coming from the users, from public authorities or from employers?

Is there excessive polarisation in the area of infant child-care? What about youth movements adapted to the 21st century? What about school support, and who should have

access to it? Can the loneliness of the fit elderly or the increasing loneliness among young people be mobilised, and if so how? How much of their leisure time should parents be expected to contribute?

Poverty and exclusion

On this topic, emphasis should be placed on the marginalisation of young people who have not managed to find access to the employment market and consequently to social benefit entitlement within the Bismarckian social protection systems. Improved pension schemes everywhere have reduced poverty among the elderly, but these schemes are getting more and more costly and their objectives are being reassessed downwards. Poverty among the elderly is therefore likely to reappear – in a more selective form that will exacerbate social inequalities in active life (cf. predictions for Italy).

When educational levels rise, unskilled young people are less numerous but more heavily marginalised. Low-skill jobs still exist, but only in personal services. Unskilled young people are also desocialised or stigmatised because they come from high-risk districts. All of this means that insertion structures and systems of mediation with potential employers are still necessary, even with employment figures on the rise.

What answer can we give to these future needs?

Pluralistic social services: public/private, commercial/non-profit. This welfare mix was described by Mr. KNAPP. It is designed to satisfy a heterogeneous demand, and competition among suppliers would generate both innovation and lower costs.

Regular evaluation of social services in exchange for public subsidies or funds from charitable contributions. Evaluation is becoming increasingly important as services tend to develop an asymmetry of producer-consumer information and are increasingly addressed to a fragile and captive population. Who is responsible for performing the evaluation, and how impartial is this person or structure? Is the evaluation of quantitative results related to social norms or needs, and if so how are these assessed?

How can quality of services be evaluated? Should evaluation be limited to quantifiable aspects (number of square metres, number of persons per room, staff qualification levels), with the bias which is inherent to this type of procedure, or should an attempt also be made to measure non-quantifiable quality aspects (client participation in the service rendered or in decision-making, transparency of management, quality of personal interaction, equality of access to services, progress in client self-sufficiency, knowledge or awareness, user satisfaction ...).

Social services that are adapted to changing needs, that can predict and avoid bureaucratisation, that train their paid and unpaid staff to respond to future needs. Lean and non-permanent organisations are better equipped than private or public bureaucratic structures. Public authorities can then take advantage of the life-cycle of non-profit organisations to manage social change and provide the necessary impulses to social progress.

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Quel type de services sociaux à l'avenir?

Quelles sont les «questions sociales» du 21ème siècle auxquels les divers fournisseurs de services sociaux devront répondre quantitativement et qualitativement.? On en retiendra trois:

Le défi du vieillissement et la prise en charge de la dépendance. Les deux phénomènes peuvent évoluer à des rythmes différents.

Les plus de 80 ans augmentent plus vite que les plus de 60; mais ils sont en meilleure santé et vivent plus longtemps en couple. D'où la nécessité pour les services sociaux d'offrir le portefeuille de services adéquat: aide ménagère, soins à domicile, hospitalisation à domicile, maisons de retraite plus ou moins médicalisées, hôpital et de veiller aux nécessaires transitions en fonction de la trajectoire du vieillissement.

Existe-t-il une prestation dépendance (cf Allemagne) et si oui, quelle forme prend la prestation dépendance? En nature ou en espèces? Le financement des services sociaux en dépend largement. Quel montage financier peut-on obtenir? (participation des usagers, forfaitaire ou en fonction des revenus, sécurité sociale, assurances, mutuelles, gratuités liées à la famille et au voisinage, participation des collectivités locales et éventuellement des entreprises).

Où localiser les maisons de retraite? Près de l'entourage familial, urbain à 80% ou là où la main d'œuvre est bon marché? Quel lien avec l'hôpital et quelles modifications le vieillissement de la population lui fait-il subir (notamment dans la répartition entre court, moyen et long séjour et dans la part des soins et de l'hébergement? Où assurer les soins palliatifs et doivent-ils être médicalisés? Quoi de la tutelle des personnes âgées dépendantes?

La conciliation entre vie professionnelle et vie familiale. Les services sociaux seront de moins en moins assurés par les femmes au sein de la famille. Les femmes qui ne se sont pas arrêtées de travailler pour élever leurs enfants ne s'arrêteront pas pour soigner leurs ascendants. (cf pays scandinaves).

Il y a un déficit dans tous les pays des structures d'accueil pour les jeunes enfants, accentué quand l'accueil en milieu scolaire est tardif. Les crèches publiques ont souvent une amplitude d'accueil insuffisante et inadaptée à une plus grande flexibilité du temps de travail. Quoi de l'accueil pendant les vacances scolaires? Après la classe? Les associations ont souvent proposé des solutions innovantes, adaptées aux besoins des parents et ayant une valeur éducative pour les enfants, mais ces structures d'accueil ne sont pas toujours pérennes . Quelle professionnalisation pour le personnel souvent peu qualifié qui intervient dans ces structures d'accueil? Quel mélange entre financement marchand, non marchand venant des usagers, public, en provenance des entreprises employeurs?

Y-a-t-il une polarisation excessive sur l'accueil des jeunes enfants? Quoi de mouvements de jeunesse adaptés au 21ème siècle? Quoi du soutien scolaire et qui doit y avoir accès?

La solitude des personnes âgées valides ou des isolés jeunes de plus en plus nombreux partout peut-elle être mobilisée et comment? Quelle participation personnelle des parents sur leur temps de loisir?

Pauvreté et exclusion

Sur ce thème, on insistera sur la marginalisation des jeunes qui n'arrivent pas à accéder au marché du travail et donc aux droits sociaux dans les systèmes de protection sociale bismarckiens. La pauvreté des personnes âgées a diminué partout avec la montée en puissance des systèmes de retraite, mais ceux-ci coûtent de plus en plus cher et sont revus à la baisse partout. D'où une réapparition vraisemblable de la pauvreté des personnes âgées, plus sélective qui aggravera les inégalités sociales de la vie active. (cf prévisions pour l'Italie).

Les jeunes non qualifiés sont moins nombreux mais plus marginalisés quand le niveau éducatif monte. Les métiers peu qualifiés existent toujours mais dans le tertiaire relationnel. Les jeunes déqualifiés sont aussi désocialisés ou stigmatisés parce qu'ils viennent de quartiers à risque. Des structures d'insertion sont donc toujours nécessaires, même quand l'emploi progresse, de même que des formes de médiation avec les employeurs potentiels.

Quelle réponse à ces besoins du futur?

Des services sociaux pluriels: publics/privés; marchands/non marchands. Ce welfare mix a été décrit par M. KNAPP; il est censé de répondre à une demande hétérogène; la concurrence entre les offreurs générant à la fois innovation et réduction des coûts.

Des services sociaux régulièrement évalués, en contrepartie de l'argent public reçu ou de l'appel à la générosité publique. Cette évaluation est d'autant plus importante que les services comportent des asymétries d'information entre producteur et consommateur et s'adressent à une population fragile et captive. Qui évalue, avec quelle indépendance? L'évaluation des résultats quantitatifs se fait-elle par rapport à des normes ou à des besoins sociaux, eux-mêmes estimés comment?

Comment évaluer la qualité des services rendus? Faut-il se limiter à la qualité quantifiable (nombre de m², de personnes par chambre, niveau de qualification des personnels), avec les biais inhérents à ce type de procédure, ou essayer de mesurer aussi la qualité non quantifiable (participation de la personne au service rendu, à la prise de décision, transparence de la gestion, richesse des interactions entre les personnes, équité de l'accès au service, progrès d'autonomie, de connaissances ou d'éveil de la personne, satisfaction de l'utilisateur...).

Des services sociaux qui s'adaptent à des besoins changeants, qui prévoient et évitent la bureaucratisation, qui forment leur personnel salarié et bénévole à répondre aux besoins futurs. Des associations légères et éphémères sont mieux armées que des bureaucraties privées ou publiques. Les pouvoirs publics peuvent utiliser le cycle de vie des organisations sans but lucratif pour gérer le changement social et fournir les incitations nécessaires au progrès social.

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Concluding remarks

In closing may I make just a couple of comments.

The first is that it strikes me this morning that in talking about social services – with the relatively large view that we have of social services – we’ve tended to concentrate on their capacity to meet care needs and maybe some other social needs. But there are other things that social services do. One was mentioned: prevention. That’s also considered perhaps the role of the social services in building the capacity of individuals, of families and communities to cope with social and economic problems.

Secondly we spoke a little about companies and the business sector. I remember well organising with Christoph Linzbach a conference in a previous German presidency on working and caring. And I think in the context of an aging workforce, as well as an aging population, and a population of citizens who on the whole are still trying to provide care, that this issue of reconciling work and care, not only for children but for adult and older dependents, is going to be of increasing importance, and we don’t see too much initiative yet in most companies.

Thirdly, to say that we’ve heard many of the right words this morning. We’ve heard the strategies that we all know we should espouse – user involvement, coordination, integrated services, quality assurance. I can tell you from the research that the foundation did that it was not always easy to find these developments on the ground. However, we are putting on our website a case portfolio of about 160 cases of social service provision where these kinds of initiatives have been taken.

And ultimately, in all of this, from someone who comes from a foundation for the improvement of living and working conditions, we’re thinking about quality of service and quality of life for clients, but also for workers. And very many of the observations we have made this morning have hugely important implications for training and working conditions, and maybe we could reflect on them.

Finally, the issues around the European Union, not only the communications but also the policy initiatives on discrimination, social exclusion, the new social protection committee, I am sure, will all figure in the discussions that we have this afternoon, and particularly in the final session as we consider more globally what the place of the EU and Europe is in this matter.

Pfarrer Jürgen Gohde

Präsident der Bundesarbeitsgemeinschaft der Freien Wohlfahrtspflege (BAGFW)

**Rede „Die Bedeutung der sozialen Dienste in Europa“
anlässlich des Seminars der Europäischen Kommission
„Die Zukunft sozialer Dienste in Europa“**

Meine Damen und Herren,

Wir haben uns mit diesem Seminar das Ziel gesetzt, über die Zukunft der sozialen Dienste in Europa zu debattieren. Ich halte dies für ein ganz wesentliches Thema auch und vor allem mit Blick auf die künftigen Entwicklungen der Europäischen Union selbst. Die EU steht vor der größten Erweiterung ihrer bisherigen Geschichte. Sie steht auch vor inneren Reformnotwendigkeiten. Das Thema „Zukunft der sozialen Dienste“ gehört in die Debatte über die „Zukunft der Europäischen Union“. Wenn die Europäische Union auch über das Stichdatum der ersten Beitritte der mittel- und osteuropäischen Staaten hinaus Bürger Europas wirklich erreichen will, dann muss sie sich über die Wirtschafts- und Währungsunion hinausentwickeln. Wir müssen die Elemente einer Sozialunion diskutieren.

Lassen Sie mich deswegen an das erinnern, was im vergangenen Jahr in der Europäischen Grundrechtecharta festgeschrieben worden ist. Die Charta beginnt mit der Garantie des wichtigsten Menschenrechtes überhaupt, mit der Garantie der Menschenwürde. Aus diesem obersten Grundrecht sind die sozialen Rechte der Charta unmittelbar ableitbar. Das Recht auf Zugang zu sozialen Diensten und das Recht auf Zugang zu Diensten von allgemeinem wirtschaftlichen Interesse, die beide in der Charta garantiert werden, sind Gebote der Menschenwürde. Und wenn wir es in Europa ernst damit meinen, dass die Grundrechtecharta Ausdruck unserer gemeinsamen Werte ist, dann müssen wir auch gemeinsam dafür sorgen, dass sich die Rechte der Charta realisieren lassen. Die Union wird sich künftig daran messen lassen müssen, dass sie, so Artikel 34 der Charta, „das Recht auf Zugang zu den Leistungen der sozialen Sicherheit und zu den sozialen Diensten“ sowie zu den „Dienstleistungen von allgemeinem wirtschaftlichen Interesse“ „anerkennen und achten“ will. Wir sollten diesen größeren Zusammenhang sehen, wenn wir über die Zukunft der sozialen Dienste in Europa sprechen.

Diese Zukunft sollte einem Grundsatz folgen, nämlich dem des „Service is local“. Ich habe diesen Grundsatz vor kurzem im Rahmen einer Tagung auf nationaler Ebene zur EU-Erweiterung formuliert. Ich halte ihn für so zentral, dass ich ihn hier wiederholen will.

„Service is local“, dieser Grundsatz umfasst zwei wesentliche Aspekte der sozialen Dienstleistungen. Zum einen kommt darin zum Ausdruck, dass sich am allerbesten auf der lokalen Ebene entscheidet, welcher Mensch welchen Dienst braucht und welches die besten Strukturen für den Zugang zu diesen Diensten sind. Soziale Dienste sind besondere Dienste, weil sie auf das Individuum zugeschnitten sein müssen. Die Geschichte jedes einzelnen Menschen, der auf soziale Dienste angewiesen ist, ist einmalig und einzigartig. Deswegen ist bei diesen Diensten auch in besonderem Maße

wichtig, dass sie flächendeckend vorhanden sind und für jeden Einzelnen leicht zugänglich.

Das bringt mich zu dem zweiten Aspekt des Grundsatzes „Service is local“. In der Inanspruchnahme sozialer Dienste drücken sich menschliche, soziale und kulturelle Bindungen jedes Einzelnen aus. Die Qualität und die Effizienz sozialer Dienste sind daher anhand anderer Kriterien zu messen als nur anhand von reiner Rentabilität und möglichst niedriger Produktionskosten. Der Maßstab für die Qualität sozialer Dienste muss sein, ob ein bedürftiger Mensch die Aufmerksamkeit und den Dienst erhält, der in seiner Situation angemessen und notwendig ist.

Wir von der Bundesarbeitsgemeinschaft der Freien Wohlfahrtspflege haben uns daher im Rahmen der Diskussion um die Mitteilung der Europäischen Kommission über die Leistungen der Daseinsvorsorge dafür eingesetzt, dass diese besondere Natur der sozialen Dienste auf europäischer Ebene ihre Anerkennung findet. Unserer Auffassung sind die sozialen Dienste ihrer Eigenheiten gemäß und gemäß eigener Maßstäbe, die nicht diejenigen des Binnenmarktes sind, zu bewerten. Auf nichtgewinnorientierte Dienste mit rein sozialem Charakter kann europäisches Wettbewerbsrecht vom Grundsatz her nicht anwendbar sein.

In der Diskussion um die Daseinsvorsorge haben die deutschen Bundesregierung und auch die französische Regierung in diesem Sinne Position bezogen. Unsere französische Partnerorganisation UNIOPSS hat ebenfalls in diesem Sinne Stellung genommen.

Eine weitere Besonderheit der sozialen Dienste, die ihre Behandlung nach eigenständigen Kriterien rechtfertigt, ist ihre enge Verknüpfung mit Aspekten des zivilgesellschaftlichen Engagements und der Partizipation. In der nun schon fast anderthalb Jahrhunderte alten Tradition sozialer Arbeit in Deutschland – mein eigener Verband, das Diakonische Werk, ist z. B. bereits damals gegründet worden – hat das „Subsidiaritätsprinzip“ stets eine wichtige Rolle gespielt.

Der Terminus „Subsidiarität“ hat, wenn er in Deutschland im Zusammenhang mit sozialen Diensten verwendet wird, eine etwas andere Bedeutung als die hier in Brüssel übliche. Es kommt darin zum Ausdruck, dass soziale Einrichtungen und Dienste ihre Arbeit selbstständig durchführen können und dass diese Selbstständigkeit sowie die dabei spezifische Zielsetzung seitens der öffentlichen Hand respektiert werden. Auf dieser Grundlage hat sich ein partnerschaftliches Zusammenarbeitsverhältnis zwischen staatlichen Institutionen bzw. regionalen und lokalen Behörden einerseits und den sozialen Dienstleistern andererseits entwickelt. Die gesellschaftliche Vielfalt findet somit ihre Anerkennung, ebenso wie die von uns vertretene Auffassung, dass die unterschiedlichen humanitären und geistig-religiösen Zielsetzungen ein wichtiges Element sozialer Arbeit sind. Auch damit befinden wir uns im Einklang mit der EU-Grundrechtcharta, die sich in ihrer Präambel auf das gemeinsame ethische und geistig-religiösen europäische Erbe beruft.

Die Anerkennung dieser Vielfalt der Zielsetzungen bei der Durchführung sozialer Arbeit garantiert, dass die Erbringung sozialer Dienstleistungen vom zivilgesellschaftlichem Engagement profitieren kann. Das hier als Diskussionsgrundlage vorliegende „Hintergrundpapier“ greift zu kurz, wenn es lediglich auf die Zusammenarbeit mit

Freiwilligen als den Nachweis zurückgreift, dass Wohlfahrtsverbände Teil der Zivilgesellschaft sind. Zivilgesellschaft sind die Wohlfahrtsverbände auch in dem Sinne, dass in ihren Organisationen Menschen zusammenarbeiten, die sich in vielfältiger Weise und aus unterschiedlichen Motivationen für das Wohl von Hilfesuchenden einsetzen. Es sind Menschen, die mit ihrer Arbeit zur Solidarität und zum Zusammenhalt der Gesellschaft beitragen wollen, in der sie leben. Es sind Menschen, denen es mit ihrem Engagement um andere Ziele geht als Gewinnerwerb und die sich aus anderen als aus ökonomischen Motiven engagieren. Unseren nichtgewinnorientierten arbeitenden Organisationen ginge dieses Engagement und diese Motivation verloren, wenn sie nicht mehr anders könnten, als ihre Arbeit an den Kriterien des Marktes und der Gewinnmaximierung auszurichten.

Auch aus diesem Grunde sind wir Wohlfahrtsverbände in der deutschen Diskussion dafür eingetreten, dass es grundsätzlich keine Geltung des europäischen Wettbewerbsrechts für soziale Dienste gemeinwohlorientierter Anbieter geben kann. In der Debatte um die Qualität sozialer Dienste halten wir die geschilderten Aspekte für die zentralen Elemente. Das europäische Gesellschafts- und Sozialmodell muss sich im Hinblick auf die sozialen Dienste so entwickeln, dass für soziale Dienste Freiräume bleiben, die auf die unterschiedlichen Bedürfnisse jedes einzelnen in Not geratenen Menschen Rücksicht nehmen und deshalb auf unterschiedliche Hilfsangebote bedacht sind.

Diese Besonderheiten der sozialen Dienste müssen auf europäischer Ebene ihre Anerkennung finden. Ich erinnere in diesem Zusammenhang z. B. an die Maastrichter Erklärung über die Zusammenarbeit mit den Wohlfahrtsverbänden – sie ist bedauerlicherweise im „Hintergrundpapier“ für diese Tagung nicht aufgegriffen worden. Ich erinnere weiterhin an die WSA-Initiativstellungnahme zu den sozialen Diensten in der Daseinsvorsorge. Ich bin dankbar, dass Sie, Herr Präsident Bloch-Lainé, diese Erklärung des Maastrichter Vertrages als WSA-Berichterstatte ausdrücklich in Erinnerung gebracht haben. Die Erklärung muss sich nicht nur in der praktischen Zusammenarbeit in den Mitgliedstaaten und mit der Gemeinschaft auswirken, sie muss auch Konsequenzen für ein europäisches Konzept der Daseinsvorsorge haben. Ich erinnere außerdem daran, dass der von mir formulierte Grundgedanke der Anerkennung der Besonderheiten der sozialen Dienste auch in den Diskussionen des Europäischen Parlamentes über die Mitteilung der Europäischen Kommission zu den Leistungen der Daseinsvorsorge Ausdruck gefunden hat.

Meine Damen und Herren, lassen Sie es mich noch einmal auf den Punkt bringen: Es geht mit der Diskussion um die Zukunft der sozialen Dienste nicht um eine binnenmarktinterne Angelegenheit, die mit den üblichen Instrumenten des Binnenmarktes zu regeln wäre. Es geht um die grundsätzliche gesellschaftspolitische Frage, welchen Stellenwert soziale Dienste in den europäischen Gesellschaften künftig haben werden. Es geht darum, die soziale Dimension der EU neu zu entwickeln. Letztlich befinden wir uns in einer Entwicklungsphase der EU, in der sich das Verhältnis von innerstaatlichen Politikbereichen zu den integrierten Politiken der EU im Fluss befindet. Diese Situation wird nur zu meistern sein, wenn man die Besonderheiten der sozialen Dienste anerkennt und die sozialen und kulturellen Bindungen begreift, die sie ausdrücken. Sie wird auch nur zu meistern sein, wenn wir auf europäischer Ebene Lösungen entwickeln, die kreativ und weiträumig genug sind, um auf dieser Ebene bisher Unbekanntes zutreffend zu beschreiben.

Pastor Jürgen Gohde

Chairman of the Federal Association of Voluntary Welfare Organizations (BAGFW)

Address on “The Role of Social Services in Europe” given on the occasion of the European Commission Seminar on “The Future of Social Services in Europe”

Ladies and gentlemen,

We have chosen the future of social services in Europe as the topic of our discussions at this seminar. In my opinion this is a very important topic, above all in view of the future development of the European Union itself. The EU is currently facing the largest expansion in its history. It is also in great need of internal reform. “The future of social services” is part of this broader debate on “the future of the European Union”. If the European Union really wants to reach out to the citizens of Europe beyond the date of the first accessions from Central and Eastern Europe, it will have to develop beyond the Economic and Monetary Union. Discussion will also need to focus on the elements of a social union.

Allow me to remind you of what was laid down last year in the European Union’s Charter of Fundamental Rights. The Charter begins by guaranteeing the most important human right of all, human dignity. The Charter’s social rights are directly derived from this one, paramount fundamental right. The right of access to social services and the right of access to services of general economic interest, both of which are guaranteed by the Charter, are precepts dictated by the principle of human dignity. And if we Europeans really mean it when we say that the Charter of Fundamental Rights expresses our common values, then we must work together to ensure that the rights laid down in the Charter can be implemented. In future, the Union will have to be judged on how it intends to “recognise and respect the entitlement to social security benefits and social services” – as stipulated by Article 34 of the Charter – and access to “services of general economic interest”. We must be aware of this wider context when we discuss the future of social services in Europe.

This future should follow one principle that I formulated recently at a national conference on EU expansion, namely, that “service is local”. I consider this idea to be of such central importance that I would like to repeat it here.

“Service is local”. This principle covers two essential aspects of social services. It expresses the idea that who needs what services and what the best access structures are for these services are things best decided at local level. Social services are a special kind of services, because they have to be tailored to the individual. Every individual who is forced to depend on social services has a unique story of his or her own. This is why these services have to be offered universally and be easily accessible to any individual.

This point takes me to the second aspect of the “service is local” principle. The manner in which individuals use social services is an expression of their human, social and cul-

tural links. The quality and efficiency of social services must therefore be measured on the basis of other criteria than pure economic feasibility and lowest possible production costs. The measure of quality in social services must be whether an individual in need receives the attention and the service that are necessary and commensurate to this need.

We at the Federal Association of Voluntary Welfare Organizations want to ensure that, within the scope of the debate on the Communication of the European Commission on Services of Public Interest, the special nature of social services is recognised at European level. As we see it, social services should be assessed on the basis of their special nature and according to their own criteria, which are not identical to those of the internal market. European competition legislation cannot, on principle, be applied to non-profit services of a purely social nature.

In the discussion on services of public interest, the German and French governments supported this position. UNIOPSS, our French partner organisation, also took the same stand.

Another distinctive aspect of social services justifying their treatment according to special criteria is their close connection to aspects of the commitment and participation of civil society. The “subsidiarity principle” has always played an important role in the nearly sesquicentenary tradition of social work in Germany. My own organisation, Diakonisches Werk, for instance, was established as far back as that.

Applied to the context of social services in Germany, the term “subsidiarity” has a slightly different meaning from the meaning it is usually given here in Brussels. It expresses the idea that social institutions and services can carry out their work independently, and that this autonomy and the specific objectives of these services are respected by public authorities. This has been the basis for a partnership of cooperation between state institutions or regional and local authorities on the one hand and social service providers on the other. Social diversity is taken into account, and our view that this variety of humanitarian and spiritual objectives constitutes an important element of social work also finds acknowledgement. In this we concur with the EU Charter of Fundamental Rights, which in its preamble refers to Europe’s common spiritual and moral heritage.

Recognizing this diversity in the objectives of social work activities guarantees that social services can profit from the commitment of civil society. The “background paper” presented here as basis for discussion misses part of the point when it portrays work with volunteers as the only evidence that charitable associations are part of civil society. Charitable associations are part of civil society – also in the sense that the people working for their organisations are people committed to the welfare of aid seekers in a great variety of ways and out of a great range of motivations. They are people who want their work to be a contribution to solidarity and cohesion in the society where they live. They are people who have objectives other than profit and whose commitment has motives other than economic ones. Our non-profit organisations would lose the benefit of this commitment and this motivation if they were forced to orient their activities to market criteria and to the concept of profit maximisation.

This is another reason why we in the charitable associations have joined the discussion in Germany to demand that European competition laws should not apply to social services offered by providers oriented to public welfare. We see the aspects I have outlined as the central elements of the debate on quality in social services. The European social model must develop so as to give social services the leeway necessary to take into account the various requirements of every needy person and to offer a broad range of aid.

This special nature of social services must be recognised at European level. In this context, allow me to remind you, for instance, of the Maastricht declaration on cooperation with charitable associations – unfortunately, it was not mentioned in the background paper. I would also like to mention the ESC own-initiative opinion on social services in the context of services of general interest. I am grateful that you, Mr. President Bloch-Lainé, explicitly mentioned this declaration of the Maastricht Treaty in your capacity as ESC rapporteur. The declaration should have more effect than mere practical cooperation in the Member States and with the Community: it must also have consequences for a European concept of services of general interest. I would also like to remind listeners that the principle I formulated – recognition of the special nature of social services – has also been brought up in the discussions of the European Parliament on the Communication of the European Commission on services of general interest.

Ladies and gentlemen, allow me to summarise as follows:

The debate on the future of social services is not an internal market issue that can be solved with the normal instruments of the internal market. It is an issue of basic social policy: the future value of social services in our European communities. It is about redefining the social dimension of the EU. We are currently at a stage in the development of the EU where the relationship of national policies to integrated EU policies is in flux. It is a situation that can only be mastered if we recognise the special nature of social services and if we understand the social and cultural ties that this special nature expresses. It can only be mastered if we develop solutions at a European level that are creative and broad enough to provide a meaningful description of something which at this level had been unknown until now.

Frank Mulcahy

European Disability Forum, Disabled Peoples' International – Europe

Future of Social Services in Europe – how it concerns disabled people

The European Disability Forum welcomes the opportunity given to us here today to state our case on the future of social services in Europe and how this vital topic, from our users perspective, is tackled is one of major importance in the future where, the EDF believes, all the people living and working in the Member States will have equality of opportunity and equal rights. Throughout this paper, when the term disabled people is mentioned, then this includes parents of disabled people unable to represent themselves.

For disabled people to be assured full and equal involvement in society it is essential that they can be guaranteed access to all services of general interest not only on an equitable basis with non-disabled people, but also on a proactive basis of inclusion and can also include positive measures aimed at this very excluded group of people. This, then, includes not only access to social services but also other services addressed in the European Commission Communication on Services of General Interest, and examples of this are many but include the field of transport, information, communication services etc.

However, the focus of this presentation will be on adequate provision of social services. These services must be provided in a way that ensures the 3 guiding principles that EDF believes must be adopted in the provision of services. These are:

1. Equality
2. Maximising Participation
3. Enabling Independence and Choice

The key principle is the principle of equality. The EDF believes that Disabled People must be recognised and treated as having equal status with all other citizens of the European Union. We believe that the Member State should provide for programmes of affirmative action and positive discrimination to address the past inequalities experienced by disabled people.

It is important to explain briefly what we mean by equality. There are many ways in which equality can be understood, ranging from formal legal equality, to equality of opportunities, to equality of status at all levels of life. We believe that formal legal equality would simply ensure that all existing discrimination against disabled people was removed. This is obviously a precondition for equality but it is only a beginning.

There must also be equality of opportunity so that disabled people can participate in education, employment, and all other walks of life on an equal basis. This could involve measures to encourage disabled people to participate in education, sport, or

cultural activities, or disability and equality training for people working in public services. But equality of opportunity would still not ensure equality of status.

To ensure that disabled people have equal status and are widely represented at all levels of European life will require affirmative action. The Commission should take the lead in this, but every other sector of life, including local authorities, churches, public bodies, employers, trade union and sectorial organisations, non-governmental, voluntary and community organisations and individuals must recognise that the existing exclusion of disabled people from so many aspects of European life impoverishes all of us. Examples of affirmative action, or positive discrimination, could include training policies to develop senior management skills among disabled employees, or university access programmes for disabled students to enable them to participate on equal terms in the university system.

The second principle – maximising participation – means that disabled people have the right to participate in all areas of European life to the fullest extent possible, and that individually and collectively (and where appropriate, their families and friends) have the right to influence decisions which affect their lives. It also means that in the course of all policy making, the Commission and the Member States should have regard to the needs and interests of disabled people.

The third principle – enabling independence and choice – means that disabled people have the right to be able to achieve their full potential. They have the right to make their own decisions and choices regarding the conditions of life best suited to their circumstances. They also have the right to quality services which meet their needs at all stages of life and they must not be dependent on charity or voluntary effort.

We believe that the Member States and the Commission must acknowledge its responsibility to ensure equality of status. In particular, it must assume special responsibility for marginal or vulnerable groups of disabled people, and support them, their families and friends to the extent that they cannot do so for themselves.

The EDF believes that three key principles have informed recent international legislation and practice:

- The recognition that disability is a social rather than a medical issue.
- The adoption of a civil rights perspective, and
- The recognition of equality as a key principle of the human rights approach.

We believe that these have shown the way, and the best example, from a European Commission perspective, is the Directive on Non-Discrimination in Employment which was agreed last year.

Data from 1990s revealed that in general the average family income is substantially lower if one in the household has a disability; this was often due to unemployment or underemployment as well as the additional costs incurred by disabled people. This trend continues today, and indeed the gap is growing ever wider. Many disabled people incur additional costs directly related to their disability such as for insurance, medical expenses, equipments and aids, adaptation to housing and specialised services,

clothing, heating etc. Some Member States acknowledge, at least to some degree, these extra costs, but the majority of Member States do not. This can often lead to disabled people utilising what is supposed to be their weekly income to compensate for their disability.

Other important costs include personal assistance support and support and costs for carers. While some of these costs are borne by the State or local authorities, more often than not, only the basic costs are covered or reimbursed and it is left to the disabled person and his/her family to meet the cost of much essential disability linked expenditure. We believe that there is a false economic view of disability and of disabled people. What we have is one of the largest service industries in the European Union. However, if one were to attempt to quantify the costs that are saved to the Member States by the work of parents, partners, siblings, families and friends of disabled people, with little or no State recognition, the real costs of disability would be shown.

In the UK studies have shown that fewer disabled people than non-disabled people have substantial assets, rights to pension and other welfare benefits and are less likely to have the level of provision that will adequately protect them from poverty in old age. The EDF believes that this is the situation in many of the Member States. Even for those working, to attempt to get a pension is almost trying to get a million Euro's per week from a Minister for Finance. It is impossible and I can speak from personal experience on this.

Among a diverse disability community, there are particular groups of disabled people who are most disadvantaged. In particular disabled people with multiple and significant impairments who do not receive adequate personal assistance to enable them to live independently. There are also groups who suffer from a stigma associated with their disability, e.g. Mental Health, and they are more often than not left to fend for themselves. From our experience it seems that the social security and healthcare system in general, and managed care programs in particular, often view disabled people as "problem consumers" who are not easily treated due to their multiple, interrelated conditions and impairments. There are many cases where disabled people have been discriminated against in the provision of health care and social security support for reasons of cost cutting or lower priority given to the health care of disabled people and older people.

Disabled people with severe and multiple disabilities are particularly vulnerable. They require assistance that recognizes and responds to their very particular needs with strong cooperation and coordination between health services and social services which is often not delivered.

The typical client with such disabilities either has no accessible primary care physician or, at best, relies on a physician who has little knowledge about severe disabilities. The result is discontinuous and, at times, even conflicting medical advice as well as a general failure to monitor closely the progress of chronic conditions experienced by persons with severe and multiple disabilities.

Paraprofessional home care is widely regarded by many disabled individuals as a primary support for independent living. Home care aides are the immediate link between

client/family care givers and professional service providers. Yet within the formal service system, the paraprofessional is often perceived as a “glorified domestic servant” and relegated to second-class status. Therefore, paraprofessionals are rarely respected, very poorly paid and poorly trained, or communicated with in a way that does not recognize their value to the social service and health service system.

Very often it is left to the families to provide the support to the disabled person and in cases where the disabled person requires a great deal of personal assistance and where the State does not provide adequate support the strain on the family environment is considerable. Indeed, it is often pointed out to families that they have a moral obligation to care for their disabled kin. Often too, the only alternative to caring for the family member at home is to put the person in an institution where the individual loses all traces of their belonging and the preception is that their quality of life is almost zero from the time they enter the institution.

Disabled people want to live free and independent lives; they want to be in charge of their own lives and direct their own personal assistance support programmes. For this reason, the question regarding direct payments is an important debate in the disability movement notably regarding personal assistance support for disabled people. In principle, cash allowances maximize consumer choice and promote efficiency as consumers who shop for the most cost-effective providers may be able to purchase additional and more personalized services. Many disabled people, in particular younger disabled people, would favour a direct payments system that promotes consumer choice and avoid programme rules that may foster dependency. This is currently being debated in the disability movement, with ideas still being developed. In particular by the European Network of Independent Living which has done a lot of work in the field of personal assistance support systems.

We are not stating that this is the answer for everyone. However, we believe that with much support, training and assistance, the situation outlined above can be achievable by a great number of people. It is the EDF position that for all aspects of life for a disabled person there must be choice. This is an essential ingredient here also and it is probably the one area that there is no choice in at the moment, in particular for people with very significant or multiple impairments.

Social security systems must recognise the interests of parents of disabled children who are often forgotten. Families need support structures to enable them to make the vast human investment needed to bring up their child at home. Flexible work patterns must be promoted, respite services must be available, and consideration given to parental leave benefits. While some EU countries provide financial compensation/allowances for parental leave required by a carer other countries do not. The EDF believes strongly that this is an issue that needs to be addressed at a European level. We believe that this is an area that the Commission could well concentrate on when it follows up its recent Communication on Corporate Social Responsibility.

Disabled people want to work and want to be given the support to access the mainstream labour market. The challenge is to develop a social protection system which promotes disabled people in employment but which also provides the necessary security to allow and encourage disabled people to apply for a job. The poverty trap, and its

ensuring consequences, are real for many disabled people. They cannot afford to lose the benefits that they receive from the State and therefore remain unemployed. It is essential that disability benefits compensate for the extra costs linked to the impairment and that these benefits are maintained when a disabled person accesses employment. The extra living costs for disabled people do not disappear once the person gets a job and, in many instances they may even increase.

The different social security systems which operate across the EU member states present some practical problems regarding the free movement of disabled people across the EU. In principle it is possible only to receive social security support from one Member State, and we believe that this is quite right. However, in the absence of any rules, a migrant could be disadvantaged by moving to another Member State because s/he could find her/himself not affiliated to any social security scheme or, alternatively, contributing to two or more social security schemes, e.g. in the State of origin and the new State, (and entitled to claim in both States). Migrants employed in one Member State are entitled to disability benefits but certain other social assistance benefit schemes are excluded.

In addition, while some Member States provide personal assistance support for independent living other Member States do not, so the quality of life for disabled people varies greatly across the EU. However, while there is discussion in EDF regarding this question of harmonisation or convergence of social security systems there is no one view at present regarding how to go forward.

We believe that it is vital that State aid to support services which facilitate access by disabled people to their service is recognised as being compatible with common market. This recognition would be on the same basis as state aid i.e. would not exceed the net extra cost of ensuring service access to disabled people entrusted to the undertaking.

Also, of concern is the future status of sheltered employment workshops for disabled people which engage in economic activities which could be subject to competition and internal market rules if they trade and compete at EU level. We believe that sheltered employment workshops for disabled people must continue to receive State aid in so far as it does not exceed the net extra cost related to the employment of the disabled persons.

There is some uncertainty regarding the status of not-for-profit organisations providing important services to disabled people and how far they are excluded from the application of EU competition and internal market rules. There is a long history of disability organisations providing important services to disabled people on a not-for-profit basis. This has grown, in the main, from the lack of statutory or state services to disabled people and these organisations were founded, many of them, to provide these services.

Any changes to the status of such organisations vis-à-vis the internal market rules must be approached with extreme caution as it could lead to a fundamental degradation in quality of service to disabled people. Any such considerations must essentially involve full consultation with representative disability organisations and disabled people.

Representation and active participation of users in the definition of services is essential. There must be explicit recognition of the requirement for participation by representative organisations of disabled people to ensure consultation with disabled people on all initiatives or legislation which relate to services of general interest or setting of standards on universal service. This is essential if the value of real partnerships is to be achieved. Also essential, we believe, is the insistence by the Member States and the European Union that any and all services which receive state funding or European funding must have a user involvement and all the services must be delivered in a way that ensures the dignity of the individual, at all times in their lives.

The EDF again thanks you for the opportunity that you have given us here today and wish to state that we are ready, willing and able to continue dialogue with you as the representative organisation of disabled people throughout the European Union. We know the job that is to be done. Let us assist you in ensuring that it is done in a way that ensures both economic sense and human dignity.

Eric van den Abeele

Deputy Head of Cabinet of Ministry for the Economy and Scientific Research, Belgium

Services of general interest and Europe

Ladies and gentlemen,

Services of general interest constitute one of the federating elements of the values of the European Union, and one of the cornerstones of the European social model.

Access to these services is a fundamental right pursuant to Article 36 of the Charter of Fundamental Rights of the European Union, which was proclaimed by the European institutions at the Nice European Council.

The importance of services of general interest for the smooth functioning of the single market was acknowledged by Article 16 of the EC Treaty. But we are well aware that this legal basis is a fragile one. It is a defensive stand, conditional and contradictory to the common legal system (rules of the market and free competition policies).

The pre-eminence given to competition policies over general interest and the subordination of services of general interest to market rules jeopardise the primarily social function of public services.

The fact that the treaty does not provide a sufficiently solid legal basis creates a degree of uncertainty for a number of private or public operators providing services of general economic interest (e.g. social or health services).

In the current context of liberalisation, opening markets up to competition may indeed present certain advantages, but every day we also see potential risks of imbalances that need to be well assessed and met.

In this regard I was struck by the results of a Eurobarometer survey of 16,000 Community respondents conducted between April and May 2001 with regard to globalisation and liberalisation of trade.

The survey showed that although respondents indeed saw the positive effects of globalisation (greater choice of products, increased mobility, foreign employment opportunities), they also had a very mixed attitude vis-à-vis the effects of liberalisation on their personal situation.

Liberalisation gives rise to fears focused mainly on social protection (55%), on the widening gap between rich and poor (54%) and on employment (50%).

Opinions also vary as to the effects of liberalisation on environmental and consumer protection. 50% of Europeans believe that this trend will lead to a deterioration of the environment, and 36% of respondents are worried about the quality of food products.

Public opinion also expects a privatisation trend in public services (45%) but also improved efficiency (39%).

In short, this survey should, more than ever before, encourage us to be vigilant on two fronts: liberalisation must be flanked by supportive measures and its impact at various levels must be carefully assessed.

First of all, a range of support mechanisms must be put in place to protect the collective interests of Europeans that cannot be guaranteed by market forces alone.

Secondly, the effects of liberalisation on economic, social, environmental and territorial cohesion must be examined, as well as its impact on the quality of employment. If consumer satisfaction is the ultimate objective, it is not normal for concerns regarding changes in the social fabric, environmental protection or worker status to be subsidiary or even subordinate objectives.

Beyond these aspects there is still, of course, the issue of the role of the state as a guarantor of global interests and as a regulatory authority.

I believe that these two points represent essential missions that must remain the prerogative of public authorities. I do not believe that the “invisible hand of the market” can be a substitute for state involvement to guarantee the protection of general interests or to regulate society.

But let us return to the European debate.

Working areas of the Belgian Presidency

With regard to the Nice mandate, the Belgian Presidency has opened three main fields of action which guide its approach to this issue.

The objective of the first field of action is to ensure the permanence of services of general interest and to improve legal certainty in their regard.

The second task is to assess the efficiency and quality of services of general interest.

The third and final objective is to clarify the position of general interest services within the scope of Community law.

To this effect, the Commission submitted a report on 17 October 2001. This report, which is currently being discussed in the various Council working groups, opens up a variety of worthwhile lines of action, each of them representing a working area for the Belgian Presidency.

1. Ensuring the permanent quality of SGI and improving legal certainty in their regard

The provision of general interest services or public or universal service obligations are consistent tasks for the providers concerned.

Within this context, state aid is crucial to these providers to compensate for the additional costs of providing the service universally in the area in question.

To avoid distortions of competition risks, a clear legal framework must be established allowing SGI operators to fulfil their mission in terms of public or universal service.

First of all, the regulatory framework must set the conditions under which aid would be compatible with Community law. It must also ensure that subsidy mechanisms in the Member States are transparent and facilitate a dynamic form of management of services of general interest.

Secondly, criteria should be established in the longer term to grant Member States access to certain aid categories without requiring the prior authorisation of the Commission.

In this regard, I hope the Commission will be able to present its Community support programme at the Copenhagen European Council in December 2002. I have noticed with pleasure that a category-based exemption regulation with regard to aid will soon be put in place.

In the longer term, it would be appropriate to better clarify the difference between services of general economic interest, which are covered by the terms of the Treaty with regard to competition, and non-economic services of general interest, which are not covered by these regulations. Such a differentiation is crucial if we want to avoid a situation where important prerogatives of public authorities or prerogatives of a predominantly social character are jeopardised because of Treaty regulations.

2. Evaluation of services of general interest

2.1 Evaluation of SGI performance and quality

In view of the contribution of services of general interest to economic growth and social welfare, regular evaluation of the manner in which their missions are fulfilled is fully justified, more specifically in terms of quality, continuity, equality, accessibility, reliability and cost.

While ensuring that the principle of subsidiarity is respected, we should therefore establish efficient processes to evaluate the performance of services of general interest.

Such an evaluation is necessary in order to take into better consideration, beyond their economic impact, the specific objectives of services of general interest.

Sectoral reports have been proven to be useful, and they will be pursued in greater depth.

But beyond this, we should also have an annual horizontal evaluation of services of general interest overall as a whole and of the manner in which they fulfil their general interest mission.

I see that in the course of 2002 the Commission will be submitting to the Council and to the European Parliament a Communication on its evaluation methods. This is an important element if evaluation is to be credible and effective.

Evaluation will have to take several elements into consideration: the economic parameters of the market concerned, the characteristics of the services offered with regard to the objectives desired by the authorities, for instance obligations in terms of access and universal service and perception of services of general interest in the population.

This also requires – and this is of great importance - an evaluation of the contribution of these services to social, territorial and environmental cohesion as well as to the quality of employment.

The relevant modalities and criteria could be defined in cooperation with the European Parliament within the framework of a yet to be created Observatory of Services of General Interest.

This Observatory could assist the Commission in its task to gather and verify information. It could make proposals to improve the efficiency of services of general interest.

And finally the Commission, in close cooperation with the Member States, will be introducing evaluation parameters allowing an exchange of good practices among Member States. These parameters are due to be presented in 2002.

This type of activity, and a verification of its implementation by the Copenhagen European Council of December 2002, could contribute to a reinforcement of the primarily social role of SGI.

2.2 Evaluation of the impact of liberalisation

It would also be advisable to conduct a global evaluation of the impact of liberalisation in the various sectors concerned. Have the multitudes of mergers, acquisitions and sales been profitable to the European economy and to the citizens of Europe? Have they led to the provision of services that are better, more accessible and less costly for their users?

3. Strengthening the position of SGI within the Community legal framework

I am pleased to note that the Commission has accepted to consider the principle of a framework directive on services of general interest as a means of ensuring equality between missions of general interest and competition policies.

I hope that the Internal Market Council of 26 November will ask the Commission to pursue its considerations in this area and to submit a report on the implementation modalities of the principles of this framework directive. And why not at the Copenhagen European Council in December 2002?

Once this report has been submitted, the Copenhagen European Council could decide whether Article 3 of the EC Treaty should be considered for amendment at the next intergovernmental conference (2004). Such an amendment would strengthen legal certainty and thus pave the way for a framework directive on SGI.

European agencies – precursors of European public services?

I would like to conclude this exposé by suggesting a line of action which could ultimately be a suitable complement to the principle of a framework directive of a horizontal nature.

Every country has felt the need to create national regulatory agencies, particularly in areas where there is a need for coherent and independent regulatory decisions.

The concept of creating Community regulatory authorities is worthy of special attention. Twelve agencies of this type have already been created at EU level, and four more are being discussed. These new European regulatory agencies, which act autonomously within clearly defined areas, could improve the manner in which regulations are implemented and applied within the Union.

Currently only six of these agencies are involved in genuine regulatory activities. But I am pleased to note that the three most recent agencies – the European Aviation Safety Agency, the European Food Authority and the European Maritime Safety Agency – have an explicitly regulatory role.

This “vertical”, case-by-case agency approach has the advantage that it contributes to improving EU “governance”. The agencies, which coordinate and complement national “public services”, are a kind of precursor to European “public services”.

When the time is ripe, we will have to assess whether this line of action is a promising one and a suitable complement to the “horizontal” approach of the framework directive for services of general interest.

Conclusions

Ladies and gentlemen,

As I reach the conclusion of this exposé, I am aware that if we want results we will have to reach a consensus among the fifteen EU Member States. This will not be an easy task, as the EU Member States are divided as to the strategy to adopt.

A balance will have to be found between the supporters of increased liberalisation and those who, like myself, feel that the effects of liberalisation should be assessed on an ongoing basis and accompanied by well-targeted support policies.

In this regard, I think the weight of the Commission and of the European Parliament and the influence of the social partners will have a determining effect on the balance of forces. The Belgian Presidency is particularly concerned about strengthening the protection and promotion of services of general economic interest.

In my capacity as President of the Internal Market Council, my role in the coming weeks will be to convince my colleagues that we should

- work on developing a “lasting SGEI” concept as an instrument of social cohesion and social welfare

- ensure the permanency and viability of SGEI by supporting the project to establish category-based exemption regulations with regard to aid
- focus on the social challenges involved in a qualitative evaluation of SGEI, particularly by giving an important place to criteria of economic, social and territorial cohesion
- work towards the establishment of a framework directive as a medium-term objective
- within the scope of the debate on the European Union, pave the way to the revision of the EC Treaty (mainly in terms of an addition to Article 3) in order to make SGEI one of the fundamental principles of the Community.

In order to be efficient, we will have to work on differently paced aspects: short, medium and long-term.

In the short term, we must set our sights on the Internal Market Council of 26 November. Here we will have to finalise the debate on SGEI in prevision of the Laeken European Council of 15 and 16 December.

In the medium term, we hope to adopt a clause setting Copenhagen in December 2002 as the time and place to verify the concrete implementation of the Laeken conclusions.

In the longer term, there is the Intergovernmental Conference of 2004 and the revision of the EC Treaty, where we hope to generate a more comprehensive reflection on services of general interest. The enlargement of the EU makes this objective even more important.

In the course of this long venture, it is reassuring to note that we are not short of allies among the Member States, in the Commission or in the European Parliament, and that we are likely to achieve further progress until the Laeken summit.

In order to guarantee the protection and promotion of general interests, we will seek close ties with the Commission and the Parliament, but also with the social partners.

Traditionally, Belgium has always adopted the humanist approach of a European project based on values of equality, solidarity and the right of citizens to have access to basic services in order to achieve a satisfactory quality of life.

Here again, Belgium intends to conduct its Presidency in the aim of promoting general interests.

Globalisation will be even better accepted if it is to the advantage of greater numbers of citizens and if it constitutes progress for the European social model. We hope to contribute to this advancement.

Thank you for your attention.

Eric van den Abeele

Chef de Cabinet adjoint, Ministère des Affaires Economiques et de la Recherche,
Belgique

Services d'intérêt général et Europe

Mesdames, Messieurs,

Les services d'intérêt général constituent un élément fédérateur des valeurs de l'Union européenne et l'une des pierres angulaires du modèle social européen.

L'accès à ces services constitue un droit fondamental au titre de l'article 36 de la Charte des Droits Fondamentaux de l'Union européenne, proclamée par les institutions européennes lors du Conseil européen de Nice.

L'importance des services d'intérêt général pour le bon fonctionnement du marché unique a été reconnue par le Traité CE dans son article 16. Mais nous savons que cette base juridique est fragile. Elle est défensive, conditionnelle et dérogatoire par rapport au système de droit commun (les règles du marché et la libre concurrence).

Le primat accordé à la politique de concurrence sur l'intérêt général et la subordination des SIG aux règles du marché remettent en question la fonction essentiellement sociale des missions de service public.

Le fait qu'il n'existe pas de base juridique suffisamment solide dans le traité crée une forme d'incertitude pour certains opérateurs, privés ou publics, qui exercent des missions d'intérêt général à incidence économique (par exemple les opérateurs de services sociaux ou de soins de santé).

Dans le contexte actuel de libéralisation, l'ouverture à la concurrence présente des avantages, certes, mais aussi, nous le voyons tous les jours, des risques potentiels de déséquilibres qu'il convient de bien évaluer et d'encadrer.

Ainsi, j'ai été frappé par les résultats d'un récent sondage Eurobaromètre sur la mondialisation et sur la libéralisation des échanges, réalisé sur un échantillon de 16.000 citoyens de la Communauté entre avril et mai 2001.

Le sondage a montré que des effets positifs de la mondialisation étaient perçus par le citoyen (choix accrus de produits, mobilité plus grande, opportunité d'emplois à l'étranger). Mais il a également montré que le citoyen européen avait une attitude très mitigée vis-à-vis des effets de la libéralisation sur sa situation personnelle.

La libéralisation suscite des craintes qui portent principalement sur la protection sociale (55%), l'accroissement des écarts de richesse (54%) et sur l'emploi (50%).

Les avis sont également mitigés quant aux effets de la libéralisation sur la protection de l'environnement et des consommateurs. 50% des citoyens croient que ce processus

entraînera une détérioration de l'environnement alors que 36% des sondés nourrissent des craintes pour la qualité alimentaire.

L'opinion s'attend par ailleurs à une privatisation des services publics, à concurrence de 45%, mais elle en attend aussi une meilleure efficacité (39%).

Bref, plus que jamais, ce sondage doit nous inviter à la vigilance sur deux fronts: la libéralisation doit être accompagnée et ses impacts, à différents niveaux, doivent être soigneusement évalués.

Tout d'abord, un ensemble de mécanismes d'accompagnement doivent protéger les intérêts collectifs des citoyens européens, que les seules forces du marché ne peuvent garantir.

Ensuite, il convient également d'étudier l'impact de la libéralisation sur la cohésion économique, sociale, environnementale et territoriale, mais aussi sur la qualité de l'emploi. Si la satisfaction du consommateur constitue l'objectif final de la démarche, il n'est pas normal que les préoccupations relatives à la recomposition du tissu social, à la sauvegarde de l'environnement ou au statut des travailleurs constituent des objectifs subsidiaires voire subordonnés.

Au-delà de ces aspects, réside, bien entendu, la question du rôle de l'Etat comme garant de l'intérêt global et comme organe régulateur.

Je crois que ces deux dimensions sont des missions essentielles qui doivent rester l'apanage des Pouvoirs publics. Je ne crois pas que la »main invisible du marché« puisse se substituer à l'intervention de l'Etat pour garantir l'intérêt général ou réguler la société.

Mais revenons-en au débat européen.

Les chantiers de la Présidence belge européenne

Au regard du mandat de Nice, la Présidence belge a ouvert trois champs d'action essentiels, qui guident son approche dans ce dossier:

Il s'agit, tout d'abord, de pérenniser les services d'intérêt général et d'accroître leur sécurité juridique.

Il s'agit, ensuite, d'évaluer l'efficacité et la qualité des services d'intérêt général.

Il s'agit, enfin, de clarifier la place des services d'intérêt général dans le cadre juridique communautaire.

Dans ce but, la Commission a présenté un rapport le 17 octobre 2001. Celui-ci est actuellement discuté dans les groupes de travail du Conseil. Ce rapport ouvre plusieurs pistes d'action dignes d'intérêt qui représentent autant de chantiers de la Présidence belge.

1. Pérenniser les SIG et accroître leur sécurité juridique

La prestation de missions d'intérêt général ou d'obligations de service public ou de service universel représente des charges conséquentes pour les fournisseurs concernés. Dans ce contexte, les aides d'Etat sont indispensables à ces fournisseurs pour compenser les charges supplémentaires destinées à réaliser la prestation du service sur l'ensemble du territoire considéré.

Afin d'éviter des risques de distorsion de concurrence, il convient de mettre en place un cadre juridique clair, qui autorise les opérateurs de SIG à remplir leurs missions de service public ou de service universel.

En premier lieu, le cadre réglementaire doit établir les conditions de compatibilité des aides avec le droit communautaire. Il doit aussi assurer une transparence des mécanismes d'octroi appliqués par les Etats membres, et faciliter ainsi une gestion dynamique des services d'intérêt général.

En second lieu, il convient, à terme, d'établir des critères qui permettent aux Etats membres de recourir à certaines catégories d'aides sans obtenir l'autorisation préalable de la Commission.

A cet égard, j'espère que la Commission pourra présenter son projet d'encadrement communautaire au Conseil européen de Copenhague, en décembre 2002. J'ai noté qu'un règlement d'exemption des aides par catégorie verra bientôt le jour. Je m'en réjouis.

A terme, il conviendrait de mieux cerner la frontière entre services d'intérêt économique général, qui relèvent des règles du traité en matière de concurrence, et services d'intérêt général non économiques, qui ne sont pas soumis aux règles du traité. Cette question est essentielle si l'on veut éviter que des prérogatives importantes de la puissance publique ou qui revêtent un caractère éminemment social ne soient remises en cause par les règles du traité.

2. Evaluer les services d'intérêt général

2.1 Une évaluation de la performance et de la qualité des SIG

La contribution des services d'intérêt général à la croissance économique et au bien-être social justifie pleinement une évaluation régulière de la manière dont sont assurées leurs missions, notamment en termes de qualité, de continuité, d'égalité, d'accessibilité, de sécurité et de prix.

Il convient, dans ce but, d'établir, tout en respectant le principe de subsidiarité, des procédures d'évaluation efficaces de la performance des services d'intérêt général.

Cette évaluation est nécessaire pour mieux prendre en considération les objectifs spécifiques poursuivis par les services d'intérêt général, au-delà de leur impact économique.

Les rapports sectoriels, dont l'utilité a été démontrée, connaîtront un approfondissement.

Il faut toutefois aller au-delà et introduire une évaluation annuelle horizontale de l'en-

semble de ces services et de la manière dont ils remplissent leurs missions d'intérêt général.

J'ai noté que, dans le courant de l'année 2002, la Commission remettra au Conseil et au Parlement européen une communication sur sa méthodologie d'évaluation. C'est un élément fort important si l'on veut que cette évaluation soit crédible et suivie d'effets.

Cette évaluation devra prendre en considération plusieurs éléments : les paramètres économiques du marché concerné, les caractéristiques de services offerts au regard des objectifs poursuivis par les autorités, tels notamment que les obligations d'accès et le service universel, la perception des services d'intérêt général par les citoyens.

Ceci requiert également, et ceci est fort important, une évaluation de la contribution de ces services à la cohésion sociale, territoriale, environnementale ainsi qu'à la qualité de l'emploi.

Les modalités et les critères y relatifs pourraient être définis en concertation avec le Parlement européen, dans le cadre d'un Observatoire des services d'intérêt général à créer.

Cet observatoire pourrait aider la Commission dans son travail de collecte d'informations et dans sa tâche de contrôle. Il pourrait faire des propositions pour améliorer l'efficacité des services d'intérêt général.

Enfin, la Commission introduira, en coopération étroite avec les Etats membres, des paramètres d'évaluation qui permettront un échange de bonnes pratiques entre Etats membres. Ces paramètres devraient être présentés en 2002.

Une telle démarche, dont le Conseil européen de Copenhague de décembre 2002 pourrait vérifier la mise en œuvre, permettrait de contribuer au renforcement du rôle éminent social des SIG.

2.2 Une évaluation de l'impact de la libéralisation

Il conviendra également de procéder à une évaluation globale de l'impact de la libéralisation dans les différents secteurs concernés. Les nombreux mouvements de fusion-acquisition-cession ont-ils été profitables à l'économie européenne et aux citoyens ? Ont-ils permis de délivrer aux usagers un meilleur service, plus accessible et moins cher ?

3. Renforcer la place des SIG dans le cadre juridique communautaire

Je me réjouis du fait que la Commission ait accepté de réfléchir au principe d'une directive-cadre sur les services d'intérêt général, visant à mettre sur un pied d'égalité les missions d'intérêt général et la politique de concurrence.

Pour ma part, j'espère que le Conseil marché intérieur du 26 novembre invitera la Commission à aller de l'avant et à présenter un rapport sur les modalités de mise en œuvre des principes de cette directive-cadre. Et pourquoi pas au Conseil européen de Copenhague, en décembre 2002 ?

Au vu de ce rapport, le Conseil européen de Copenhague pourrait déterminer s'il

convient d'ouvrir à révision, lors de la prochaine conférence intergouvernementale (2004), l'article 3 du traité CE, qui pourrait renforcer la sécurité juridique, et ainsi ouvrir la voie à une directive-cadre sur les SIG.

Les agences européennes, préfiguration des services publics européens?

Je voudrais terminer cet exposé par l'évocation d'une piste qui pourrait se révéler complémentaire au principe d'une directive-cadre de nature horizontale.

Dans tous les Etats, la nécessité s'est imposée de créer des agences nationales de régulation, surtout dans les domaines où existe un besoin de décisions de régulation, cohérentes et indépendantes.

La création d'autorités de régulation communautaire est une piste qui mérite une attention particulière. Au niveau de l'Union européenne, douze agences de ce genre ont déjà été créées, et quatre sont à l'étude. Ces nouvelles agences de régulation européennes, autonomes dans des domaines clairement délimités, pourraient améliorer la manière dont les règles sont mises en œuvre et appliquées au sein de l'Union.

Actuellement, seules six d'entre elles s'occupent de régulation proprement dite. Mais je note avec intérêt que les trois dernières agences, à savoir l'Agence européenne pour la sécurité aérienne, l'Agence alimentaire européenne et l'Agence européenne pour la sécurité maritime ont un rôle régulateur explicite.

Cette approche «verticale» par agences, au cas par cas, a le mérite de contribuer à améliorer la «gouvernance» de l'UE. Ces agences sont en quelque sorte la préfiguration de «services publics» européens coordonnant et complétant l'action des «services publics» nationaux.

Il faudra évaluer, le moment venu, si cette piste se révèle prometteuse et complémentaire à la piste «horizontale» que représente la directive-cadre pour les services d'intérêt général.

Conclusions

Mesdames, Messieurs,

Au moment de conclure cet exposé, je suis conscient que, pour aboutir à des résultats, un consensus devra être trouvé entre les quinze Etats membres de l'Union. Ce ne sera pas facile. Les Etats membres de l'UE sont, en effet, divisés quant à la stratégie à suivre. Entre les partisans d'une libéralisation toujours plus poussée et ceux, dont je suis, qui estiment qu'il faut évaluer au fur et à mesure les effets de la libéralisation et mener des politiques d'accompagnement ciblées, il faudra qu'un équilibre soit trouvé.

Je crois, à cet égard, que le poids de la Commission et du Parlement européen, mais aussi des partenaires sociaux, sera déterminant dans la constitution du rapport de force.

La présidence belge sera particulièrement soucieuse de renforcer la sauvegarde et la promotion des services d'intérêt économique général.

En ma qualité de président du Conseil Marché intérieur, mon rôle consistera, durant les semaines qui viennent, à convaincre mes collègues qu'il convient de:

- œuvrer à la consécration d'un concept de «SIEG durable» en tant qu'instrument de cohésion et de bien-être social;
- contribuer à assurer la pérennité et la viabilité des SIEG en soutenant le projet de règlement d'exemption des aides par catégorie;
- renforcer le volet relatif aux enjeux sociétaux de l'évaluation qualitative des SIEG, notamment en accordant une place importante aux critères de cohésion économique, sociale et territoriale;
- tenter de faire aboutir la directive-cadre comme un objectif à moyen terme;
- lancer, dans le cadre du débat sur l'Union européenne, les jalons de la révision du traité CE (principalement un nouveau tiret à l'article 3 du traité CE) pour inscrire les SIEG au rang de principes essentiels de la Communauté.

Pour être efficient, il conviendra de travailler en trois temps : court, moyen et long termes.

A court terme, il y a le Conseil Marché intérieur du 26 novembre où nous devons amener à maturité le débat sur les SIEG dans la perspective du Conseil européen de Laeken des 15 et 16 décembre.

A moyen terme, nous espérons fixer une clause de rendez-vous à Copenhague, en décembre 2002, qui puisse concrétiser les conclusions de Laeken.

A plus long terme, il y a la Conférence intergouvernementale de 2004 et la révision du traité CE où nous souhaitons porter une réflexion plus générale sur les services d'intérêt général. L'élargissement de l'UE rend d'ailleurs cet objectif encore plus prégnant.

Dans cette longue entreprise, il est rassurant de constater que nous ne manquons pas d'alliés au niveau des Etats membres, à la Commission et au Parlement européen pour progresser encore d'ici Laeken.

Des contacts étroits seront poursuivis avec la Commission et le Parlement européen, mais aussi avec les partenaires sociaux, pour garantir la défense et la promotion de l'intérêt général.

Traditionnellement, la Belgique a toujours adopté une approche humaniste d'un projet européen basé sur les valeurs d'équité, de solidarité et de droit des citoyens à avoir accès aux services de base pour acquérir une qualité de vie humaine satisfaisante.

Cette fois-ci encore, la Belgique entend conduire sa présidence avec le souci de promouvoir l'intérêt général.

La globalisation sera d'autant mieux acceptée qu'elle profitera au plus grand nombre et qu'elle fera progresser le modèle social et de société européen.

Nous espérons pouvoir contribuer à cette avancée.

Je vous remercie pour votre attention.

Kirtikumar Mehta

Director of Competition Policy, Coordination and International Affairs
DG Competition, European Commission

What role for Europe?

I. Introduction and basic concepts

Mr. Chairman, Ladies and Gentlemen,

I am glad to take up this opportunity to share with you some thoughts on the relationship between European Competition Policy and Social Services. At its core, Competition Policy is about ensuring that suppliers of goods and services are not indifferent to the wishes, requirements and preferences of consumers/clients. Social services are also about serving people. Behind many of the comments we receive lies the **fear of some social service providers** that the application of the EC rules on competition and the internal market would lead to a **general levelling and commercialisation** of their services, as well as to a loss of the specific ethos and forms which distinguish them from each other and from private firms. I think this fear is unfounded. The fact that some of your services may under certain conditions be considered of economic nature – and therefore covered by the rules of the Treaty – does not rule out that they maintain their social character and can be provided on a non-profitmaking basis. The fact that within the scope of Community law you may have to comply with certain rules does not reduce your scope to continue providing social services on the basis of certain ideals, moral convictions or religious beliefs and to perform them in a way which goes beyond what can be perceived in purely economic terms. Just as in the past, the spirit in which you provide your services, and immaterial and immanent features which characterise them, will survive as long as you maintain them, and as long as there are beneficiaries for whom this is important. This is my main message and one which I would like to develop and illustrate in the time available.

A. The EC Treaty clearly states that both economic and social objectives are important. Indeed they are complementary. Maintaining social cohesion is an essential requirement for our ability to adjust to the very challenging environment we have today. Article 3 of the Treaty lays down amongst its objectives the establishment of an internal market as well as a system ensuring that competition in this internal market is not distorted. The EC Treaty also addresses social objectives by a policy in the social sphere comprising a European Social Fund and by strengthening economic and social cohesion. And of course, Article 16 EC Treaty places services of general economic interest amongst the shared values of the European Union. It calls upon the Community and Member States, each within their respective powers, to take care that such services operate on the basis of principles and conditions which enable them to fulfil their missions.

Upon this basis, one may think that conflicts between the objective of open and competitive markets on the one hand and the provision of general interest services and social services on the other hand could be avoided. In fact, it is a striking feature and also a reassuring fact in the present debate that major problems of reconciling these

objectives have hardly ever been reported. The Commission's Communication on Services of General Interest in Europe of 20 September 2000¹ adopts a down-to-earth approach. It explains the existing EC law as interpreted by the European Court of Justice (ECJ) and the European Court of First Instance (CFI). Thereby, it shows how the current legal framework can take into account the special features of general interest services. **That Communication made two important points:**

- First, there are certain legal limits to the application of Community law and the Commission of course respects them. Outside the reach of Community law, the Commission cannot and does not intervene in the way Member States and operators organise and carry out services of general interest.
- Second, where the relevant services of general interest are within the scope of Community law, Community law promotes the good functioning of these services for the benefit of all.

B. In December 2000, the European Council of Nice welcomed the Commission's Communication. But it also asked for a report to the **European Council of Laeken in December 2001** about possible further ways of ensuring greater predictability and increased legal certainty in the application of competition rules relating to services of general interest². I will try, today, with particular regard to social services, to set out what kind of certainties the existing legal framework already offers.

As a start, I think it is important to acknowledge that most of the pressures for change, with which social services are currently confronted, do not come from Community law or the activities of the European Commission. They are rather the consequence of internal changes in the Member States, such as an ageing population, citizens' preferences for higher quality, and problems of public finance. Against this backdrop it is clear that:

- further clarification of EC law will not decisively reduce this pressure, and that
- the precise future role of EC law in social services will only become clear in parallel with the changes which social services are undergoing.

C. Let me first briefly recall the **limits of Community competence**. They are basically two: EC competition rules, and also the internal market rules, are not applicable where

- the activity concerned is of a **non-economic nature**, and/or
- the activity is an **entirely domestic matter**, i.e. it is confined to one single Member State, in particular because it has no effect on intra-Community trade.

II. Economic activity

A. EC competition law relates to undertakings. In defining undertakings, the ECJ adopts a **functional approach**³. This approach also allows to distinguish between economic activities of an entity, which are subject to the competition rules, and non-economic activities of the same entity, which are not subject to the competition rules. For social service providers this means that the fact that some of their activities might be of economic nature does not rule out that other activities in which they engage remain of a non-economic nature. With regard to the latter, operators can shape and

¹ COM(2000) 580 final, also published in OJ 2001 C 17/4.

² The Commission's report to the Laeken European Council was adopted on 17.10.2001, COM(2001) 598.

³ See e.g. ECJ case C-41/90 Höfner, at point 21, according to which for the purposes of EC competition law an undertaking is «every entity engaged in an economic activity, regardless of the legal status of the entity and the way in which it is financed».

run their non-economic services, and Member States can fund these services, without control by EC competition law.

B. With regard to social services, the case law of the ECJ/CFI provides some examples of what is to be considered as of non-economic nature:

- First, **State-organised basic education**⁴, because the State, in establishing and maintaining such a system, is not seeking to engage in gainful activity but is fulfilling its duty towards its own population in the social, cultural and educational fields.
- Second, the **management of State-imposed social security schemes**, such as compulsory sickness and maternity insurance, which are **centrally based on the principle of solidarity in the sense that** the benefits paid are prescribed by law and not proportional to the amount of the compulsory contributions, thus fulfilling an exclusively social function⁵. Solidarity is justly an important notion in this domain and one which is well reflected in ECJ case law.

C. For instance, the ECJ decided that a non-profitmaking organisation managing a supplementary old-age insurance scheme, which was set up and regulated by Statute, but to which membership was optional, did exercise economic activity⁶. In this case it was decisive (a) that this scheme operated according to the principle of capitalisation rather than on a redistributive basis (i.e. a scheme in which active members' contributions would have been directly used to finance the pensions of retired members), (b) that the benefits depended solely on the amount of the contributions paid by the recipients and the financial results of the investments made by the managing organisation, and (c) that altogether the activity was carried out in competition with life insurance companies.

In three further cases⁷, the ECJ decided on similar grounds that a non-profitmaking pension fund charged with the management of a supplementary pension scheme set up by representatives of employers and workers, to which the State had made affiliation compulsory, did exercise economic activity. However, the ECJ ruled that Articles 86 in conjunction with 82 did not preclude the public authorities from conferring on the pension fund an exclusive right. While admitting that this caused a restriction of competition, the three judgements took into account under Article 86(2) that the supplementary scheme managed exclusively by the fund displayed a high level of solidarity because the contributions did not fully reflect risk ("good" risks were not distinguished from "bad" risks, the fund had to accept all workers etc.). According to the ECJ, this did not eliminate the economic nature of the activity but justified the exclusive right whose removal might make it impossible for the tasks of general economic interest to be performed under acceptable conditions.

I think it useful to stress as a fundamental part of the Commission's approach that **the qualification of a service as economic activity does not rule out**

- that the service keeps its social character;
- that some of its providers continue to operate on a non-profitmaking basis;

⁴ ECJ case 263/86 Humbel.

⁵ ECJ joined cases C-159/91 and C-160/91 Poucet.

⁶ ECJ case C-244/94 FFSA.

⁷ ECJ case C-67/97 Albany. ECJ case C-115/97 etc Stichting Bedrijfspensioenfonds. ECJ case C-219/97 Drijvende Bokken.

- that the service contains some elements of solidarity, where solidarity however is not the central feature of the activity;
- that Member States subject investments to some special statutory restrictions;
- and finally that Member States entrust one or a limited number of specifically named operators with the provision of defined social services for general interest reasons.

III. Effect on trade between Member States

With regard to effect on trade between Member States, the Communication of September 2000 does not conceal the fact that this notion is wide. However, the fact that the Commission takes this limit seriously is evidenced by many cases. As an example, I refer to a decision of 21 December 2000 in which the Commission held that an annual allowance by the German town Dorsten for the operation of a local swimming pool did not constitute State aid within the meaning of the EC Treaty because, due to the catchment area of the pool, effect on intra-Community trade could be ruled out⁸.

IV. The pursuit of social policy objectives by the State and independent operators

Let me now turn to the second central message of last year's Communication: Within its scope of application, Community law promotes the good functioning of services of general economic interest, including those of a social nature. The **guiding principles of EC law in this area are:**

- to care for the citizens as beneficiaries and users of services of general economic interest,
- while at the same time ensuring that these services are provided to the greatest extent possible in conformity with the principles of open markets and competition, including State aid discipline.

A. In this context, I would first like to underline that EC law leaves **wide scope for Member States to formulate social policy objectives and adopt State regulation** ensuring the provision of social services. Member States can use these instruments where they fear that free competition alone would not provide sufficient results with regard to quality, regularity, territorial coverage, affordability and security of these services.

B. To achieve these objectives, Member States may impose **non-discriminatory regulation** on all operators in the social services market, obliging them to meet certain standards in the general interest, if and as long as they wish to operate in the market.

C. Alternatively, or in combination with State regulation, **a Member State may entrust, within the meaning of Article 86(2) EC Treaty**, a named undertaking (or named undertakings) with the provision of clearly defined services of general economic interest. In doing so, the Member State obliges such undertakings to provide these special services for the duration of the entrustment. Member States enjoy a wide scope in defining and

⁸ Case N-258/2000 (swimming pool Dorsten), Commission Press release IP/00/1509 of 21.12.2000.

entrusting services which they regard to be of general economic interest. Where entrustment with such a particular task is raised as a defence against the application of the competition rules of the Treaty, the Commission will in the first place examine whether **the defined services stay within the scope of what can commonly be accepted to be of general economic interest**. In practice, this has never raised particular problems and for social services this will not be different.

It is correct that Article 86(2) allows **only those derogations** from the application of the EC Treaty rules **which are strictly necessary** to enable the entrusted undertaking to perform the particular tasks assigned to it. Taking into account the particularities of each individual case, the proportionality principle calls for examining and implementing the least restrictive means by which the operation of the entrusted undertaking and the functioning of the particular service can be ensured. Essentially, the requirement that the amount of subsidy be limited to the additional cost of the service provided is clearly a prudent one in the context of public finances. However, it also means in the social sphere that a wider spectrum of services can be provided for a given cost. Traditionally, certain services of general economic interest have been operated on the basis of **monopoly structures, particularly in network industries**, but this is already changing with technology and market demand. In the field of social services, monopoly provision is rare indeed. When we talk about competition in the field of social services, in the first instance we are talking about choice for the user. By effectively increasing the choice available, non-profit organisations already go in the direction of more decentralised, more competitive types of service structure. Choice in the provision of general interest services, social and others, is intimately linked, even if not always synonymous with competition. In non-market situations or where ability to pay is very small, choice of availability is a welfare indicator as useful as the notion of competition in situations of markets.

V. State funding of social services of economic nature

Let me conclude with the issue of State funding of social services of economic nature. Also in this area, EC competition law offers practical solutions allowing for the good functioning of these services.

A. The first item is the established **de-minimis rule** which since January this year is laid down in a Regulation⁹. It provides that the prohibition of State aid does not apply where State support for one and the same undertaking does not exceed 100.000 EURO over a three year period. Since more and more social services are being provided on a decentralised, local basis, the de-minimis rule may already be the solution for many of these cases.

B. Moreover, since many undertakings in the social services sector will fall under the definition of **small and medium-sized enterprises (SMEs¹⁰)**, one should mention the spe-

⁹ OJ 2001 L 10/30.

¹⁰ As defined in Commission Recommendation 96/280/EC of 3.4.1996 (OJ 1996 L 107/4): SMEs are enterprises which (a) have fewer than 250 employees, and (b) have either an annual turnover not exceeding ECU 40 million, or an annual balance-sheet total not exceeding ECU 27 million, and (c) are independent, i.e. not owned as to 25 % or more of the capital or the voting rights by one enterprise, or jointly by several enterprises, falling outside the SME definition.

cial rules for State aid to SMEs, which are now since January this year laid down in a Block Exemption Regulation¹¹. This authorises Member States, without prior notification to the Commission, to grant certain types of aid up to the level allowed in the region where the recipient undertakings are established.

C. Finally, the CFI decided in February 1997¹² and has confirmed subsequently¹³ that **compensation granted by the State to an undertaking for the performance of services of general economic interest does constitute State aid**. However, the Court also ruled that such compensation is compatible with the EC Treaty if all the requirements of Article 86(2) are met. Apart from the need for public authorities to clearly define both the service of general economic interest to be provided and the recipient, this means in particular that the **compensation must not exceed the net extra costs of the particular task assigned to that undertaking**. The rule that compensation of net extra costs can be allowed while overcompensation can not, is both a necessary and proportionate state aid rule. With or without budgetary constraints, what are the social benefits of overcompensation ?

How to ensure predictable rules that guarantee that there is no overcompensation and guidance to reduce any notification burdens are clearly elements of greater legal certainty and predictability that are the focus of current discussions¹⁴. In order to further such discussions what we need to do now is to be able to get a better grasp of exactly where problems may arise in concrete cases in order to prepare the necessary solutions. For this it is essential that the providers of social services, users and public authorities have a clear idea of how in future such services are likely to develop and in particular what role they expect privately financed provision to play in future.

¹¹ OJ 2001 L 10/33.

¹² Case T-106/95 FFSA, at points 170-178, 193.

¹³ ECJ order in case C-174/97 P FFSA v Commission (at point 33) and by the CFI judgment of 10.5.2000 in case T-46/97 SIC v Commission (at points 82-84).

¹⁴ In this context see also now the Commission's report to the Laeken European Council, adopted on 17.10.2001, COM(2001) 598.

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What role for Europe?**Introduction**

Allow me to begin by saying how pleased I am that this seminar has been organised. Indeed, it is not every day that people in charge of issues regarding the internal market, competition and social problems can meet around the same table.

Today's topic is currently at the very heart of the issues being discussed by European institutions. The Belgian presidency of the European Union has made a social Europe one of its essential priorities, and social services will be central to discussions at the Louvain and Ghent conferences on the new structure of social protection in Europe and on the lasting prospects of the social economy.

Today's seminar will undoubtedly provide an enriching contribution to the debate leading up to the Laeken summit.

The Commission intends to support and promote the development of social services adapted to the challenges of our new century along two broad axes: first of all, by paying special attention to the evolution of the current challenges these services have to face, and secondly by ensuring that Community regulations, more specifically those on competition and the internal market, do not constitute a threat to these services.

Social services, partners in the fight against exclusion: the open coordination method

Social services are essential partners in the fight against exclusion, which Article 136 of the Treaty lists as one of the major objectives of EU social policy. The Lisbon European Council named the fight against exclusion and poverty as one of the central components of efforts to modernise the European social model. The Member States have agreed on a new working method, the "open coordination method", which involves determining common EU objectives to combat poverty and exclusion and drawing up national action plans to achieve these objectives within each Member State. Improving dialogue among Member States and sharing the best practices should stimulate innovation.

Coordination and a regular evaluation of progress will allow us to advance together towards a better fight against exclusion in Europe.

In this process, universal access to high-quality social services and the involvement of all parties concerned is particularly necessary.

The place of social services among the four objectives

This is why, at the December 2000 Nice summit, the improvement of universal access to services and the mobilisation of all the actors involved were named as part of the four great objectives in the fight against poverty and exclusion.

Providers of social services therefore have an absolutely essential contribution to make. This is one of the main themes forming the basis of the national action plans of the individual Member States.

We are currently in the process of drawing up the joint report that will be submitted to the Laeken European Council of 14 December 2001.

The Social Protection Committee

Promoting cooperation among the Member States and the exchange of experiences in the fight against exclusion is also one of the main tasks of the Social Protection Committee, which was given a legal foundation by Article 144 of the Treaty of Nice. This article pays special attention to the problems facing victims of discrimination and exclusion and to the role of social services in finding solutions to these problems.

The special role of social services of general interest

Within the scope of the fight against exclusion, the Commission has been paying particular attention to problems facing social services of general interest, i.e. non-profit organisations. Because of their non-profit nature, the purpose of these organisations is to serve the general public regardless of their clients' resources, and they are often particularly close to their users. These services are particularly necessary to promote social cohesion, the special target of the Lisbon European Council.

Recent Community developments in the area of services of general interest

Services of general interest have recently been given increased consideration by the European Union. Their special role is explicitly acknowledged by Article 16 of the Treaty of Amsterdam. More recently, access to services of general interest was included in the Charter of Fundamental Rights of the European Union that was adopted at the Nice European Council (Article 36).

("The Union recognises and respects access to services of general economic interest as provided for in national laws and practices, in accordance with the Treaty establishing the European Community, in order to promote the social and territorial cohesion of the Union.")

The 1996 and 2000 Communications

In addition to its activity in connection with the fight against exclusion, the Commission recently adopted two supplementary Communications on the topic of services of general interest in Europe. The first, published in 1996, specified that providing and

developing high-quality services of general interest was fully compatible with the provisions of the Treaty; it insisted that the specific nature of these services should be taken into account. The 2000 Communication was intended to improve the reliability of legal provisions in this area by spelling out the scope and criteria of application of the regulations governing the internal market and competition.

Persistent deficits in terms of reliability as to law

Since the publication of this last Communication, many representatives of private, non-profit social services have approached the Commission to express their concern. Their worries, which are focused on the effect of the regulations governing the internal market and competition on their activities, are shared by the European Parliament, the Economic and Social Council and the Committee of the Regions. These worries are justified.

New challenges for the social services: increasing needs

A lot has been said in the course of this seminar, and I would not want to be repetitive, but I would like to recall that, as was obvious in this morning's talks, all of the Member States are currently facing new challenges that extend beyond the differences in their social protection systems: persistent long-term unemployment, rapid erosion of professional skills, social exclusion, population aging, and in particular rising numbers of elderly dependents and decrease in family-based caring resulting from the greater participation of women in the labour force.

Limited public financing capacities

All of this means greater needs in terms of care and social services, thus also an increase in the costs involved. However, public financing has not been able to match this surge in costs: cost increases have been swifter than increases in public revenues, and budget constraints curb the capacities of governments to provide financing.

Result of these challenges: increased recourse to the market

These challenges have boosted the role of the market. They have promoted the development of sub-contractor relationships between the public and private sectors (profit or non-profit), increased user recourse to private commercial providers and fuelled the need for non-profit social service providers to develop market-based activities in order to finance their non-profit activities.

Competition: potential threat to social services

Although this new competitive situation between social services of general interest and the commercial sector could lead to increased quality and efficiency in the services

provided, it must also be emphasised that social services cannot be compared to services of general interest in areas such as transportation, energy or telecommunications, which were the focus of the Communication of last September.

Social services must meet specific needs in terms of solidarity and quality

When the target groups being served are vulnerable by definition, exigencies of solidarity and quality must take precedence over exigencies of lower costs. Public authorities have a particularly important role to play in guaranteeing quality and in ensuring that this quality is not diminished by cost-based competition.

Public authorities are also the guarantors of solidarity, the risk here being that high-income users could turn to commercial services while non-profit and public services would be left to provide to the disadvantaged.

This is why we are worried at the thought of Community competition policies applying to social services. A certain degree of assistance is crucial to enable social services of general interest to fulfil their function.

The Commission report for the Laeken summit and the guarantee of improved reliability as to law

We must acknowledge the fact that until now there have not been any major problems. On the contrary: it would seem that the application of the criteria contained in the September 2000 Communication has worked well. But our concern is undoubtedly an expression of the need to insure that greater reliability as to law is guaranteed in the area of social services of general interest. We must remember that Nice European Council has asked the Commission to draw up a report on the implementation of the preceding Communications with regard to social services of general interest for the Laeken summit. The Commission is currently considering how to improve reliability as to law with regard to the application of the competition rules to services of general interest. It would be premature to say anything on proposals that are currently being discussed.

On the usefulness of the Commission being better aware of the situation of social services in Europe

On the other hand, the Commission is also aware that it needs to be familiar with the highly diverse situation of social services in Europe. The role of social services of general interest in the various Member States depends on how their national social protection systems are organised. It also depends on the individual countries' historical, cultural and ideological background and on the various manners of involvement of their governments, municipalities, private commercial sector and private non-profit sector.

What would therefore seem important for their individual problems to be correctly assessed and taken into consideration at European level is better knowledge of their specific features, activities and problems. There are means for this awareness to be achieved, and today's seminar is one of them. We must therefore take due note of the ideas developed in the course of today.

Conclusion

I would like to conclude by saying that Europe has decided that one of its objectives is to ensure strong social cohesion and a high level of social protection for its citizens. High-quality social services that are accessible to a maximum possible number of people are absolutely essential to achieve this goal. In order to well understand the challenges facing European social services today, we need an in-depth dialogue involving the Commission, the Member States, the users and providers of social services. I am therefore very pleased to take part in a seminar serving to fulfil this need, and I hope it will be followed by other exchanges and by close cooperation among the various actors.

Thank you for your attention.

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Quel rôle pour l' Europe?

Introduction

Permettez-moi tout d'abord de me réjouir de l'organisation de ce séminaire. En effet, mettre autour d'une même table de débat, des responsables des questions de marché intérieur, de la concurrence et des questions sociales n'est pas quotidien.

Le sujet qui nous occupe aujourd'hui est actuellement au coeur des préoccupations des Institutions européennes. La Présidence belge de l'Union européenne a fait de l'Europe sociale l'une de ses priorités essentielles et les services sociaux vont être au centre des discussions lors des conférences de Louvain et de Gand sur la nouvelle architecture de la protection sociale en Europe et sur les perspectives durables pour l'économie sociale.

Le séminaire d'aujourd'hui contribuera sans aucun doute très utilement à enrichir le débat, en vue du sommet de Laeken.

La Commission entend soutenir et promouvoir le développement de services sociaux adaptés aux nouveaux défis de ce siècle en suivant deux grands axes: tout d'abord en étant particulièrement attentive à l'évolution des défis actuels auxquels doivent faire face ces services, ensuite en s'assurant que les règles communautaires, notamment en matière de concurrence et de marché intérieur, ne puissent constituer une menace pour ces services.

Les services sociaux, partenaires de la lutte contre l'exclusion : la méthode ouverte de coordination

Les services sociaux constituent des partenaires essentiels dans la lutte contre l'exclusion qui est désormais, comme l'énonce l'article 136 du Traité, l'un des objectifs majeurs de la politique sociale de l'Union européenne. Le Conseil européen de Lisbonne a fait de la lutte contre l'exclusion et la pauvreté l'un des éléments centraux de la modernisation du modèle social européen. Les Etats membres se sont mis d'accord pour lancer une nouvelle méthode de travail, la «méthode ouverte de coordination». Celle-ci consiste à fixer des objectifs communs à l'Union européenne pour combattre la pauvreté et l'exclusion, objectifs qui donnent lieu à la rédaction de Plans d'actions nationaux établis par chaque Etat membre en vue de les atteindre. Le développement du dialogue entre Etats membres et l'échange des meilleures pratiques doivent stimuler l'innovation.

Un processus de coordination et une évaluation régulière des progrès permettent d'avancer ensemble vers une meilleure lutte contre l'exclusion au niveau européen. Dans ce processus, l'accès de tous à des services sociaux de qualité et l'implication de toutes les parties concernées est particulièrement nécessaire.

La place des services sociaux parmi les quatre objectifs

C'est pourquoi au sommet de Nice de décembre 2000, l'amélioration de l'accès de tous aux services et la mobilisation de tous les acteurs figurent parmi les quatre grands objectifs dans la lutte contre la pauvreté et l'exclusion.

La contribution des fournisseurs de services sociaux est donc absolument essentielle. Il s'agit d'un des thèmes majeurs autour duquel les Etats membres ont d'ailleurs élaboré leurs Plans Nationaux d'action.

Nous sommes actuellement en train de préparer le Rapport conjoint qui sera soumis au Conseil européen de Laeken du 14 décembre 2001.

Le Comité de Protection sociale

La coopération entre les Etats membres et l'échange d'expériences dans la lutte contre l'exclusion est également l'une des tâches essentielles du Comité de Protection sociale auquel le Traité de Nice vient de donner une base juridique dans son article 144. Celui-ci attache une attention toute particulière aux problèmes auxquels sont confrontés les personnes victimes de discriminations et d'exclusion et au rôle des services sociaux dans la résolution de ces problèmes.

La place particulière des services sociaux d'intérêt général

Dans le cadre de la lutte contre l'exclusion, la Commission est particulièrement attentive aux problèmes auxquels peuvent être confrontés les services sociaux d'intérêt général, c'est-à-dire les organismes à but non lucratif. En effet, l'absence de but lucratif leur donne vocation à s'adresser à tous sans discriminations liées à l'absence de ressources et ils sont souvent caractérisés par une grande proximité avec les usagers. Ces services sont particulièrement nécessaires à la construction de la cohésion sociale que le Conseil européen de Lisbonne a appelé de ses vœux.

Les évolutions communautaires récentes dans le domaine des services d'intérêt général

Les services d'intérêt général ont récemment fait l'objet d'une attention accrue de la part de l'Union européenne. Leur place particulière a été explicitement reconnue par l'article 16 du Traité, introduit par le Traité d'Amsterdam. Plus récemment, l'accès aux services d'intérêt général a été introduit dans la Charte des droits fondamentaux de l'Union européenne, adoptée au Conseil européen de Nice (article 36).

(«L'Union reconnaît et respecte l'accès aux services d'intérêt économique général tel qu'il est prévu par les législations et pratiques nationales, conformément au traité instituant la Communauté européenne, afin de promouvoir la cohésion sociale et territoriale de l'Union»).

La communication de 1996 et celle de 2000

Outre cette action dans le cadre de la lutte contre l'exclusion, la Commission a adopté récemment deux Communications complémentaires sur les thème des Services d'intérêt général en Europe. La première Communication, publiée en 1996, précisait que la fourniture et le développement de services d'intérêt général de qualité était totalement compatible avec les règles du traité, en insistant sur la prise en compte des spécificités propres à ces services. La Communication de 2000 était destinée à améliorer la sécurité juridique en ce domaine. Elle explicitait le champ et les critères d'application des règles relatives au marché intérieur et à la concurrence.

Des insuffisances persistantes du point de vue de la sécurité juridique

A la suite de cette dernière Communication, la Commission a été très sollicitée par les représentants des services sociaux du secteur privé non lucratif, qui ont manifesté leurs inquiétudes. Ces inquiétudes, dont le Parlement européen, le Conseil économique et social et le Comité des régions se sont également fait l'écho, portent tout particulièrement sur l'application des règles de concurrence et du marché intérieur à leurs activités. Elles s'expliquent.

Des défis nouveaux pour les services sociaux: des besoins de plus en plus importants

Beaucoup de choses ont été dites au cours de cette journée de séminaire et je ne voudrais pas répéter ce qui a été dit mais je me contenterai de rappeler que, comme l'ont certainement montré les exposés de ce matin, au-delà des différences qui caractérisent leurs systèmes de protection sociale, les Etats membres sont tous confrontés à l'heure actuelle à de nouveaux défis : la persistance d'un chômage de longue durée, l'érosion rapide des qualifications, l'exclusion sociale, le vieillissement de la population et en particulier l'augmentation du nombre de personnes âgées dépendantes ainsi que la diminution de la prise en charge familiale des soins, corrélative à l'augmentation du travail féminin.

Des capacités de financement public limitées

En conséquence, les besoins en matière de soins et de services sociaux augmentent et par conséquent les coûts qui y sont attachés. Or la capacité de financement public n'a pas évolué parallèlement à cette augmentation des coûts: elle est plus rapide que celle des revenus fiscaux et la contrainte de l'équilibre budgétaire limite les possibilités de financement par l'Etat.

Des défis qui entraînent un recours croissant au marché

Ceci a entraîné un rôle croissant du marché avec notamment le développement de la sous-traitance du secteur public auprès du secteur privé (marchand ou non lucratif), le

recours croissant des usagers au secteur privé marchand et la nécessité pour les services sociaux non lucratifs de développer des activités sur le marché afin de financer leurs activités non rentables.

Une concurrence qui peut se révéler préjudiciable aux services sociaux

Si cette nouvelle concurrence entre services sociaux d'intérêt général et secteur marchand peut avoir pour conséquence d'améliorer la qualité et l'efficacité des services, il convient de souligner que les services sociaux ne peuvent être comparés aux services d'intérêt général opérant dans le secteur des transports, de l'énergie ou encore des télécommunications qui ont fait l'objet de la communication de septembre dernier.

Les services sociaux doivent répondre à des exigences de solidarité et de qualité spécifiques

Les impératifs de solidarité et de qualité doivent avoir une importance toute particulière par rapport aux impératifs de moindre coût vis-à-vis d'une population par définition vulnérable. Les autorités publiques ont un rôle particulier à jouer pour garantir la qualité et assurer que celle-ci ne soit pas diminuée par une concurrence basée sur le principe du moindre coût.

Elles ont également un rôle à jouer pour garantir la solidarité; le risque étant que les personnes ayant des revenus élevés se tournent vers les services du secteur marchand, tandis que les services sociaux non lucratifs et le secteur public prendraient en charge les plus défavorisés.

C'est pourquoi l'application des règles de concurrence communautaire aux services sociaux provoque des inquiétudes. Certaines aides, par exemple, sont indispensables aux services sociaux d'intérêt général pour remplir leurs fonctions.

Le rapport de la Commission pour le sommet de Laeken et l'assurance d'une meilleure sécurité juridique

Il convient tout d'abord de reconnaître le fait que jusqu'ici aucun problème important ne s'est posé. Il semble au contraire que l'application des critères contenus dans la Communication de septembre 2000 aient bien fonctionné. Mais ces inquiétudes manifestent sans aucun doute la nécessité de s'assurer de la garantie d'une plus grande sécurité juridique aux services sociaux d'intérêt général. Rappelons à cet égard que le Conseil européen de Nice a invité la Commission à lui faire rapport sur la mise en oeuvre des Communications précédentes sur les Services d'intérêt général qui doit être présenté au sommet de Laeken. Les services de la Commission sont actuellement engagés dans une réflexion sur les moyens d'améliorer la sécurité juridique en matière d'application des règles de concurrence aux Services d'intérêt général. Mais il est prématuré de se prononcer sur les propositions en discussion à l'heure actuelle.

De l'utilité que la Commission ait une meilleure connaissance de la situation des services sociaux en Europe

Par ailleurs la Commission est aussi consciente de la nécessité d'une connaissance approfondie de la situation des services sociaux en Europe. Celle-ci se caractérise en effet par une grande diversité. Le rôle des Services sociaux d'intérêt général dans les différents Etats membres dépend de la façon dont est organisé le système de protection sociale national. Leur place dépend des fondements historiques, culturels et idéologiques nationaux et des modes d'intervention respectifs de l'Etat, des collectivités locales, du secteur privé marchand et du secteur privé non lucratif.

Pour que soient correctement pris en compte au niveau européen leurs problèmes spécifiques il semble donc important que l'on puisse disposer d'une meilleure connaissance de leurs caractéristiques, de leurs activités et des problèmes qui leur sont propres. Des moyens existent pour ce faire et le séminaire d'aujourd'hui en est un. Nous devons donc garder à l'esprit les idées développées au cours de cette journée en relation avec ce souci.

Conclusion

En conclusion, je voudrais dire que l'Europe s'est fixé comme objectifs d'assurer une forte cohésion sociale et un haut niveau de protection sociale pour ses citoyens. Pour atteindre ces objectifs la contribution de services sociaux de qualité et accessibles au plus grand nombre est absolument essentielle. Pour bien comprendre les enjeux auxquels les services sociaux européens sont aujourd'hui confrontés, un dialogue approfondi entre la Commission, les Etats membres et les usagers et fournisseurs de services sociaux est indispensable. Je suis donc très heureuse d'avoir pu participer à un tel séminaire, qui je l'espère sera suivi d'autres échanges et d'une étroite collaboration entre les différents acteurs.

Je vous remercie de votre attention.

Peter Haupt

Staatssekretär, Bundesministerium für Familie, Senioren, Frauen und Jugend (BMFSFJ)

Schlusswort

Die heutige Veranstaltung war der Versuch, ein breites Spektrum an Themen abzudecken. Dies konnte sicherlich nur begrenzt gelingen. Gleichwohl ist die Veranstaltung letztlich auch wegen der guten Zusammenarbeit in der Vorbereitung ein großer Erfolg. Wir wissen nun noch genauer, was wir in Zukunft tun müssen. Ich habe hier konkrete Vorstellungen, die ich Ihnen gleich zu Beginn unterbreiten möchte:

1. Die Kommission und die MS müssen die sozialen Dienste als ein wesentliches Arbeitsfeld in der Zukunft betrachten. Die Fünfjahresplanung der Sozialagenda muss ergänzt werden.
2. Wir brauchen in Zukunft ein europäisches Aktionsprogramm, das sich der Frage der Modernisierung und Qualität der sozialen Dienste ebenso widmet wie auch der Frage der Rahmenbedingungen der nichtgewinnorientierten Träger.
3. Ebenso kann ich mir auf europäischer Ebene ein Austauschprogramm für leitende Mitarbeiter in sozialen Diensten bzw. deren Trägerorganisationen vorstellen. Dies wäre für die Kommission eine wichtige Wissensbank, die erhebliche Zinsen auf die Investition abwerfen würde. Dies käme aber besonders den MS zugute.
4. Ich wiederhole auch die heute bereits geäußerte Forderung nach mehr Rechtssicherheit der gemeinnützigen und kommunalen Träger im Rahmen der Daseinsvorsorgediskussion.
5. Stärkere Unterstützung durch die Kommission beim Aufbau sozialer Dienste in den Beitrittsstaaten einschließlich der notwendigen rechtlichen Infrastruktur.
6. Wir brauchen ein gemeinsames Diskussionsforum Kommission-Mitgliedstaaten zum Thema soziale Dienste, das regelmäßig tagt.

Der Europäische Rat von Lissabon im Frühjahr des Jahres 2000 hat deutlich gemacht, dass die Europäische Union nicht mehr nur eine Wirtschafts- und Rechtsgemeinschaft, sondern auch eine Sozialgemeinschaft und Wertegemeinschaft ist. Wir haben uns auf das neue strategische Ziel geeinigt, das lautet: Europa „zum wettbewerbsfähigsten und dynamischsten wissensbasierten Wirtschaftsraum der Welt zu machen ..., der fähig ist, ein dauerhaftes Wirtschaftswachstum mit mehr und besseren Arbeitsplätzen und einem größeren sozialen Zusammenhalt zu erzielen“.

Die sozialen Dienste sind in dem Positionspapier der Bundesregierung für den ER Barcelona enthalten, d. h. sie sind aus unserer Sicht Teil der Lissabonstrategie.

Soziale Dienste sind ein wichtiges Instrument, um in den genannten Bereichen Fortschritte zu erzielen. In den Feldern Beruf, Gesellschaft und Familie müssen wir in Zukunft verstärkt auf soziale Dienste bauen, wenn wir die politischen Herausforderungen bestehen wollen.

Auch wenn in der heutigen Union viele Menschen Zugang zu sozialen Diensten haben, kann dennoch nicht davon die Rede sein, dass diese Dienste allen Menschen ständig und in annähernd gleich hoher Qualität zur Verfügung stehen. Dies gilt in noch viel höherem Maße für die Beitrittsstaaten, die hier oft nur über rudimentäre Strukturen verfügen.

Soziale Dienste sind ein wichtiges Instrument zur Steigerung des sozialen Zusammenhalts einer Gesellschaft. Kinder, Jugendliche, Familien, ältere Menschen gehören zu den für soziale Ausgrenzung besonders anfälligen Bevölkerungsgruppen und bedürfen in besonderer Weise der sozialen Dienste.

Der Mangel an flächendeckenden qualitativ guten Diensten gerade in den Beitrittsstaaten beeinträchtigt damit nicht nur heute die individuelle Lebensgestaltung von breiten Bevölkerungsschichten, sondern zukünftig auch das Wachstumspotenzial der Produktivität und die Verbesserung der Lebensqualität dieser Gesellschaften.

Die soziale Arbeit der sozialen Dienste ist täglich mit den Folgen sozialer Desintegration konfrontiert und muss, anders als dies bei Transferleistungen der Fall ist, ihre integrierende Wirkung nachweisen. Diesen Rechtfertigungsdruck halte ich nicht für akzeptabel.

Soziale Arbeit eröffnet für viele Menschen erst den Zugang zu Sozialleistungen und spezifischen sozialen Dienstleistungen. Sie gibt wichtige Hilfen zur Lebensführung und trägt zur Erhöhung der Fähigkeit zur Alltagsbewältigung bei. Beispiel: In der Mädchensozialarbeit wird der Abbau von Benachteiligungen angestrebt, die Schuldnerberatung versucht unter anderem die Aufarbeitung der Ursachen für Schulden und will Perspektiven eröffnen, während die Familienberatung für viele Familien eine wichtige Unterstützung in Krisenzeiten darstellen kann. Die Wirkung sozialer Arbeit ist schwierig zu quantifizieren, darf aber in einem umfassenden Konzept der Bekämpfung sozialer Ausgrenzung und Armut nicht unberücksichtigt bleiben.

Die Aufnahme sozialer Grundrechte aus dem Bereich des Sozialschutzes in die europäische Grundrechtscharta war bereits ein Signal für die Weiterentwicklung der Europäischen Sozialpolitik. Die Grundrechtscharta mit ihren sozialen Grundrechten überträgt der Union keine neuen Zuständigkeiten, stärkt aber ihr politisches Mandat, noch intensiver mit den Mitgliedstaaten zugunsten der Integration benachteiligter Bürgerinnen und Bürger mit sozialpolitischen Mitteln zu kooperieren. Sie beinhaltet die Verpflichtung, keine Maßnahmen zu ergreifen, die den sozialen Zusammenhalt schädigen, und hebt die Bedeutung sozialer Dienste hervor. Die Charta muss Bestandteil der Verträge werden.

Sie ist ein wichtiges Mittel zur Förderung der sozialen Integration. Soziale Dienste sind Bestandteil der Grundrechtscharta.

Soziale Dienste müssen in der Umsetzung der Sozialagenda durch die Kommission eine wesentlich wichtigere Rolle spielen. Es war wichtig, dass das Arbeitsprogramm der Kommission im Bereich der Sozialpolitik in Zusammenarbeit mit Sozialpartnern und Nichtregierungsorganisationen vorbereitet wurde. Wir müssen die Sozialagenda in Deutschland in enger Kooperation mit diesen Organisationen umsetzen.

Soziale Nichtregierungsorganisationen wie die Mitgliedsverbände der Spitzenverbände der Freien Wohlfahrtspflege in Deutschland, die zum einen als politische Anwälte für benachteiligte Bevölkerungsgruppen und zum anderen als Träger von sozialen Diensten auftreten, sind aus meiner Sicht sehr wichtige Akteure europäischer Sozial- und Gesellschaftspolitik.

Wir haben heute gehört, dass die sozialen Dienste selbst vor wichtigen Aufgaben stehen.

Mit dem von der nationalen und der europäischen Ebene gesetzten Ziel einer qualitätsvollen Dienstleistungsgesellschaft konfrontiert, versuchen sich die Anbieter sozialer Dienste neu zu orientieren. Die Begriffe wie Qualitätssicherung, Qualitätsmanagement und Qualitätsentwicklung sowie Wirtschaftlichkeit bilden ein neues Wertesystem, das sich an dem fest verwurzelten Selbstverständnis sozialer Arbeit reibt. Letztlich muss beides in Einklang gebracht werden. An der qualitätsorientierten Weiterentwicklung sozialer Dienste geht kein Weg vorbei.

Die Qualität sozialer Dienste ist ein schwieriger Bereich. Qualitätsmerkmale lassen sich nicht so einfach bestimmen und Qualität ist nicht einfach messbar. Die Zufriedenheit der Menschen, die soziale Dienste nutzen, ist wichtiges Bestimmungsmerkmal. Wir müssen auch hier Indikatoren entwickeln und Benchmarking betreiben, damit wir orientiert an den Vorstellungen der Nutzer Fortschritte erzielen.

Eine Ökonomisierung sozialer Dienste im Sinne eines reinen Preiswettbewerbs kann nicht unser Ziel sein.

Es darf nicht vergessen werden, dass die Nutzer sozialer Dienste oft ökonomisch schwach sind. Es sind gerade die Schwächeren in der Gesellschaft, die die professionell und effizient geführten sozialen Dienste benötigen und ein Recht auf solche Dienste haben. Eine an dem Prinzip der völligen Liberalisierung ausgerichtete Politik der Europäischen Union würde letztlich das im Rahmen der Sozialagenda geforderte Ziel der Modernisierung der Sozialpolitik, das nur durch eine Verbesserung der Qualität der Dienste bei strikter Beibehaltung des Prinzips der flächendeckenden und allgemeinen Zugänglichkeit erreicht werden kann, konterkarieren. Gemeinnützige Anbieter müssen eine faire Chance in einem europäischen Qualitätswettbewerb haben. Sie müssen die Möglichkeit erhalten, ihr Selbstverständnis und ihre spezifische Ausrichtung als ein Qualitätsmerkmal in diesen Wettbewerb einzubringen.

Die Anbieter sozialer Dienstleistungen in frei-gemeinnütziger und kommunaler Trägerschaft haben in den vergangenen Jahrzehnten in Deutschland und in den anderen Mitgliedstaaten einen erheblichen Beitrag zur Bereitstellung von mehr Arbeitsplätzen geleistet.

Die Sozialagenda formuliert unter der Überschrift „Auf dem Weg zu mehr und besseren Arbeitsplätzen“ folgendes Ziel: „Man muss die Rahmenbedingungen schaffen und alle verbleibenden Hindernisse beseitigen, um den Dienstleistungssektor zu entwickeln und die Schaffung von Arbeitsplätzen in Dienstleistungsberufen zu ermöglichen, auch in der Sozialwirtschaft.“ Im Jahre 1997 waren in Deutschland ca. 1,9 Millionen Menschen im Bereich der sozialen Dienste überwiegend bei Wohlfahrtsverbänden, kommunalen und kirchlichen Trägern beschäftigt.

Für den Zeitraum der Entstehung des neuen Arbeitsfeldes soziale Dienste auf europäischer Ebene müssen wir bestehende und neue Programme nutzen.

Das aller Voraussicht nach noch in diesem Jahr zu verabschiedende EU-Aktionsprogramm gegen soziale Ausgrenzung muss mit der verbesserten Zusammenarbeit der Mitgliedstaaten bei der Bekämpfung der sozialen Ausgrenzung einen klaren europäischen Mehrwert erkennen lassen. Dabei spielen die sozialen Dienste eine wichtige Rolle. Wir müssen bei der Definition von sozialer Ausgrenzung von der Lebenslage der Bevölkerung, d.h. von der Summe aller Handlungsspielräume und Lebensbedingungen, ausgehen. Dies bietet die Grundlage für eine breit angelegte Analyse des Phänomens sozialer Ausgrenzung und für die Entwicklung von Maßnahmen zu ihrer

Bekämpfung. Auf dieser Grundlage können dann konkrete Maßnahmen entwickelt werden, die das Ziel haben, defizitäre Lebenslagen zu verbessern. Soziale Ausgrenzung ist zum einen eine eingetretene Situation, die es zu überwinden gilt, und zum anderen stellt Ausgrenzung das Ergebnis eines Prozesses dar, den wir versuchen müssen anzuhalten und umzukehren.

Es ist wichtig, innovative präventive Ansätze in der Zusammenarbeit der Mitgliedstaaten zu entwickeln.

Ebenso stellt das neue Programm der Europäischen Union zur Bekämpfung von Diskriminierungen aus Gründen der Rasse, der ethnischen Herkunft, der Religion, der Weltanschauung, einer Behinderung, des Alters oder der sexuellen Ausrichtung ein wichtiges Instrument europäischer Politik dar, das wir national nutzen müssen. Der Unterstützung von Nichtregierungsorganisationen, die in diesen Bereichen tätig sind, kommt besondere Bedeutung zu.

Der Steigerung der Wirksamkeit von Antidiskriminierungsmaßnahmen wird zu Recht in der Strategie ein hoher Stellenwert beigemessen. Ein aus meiner Sicht wichtiger Untersuchungsgegenstand ist die Beseitigung von diskriminierenden Hindernissen für den Zugang zu Dienstleistungen und Gütern, zu dem auch die sozialen Dienste gerechnet werden sollten.

Wir haben am 25. September eine nationale Veranstaltung zum Thema der sozialen Dienste und der EU-Erweiterung durchgeführt.

Hierauf möchte ich Sie besonders hinweisen und der Kommission dieses Thema ans Herz legen.

Die sozialen Dienste sind nicht Bestandteil des EU-Regelwerkes und somit auch nicht unmittelbar Teil der Beitrittsverhandlungen. Sie sind aber für das Gelingen der erweiterten Sozialunion essenziell. Wir müssen deshalb alle Möglichkeiten ausschöpfen, mit bilateralen und wo möglich mit europäischen Mitteln zu helfen. Die Situation der Kinderbetreuungseinrichtungen, ambulanter Dienste für ältere Menschen oder auch familienunterstützender Dienste in den Beitrittsstaaten ist von vielfältigen Schwierigkeiten gekennzeichnet.

Es gibt erhebliche Unterschiede bei den Reformanstrengungen zwischen den einzelnen Ländern, sodass wir kein einheitliches Bild zeichnen können. Zu diesen Reformbemühungen gehören auch Debatten über die Struktur und das System sozialer Dienste in den Beitrittsstaaten. Diese sind natürlich wichtig. Von grundlegender Bedeutung ist die politische Entscheidung, ob mittelfristig angestrebt wird, ein flächendeckendes System von sozialen Diensten mit guter Qualität für alle Menschen eines Landes zu schaffen. Den Beitrittsstaaten mangelt es hierfür vielfach an den notwendigen Einnahmen, mit denen ein solches System aufgebaut werden kann. Politische Grundsatzentscheidungen mit einem entsprechenden Zeithorizont sind gleichwohl möglich.

Die Schwierigkeiten des Transformationsprozesses werden hier überdeutlich. Soziale Dienste sind durch den Abbau von Beschäftigung doppelt betroffen. Andererseits sind die sozialen Folgen für die Dienste eine kaum lösbare Herausforderung. Soziale Dienste in den Beitrittsländern brauchen mehr Ressourcen, um ihre Effizienz und Wirksamkeit steigern zu können. Den nichtstaatlichen Trägern wird in vielen Ländern eine neue und steigende Bedeutung zugemessen. Dies ist erfreulich. Wir erinnern uns alle noch allzu gut an die Zeit, in der nichtstaatliche Träger in schwieriger Situation allenfalls lokal oder in Nischen und ohne wirkliche Anerkennung tätig waren. Die EU bietet Unterstützung für den Aufbau der Sozialschutzsysteme in den Beitrittsstaaten.

Diese Unterstützung bezieht sich ganz wesentlich auf den *Acquis Communautaire* im

Sozialbereich. Die sozialen Dienste sind also nicht zentraler Gegenstand europäischer Bemühungen und bedürfen deshalb nationaler Kooperation, wie bereits gesagt, wenn möglich auch mit europäischen Mitteln. Gleichwohl würde ich mir wünschen, dass die EU diesem Thema mehr Aufmerksamkeit widmet.

Peter Haupt

State Secretary, Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ)

Closing words

Today's gathering has sought to cover a wide range of topics. Of course, success was bound to be limited. Yet one of the reasons the event has turned out a major success is the good cooperation at the preparatory stage. We now have a better idea of what we have to do in the future. I have here a few concrete ideas that I would like to submit to you right now.

1. The Commission and the Member States will have to view social services as a major field of activity. There will be additions to make to the five-year planning of the social agenda.
2. What we will need is a European programme of action addressing both the question of how to modernise the social services while ensuring their quality and the issue of the structural conditions for non-profit providers.
3. Likewise I can visualise, at European level, an exchange programme for executives in the field of social services or their provider organisations. For the Commission this would constitute an important pool of expertise that would bear substantial interest on the investment. And, of course, the Member States would also benefit from it to a particularly high extent.
4. I also repeat the call made earlier today for more certainty as to law for non-profit and municipal providers within the scope of the debate on services of general interest.
5. The Commission should give countries on the EU accession track greater support in setting up social services and the necessary judicial infrastructure.
6. The Commission and the Member States need a joint forum that will convene regularly to discuss the subject of social services.

At its Lisbon meeting in spring 2000, the Council of Europe made it plain that the European Union is no longer just an economic and judicial community but also a social community and a community of values. We have agreed on a new strategic objective, namely, "making Europe the world's most competitive, most dynamic, knowledge-based economic area ... able to achieve lasting economic growth with more and better jobs and greater social cohesion."

Social services are among the subjects included in the German government's position paper for the Barcelona Council of Europe, i.e. they are, as we see it, part of the Lisbon strategy.

Social services are a major tool for making progress in the areas mentioned. In future, we will have to rely more heavily on social services in fields such as career, society and family if we are to meet the political challenges facing us there.

Even though many people in today's Union do have access to social services, these services are far from being available to everyone at all times and at an approximately equally high quality level.

This holds, to a much greater extent, for EU candidate states that often have nothing more than rudimentary structures in this field. Social services are a major tool for furthering social cohesion. Children, young people, families and the elderly are groups that are particularly susceptible to social exclusion, and they are in special need of social services.

The absence of across-the-board high-quality services in EU candidate states in particular hampers not only the lives of broad sections of the population today but also the future potential for productivity growth and for the improvement of the quality of life in these societies.

Day in, day out, social welfare work is confronted with the consequences of social disintegration, and unlike in the case of transfer payments, it must prove its integrating effect. This self-justification pressure is, in my view, unacceptable. It is only thanks to social welfare work that many people gain access to social welfare benefits and to specific social services in the first place. Social welfare work greatly helps people conduct their lives and adds to their ability to cope with everyday problems. For example: social work that has young girls as its target group aims to reduce discrimination against females, debtor counselling attempts, amongst other things, to focus on the causes of debt while trying to open up new prospects, and family counselling can constitute a vital support to families in times of crises. The effect of social welfare work is difficult to quantify, but it must be taken into consideration in an overall concept for combating social exclusion and poverty.

Already, the inclusion of basic social welfare rights from the field of welfare protection in the European Charter of Fundamental Rights was a signal for the advancement of European social policy. With its basic social welfare rights, the Charter of Fundamental Rights does not confer any new powers upon the Union, but it does strengthen the Union's political mandate to make use of social policy to cooperate even more closely with the Member States for the benefit of disadvantaged citizens. It entails an obligation not to take any measures whatsoever to the detriment of social cohesion, and it highlights the importance of social services. The Charter must become part and parcel of the treaties.

It is an important means to advance social integration. Social services are constituent part of the Charter of Fundamental Rights.

In implementing the social agenda, the Commission must assign a much greater role to social services. It was important for the Commission to have prepared its working programme in the field of social welfare policy in cooperation with the two sides of industry and with non-government organisations. We in Germany should implement the social welfare agenda in close cooperation with these organisations.

Non-government social welfare organisations such as the member associations of the Federal Association of Voluntary Welfare Organizations in Germany that are active as political advocates for the disadvantaged sections of the population on the one hand and as providers of social welfare services on the other hand are, as I see it, highly important protagonists in the formation of European social welfare and social policies.

Today we have heard that there are important tasks awaiting the social services. Faced with the objective of a high-quality service society at national and European level, the providers of social services are trying to re-orient themselves. Notions such as

quality assurance, quality management, quality enhancement and economic efficiency constitute a new system of values that clashes with the firmly rooted self-image of social services. In the end, both positions have to be harmonised. There is no way around a quality-oriented advancement of social services.

The quality of social services is a difficult terrain. The characteristics of quality are not easy to determine, and quality is not easy to measure. An important criterion is user satisfaction. Here, too, we have to develop indicators and a benchmarking system to help us achieve progress on the basis of user needs.

Economisation of social services within solely price-based competition cannot be our objective.

We should not forget that the users of social services are often weak in economic terms. It is society's weakest who need professional and efficient social services and who are entitled to such services. A European Union policy geared towards the principle of complete liberalisation would ultimately thwart the objective of social policy modernisation as required under the social agenda, an objective that can only be achieved by improving the quality of social services while strictly adhering to the principle of general accessibility. Non-profit providers must be given a fair chance in European competition for quality.

They must be given the opportunity of contributing their conception of themselves and their specific orientation as their own mark of quality.

Over recent decades, both independent non-profit providers and municipal providers have greatly contributed to job creation in Germany and in other Member States.

Under the heading "More and better jobs", the social agenda formulates the following aim: "We must create the structural conditions for the advancement of the service sector and the creation of jobs in the service professions, including in social services, and remove all remaining obstacles to these objectives." In 1997, some 1.9 million people were employed in the field of social services, the majority of them by charitable organisations and by municipal or church providers.

While social services are still in the process of coming into being as a new European field of work, we will have to use both existing and new programmes.

The EU action programme to combat social exclusion which will in all probability be adopted this year must show that improved cooperation between the Member States in combating social exclusion is clearly an asset for Europe. This is an area where social services will have a major role to play. In defining social exclusion, we have to look at the situation of the population, i.e. the sum total of all scopes of action and living conditions. This will provide the basis for a broad analysis of the social exclusion phenomenon and for developing measures to combat it. On this basis, concrete measures aimed at improving deficit situations can be developed. Social exclusion is both a situation that has evolved and must be overcome and the result of a process that we must try to halt and revert.

It is important for innovative preventive approaches to be developed through the cooperation of the Member States.

The European Union's new programme for combating discrimination for reasons of race, ethnic origin, religion, outlook on life, handicap, age or sexual orientation likewise represents an important tool of European policy that should be used at national level.

Support for non-government organisations active in this field is particularly important. Making anti-discrimination measures more effective rightly plays an important role in our strategy. I see the elimination of discriminatory barriers to the access to goods and services – and this ought to include social services – as an important subject of research.

On 25 September we held a national gathering on the subject of social services and the enlargement of the EU. I would like to draw your attention especially to that event and to encourage the Commission to look into the subject.

Social services are not part and parcel of EU rules and hence they are not a direct part of membership negotiations. But they are indeed essential for making the enlarged social union a success. That is why we have to exhaust all opportunities of helping with bilateral, and wherever possible with Europe-wide means. The situation of child care institutions, outpatient services for the elderly and family support services in the EU candidate states is marked by manifold difficulties.

Because there are considerable differences between the individual countries' reform efforts, we cannot present a homogeneous picture. These reform efforts include discussion on the structure and system of social services in the candidate states. This is of course important. Another element of fundamental importance is the political decision of whether or not the creation of a generalised system of high-quality social services for everyone in a given country should be made a medium-term aim. EU candidate states often lack the resources required to set up such a system. Longer-term basic political decisions are possible nevertheless. The difficulties of the transformation process become all too clear here. Social services are doubly affected by job cuts. On the other hand, the social consequences of the transformation process pose an almost insoluble challenge to these services. Social services in the EU candidate states need more resources to be able to increase their efficiency and effectiveness. In many countries, private providers are taking on new and growing importance. This is encouraging. We all recall all too well those times when non-government providers could only work at local level at best, or in niches, and without genuine acceptance. The EU offers support to candidate states in setting up their systems of social protection. This support is largely founded on what has already been accomplished in the social field. In other words, social services are not in the focus of European efforts and therefore require national cooperation – and with European funds wherever possible. All the same I would like to see the EU devote more attention to this subject.

V.

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