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The Future of Social Services of General Interest

Short Report



On behalf of
European Commission
DG Employment, Social Affairs and Equal Opportunities



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Brussels, 29 May 2007

The Peer Review was held in Brussels (Belgium) on 29 May 2007 and hosted by the Belgian Federal Public Service for Social Security. In addition to the host country, seven peer countries took part: Finland, France, Germany, Italy, Lithuania, Luxembourg and Poland. Also participating were stakeholder representatives from AGE (the European Older People's Platform), AIM (the International Association of Mutualities), Caritas Europe and the European Social Network, together with representatives of the European Commission's DG Employment, Social Affairs and Equal Opportunities.

Long-term care includes a complex array of services, ranging from care for people with severe disabilities, whether at home or in institutions, to personal assistance services such as respite care, day care and increasingly, very active programmes that support families. In some countries, there is a trend towards merging high-level and low-level care. In others, there may be an organisational split between them – for example, intensive care in nursing homes may come under the national health service, while home care may be the responsibility of the social services. Increasingly, the term “long-term care” covers provision for all age groups.

European-level legislation applicable to long-term care includes the rules on competition and state aid, the freedom to provide services, freedom of establishment, public procurement rules and the free movement of persons. In particular, the EU's new services directive has been causing some anxiety. There is also considerable uncertainty over the implications of European Court of Justice rulings. Many of these concerns were expressed by the peer reviewers during the seminar, as they explained their countries' different systems. Will access to quality care services be put at risk by the services directive introducing more competition by reducing regulation, and therefore increasing the role of private enterprises for public services? How can that access be protected for the people who are dependent on these services? How can a balance be struck between on the one hand, accessibility and quality, and, on the other hand financial viability? How can we draw on good practice in each other's countries, so as to ensure that all citizens have access to the services they need? The current feeling is that the provision of care services, and decisions about them, should be as close as possible to the users. The systems underlying care provision vary greatly from one Member State to another, reflecting historical differences but also differing attitudes to choice, competition and social solidarity.

Under the EU's founding Treaty, social services “of general interest” which are of an economic nature are subject to certain EU rules in so far as the application of such rules does not obstruct the performance of their mission. But how should the concept of the “general interest” be defined? While it is a well understood expression in some Member States, it is a concept with which some other Member States have considerable difficulties. The jurisprudence of the Court of Justice is sometimes considered as confusing. Should not political decisions shape the future of SSGI in Europe? So far, in fact, there is very little EU case law on long-term care as such. The current uncertainties stem more from an analogy with rulings on other sectors. One case on which there is a Court decision concerns care homes. They were held to be an economic activity, but the ruling does also recognise that governments can act to restrict the running of private care homes mainly to the non-profit providers.

Commission representatives at the seminar recognised that the application of EU rules raises fears and uncertainties and stressed the need to identify more precisely the issues related to the interaction between EU rules and the provision of SSGI which need further clarity. A stronger information and consultation effort is now under way. On 4 June, a conference will be held on the general topic of social services. It will discuss the results of a Commission study on social services of general interest. A consultation exercise on social services, launched in 2006, had just been completed. Also, the results of a reflection group on legal affairs should assist in improving the quality of the discussion. . A new Commission's Communication, following up to a Communication of 2006 and scheduled for the end of 2007, would clarify the legal issues raised. For the Commission, this is an important time for clearing the way forward and establishing a clearer idea of the direction to be taken, a representative told the seminar. The issue would need to be discussed in greater depth with the Member States and all stakeholders. Currently, social services faced many challenges – social change, for example in the structure of families, as well as issues related to the modernisation, the quantity and the quality of the services on offer. During 2006, the issues involved at the national level had become very clear, as a result of the EU's open method of coordination. So the issue of the care system was now on the table, and questions of legal protection, appropriate financing and quality would need to be tackled. The 2007 Communication would announce an initiative on quality. This would not aim to define quality standards or criteria, but would set out agreed ways of evaluating the quality of social services. It would build on existing initiatives and would support exchanges of good practice among stakeholders and Member States. The Parliament and the Portuguese presidency would be organising a forum on SSGI in September 2007.

Among the main points to emerge from the Peer Review:

- Long-term care services have evolved. In many cases, they now comprise a broader range of services, which have become more complex in response to the expectations and needs of populations.
- This expansion has its price. Some Member States have already substantially increased the public funding of long-term care, and others have plans to do so.
- Long-term care is clearly embedded in the national context, notably national traditions of solidarity and personal services.
- Modernisation of care is driven primarily by the quest for value for money. But the requirement for financial sustainability is balanced by the acceptance that quality should be, and in some cases must be, improved.
- Care is subject to increasingly complex rules, as regards both accreditation and quality assurance. The present mix of public and private markets has also contributed to this complexity. To what extent should there be free competition, and should competition be on quality or on price? These are very complex regulatory questions when it comes, for example, to public procurement.
- One modernisation trend in many countries is that more consumer choice is granted, but this has a number of implications. Again, attitudes to choice are embedded in national views and cultures.
- With the increasing range of services comes a trend towards greater coordination between health and social services. This also reflects a more holistic view of care. At the European level, this calls for coherence between policies on health and on social care.
- The financing of long-term care is, in most cases, a co-responsibility of public and private funds - for example through partial coverage. In such cases, the "private" costs are often run up with the same provider which also receives public funds for other aspects of the care. This raises the issue of cross-subsidisation, which may need to be regulated at the national and supranational level.

- Possible new modes of financing include “reverse mortgages”, in which most of a person’s life savings may be spent on the cost of care in old age. Given the current pension reforms, it may be asked whether people will in future still have the savings needed to finance their care.
- Accreditation systems have now become commonplace in countries that are at various stages of developing long-term care as a coherent policy. But in some cases, major ongoing investments are needed before the accreditation requirements can be met by all providers.
- The long-term care sector is increasingly subject to international influences. The availability of comparative and comparable European statistics would be useful in this regard.
- For the quality control of services, methods initially developed in the commercial sector – such as ISO and other quality management standards - are now spreading. So a challenge already exists at the national and local levels: how to regulate quality standards so as to ensure a level playing field within social services. This also applies for Europe as a whole.
- The empowerment of users is one important aspect of quality, and may also call for non-formal quality mechanisms such as an ombudsman or a residents’ council.
- The cross-border hiring of care workers who are from new Member States or even further afield, often without work permits, is partially fostered by systems that promote choice in long-term care – such as voucher schemes or personal care budgets.
- These elements of choice can also promote cross-border movement of care users. For example, people have been moving into Belgian care homes from surrounding countries, where they have received personal budgets for care. This is causing some concern in the countries receiving these cross-border care users.
- Large international companies are now entering the long-term care market in some Member States. Through economies of scale, they may be achieving competitive advantages in public tendering vis-a-vis smaller local providers.