



How can State Aid Best Support Inclusive Employment & Social Impact?

**EASPD-SSE Webinar
Brussels 7 November 2023**

State Aid Rules and Social Economy on some EESC opinin

Giuseppe Guerini EESC

**State Aid Rules Applicable to Health and Social Services
SGEI in a Post Pandemic Scenario.
Reflections on the Commission Evaluation to Amend the
2012 Legislative Package**

Giuseppe Guerini EESC

The Treaty of Rome March 25, 1957

European Union (EU) competition policy has been an important element of EU activity since it was established with the Treaty of Rome in 1957.

The Treaty created 'a regime intended to ensure that competition is not distorted in the common market'.



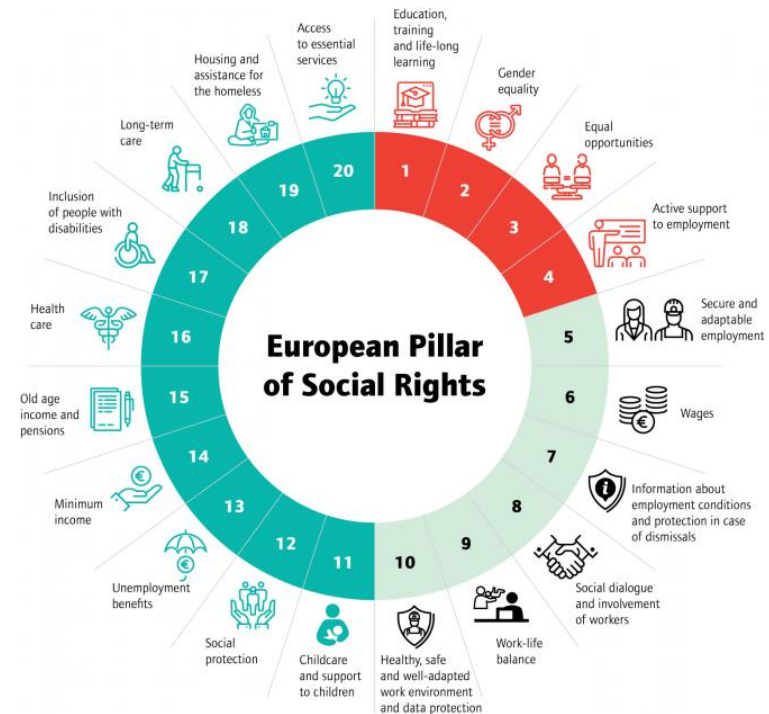
- **The European single market is a fundamental value and represents the main key to the success of the European development model.**
- **But social care, health and education services, represent "common goods" for which traditional market rules do not always work and, in some cases, can even be even counterproductive.**

Two important contextual points to consider before talk about state aid

The European Care Strategy



The Action plan for the European Pillar of Social Right



In the Opinion that we adopted last October 25, regarding the Recommendation to the Council, we dare to reiterate that a review of the European policy on state aid for the social economy is needed.

We welcomes the recommendations on State aid and the links between social economy entities, services of general interest and the State aid rules...

[Social economy package](#) | [European Economic and Social Committee \(europa.eu\)](#)

Brussels 7 November 2023

OPINION

European Economic and Social Committee

Social economy package

Proposal for a Council Recommendation on developing social economy framework

[conditions](#)
[COM(2023) 316 final — 2023/0179 (NLE)]

INT/1037

Rapporteur: **Giuseppe GUERINI**
Co-rapporteur: **Carole DESIANO**

If the social economy entities had been granted the state aid that has been granted in recent decades to the armaments industry, today we would have more social cohesion and fewer wars in the world

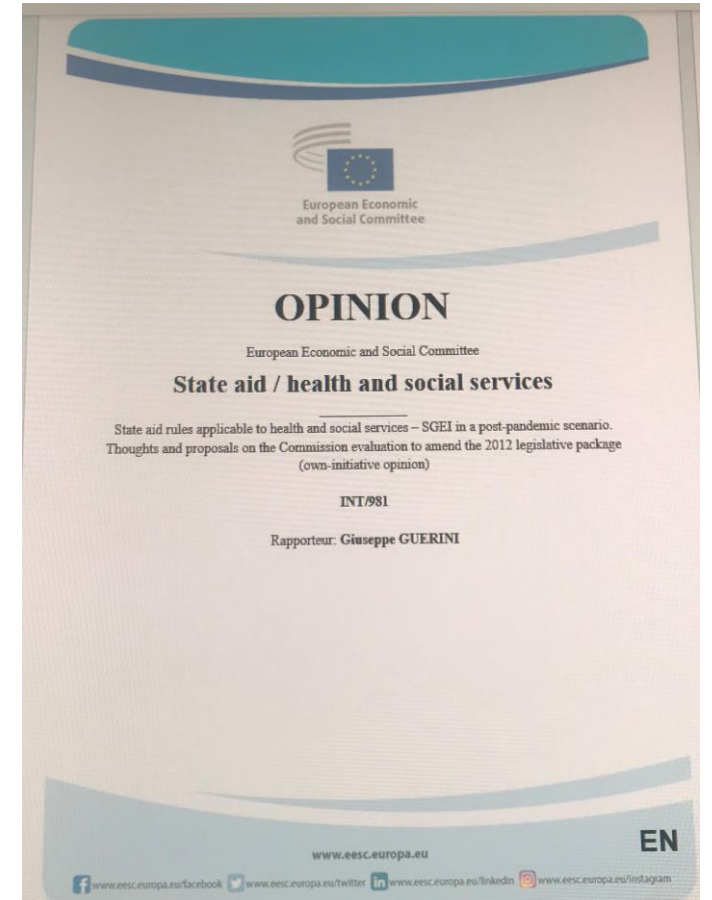
- **The European rules on state aid for such services therefore play a fundamental role.**
- However, they require, from our point of view, an update, although the regulation approved, in 2012 with the "Almunia package" on state aid (already 10 years old), has provided positive elements of simplification compared to the previous discipline.
- On the other hand, the new European strategy for care, together with the implementation of the objectives of the European Pillar of Social Rights, require a further modernization of the rules in force to deliver a strong response after the pandemic.

- Health and social services such as personal assistance, home care, reintegration of disadvantaged or disabled people, childcare services and social housing are crucial to ensure social cohesion in the current post-pandemic phase.
- The implementation of a European strategy for care makes it necessary to adapt the rules on services of general interest (SGEIs), and in particular, those dedicated to care, health, and education services.

Main proposals that the European Economic and Social Committee has included in its opinion INT/981, adopted on May 18th 2022

State Aid Rules Applicable to Health and Social Services SGEI in a Post Pandemic Scenario. Thoughts and Proposals on the Commission Evaluation to Amend the 2012 Legislative Package

<https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/state-aid-rules-applicable-health-and-social-services-sgei-post-pandemic-scenario-thoughts-and-proposals-commission>



The EESC Opinion “Public subsidies/health and social services of general economic interest” (INT/1016) adopted on 27 April 2023

<https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/state-subsidy-rules-health-and-social-services-sgei>

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OPINION

European Economic and Social Committee

Public subsidies/health and social services of general economic interest

Commission Staff Working Document - Evaluation of the State subsidy rules for health and social services of general economic interest ("SGEIs") and of the SGEI de minimis

Regulation

[SWD(2022) 388 final]

INT/1016

Rapporteur: **Giuseppe GUERINI**
Co-rapporteur: **Paulo BARROS VALE**



Is necessary to reinforce health and social services across the EU considering the progressive ageing of the population and the increasing number of disabled and disadvantaged people requiring appropriate assistance. Such a situation requires an increase in long-term care and support sustained by relevant public investments, businesses and civil society to achieve social innovation and to promote an adequate response to the current challenges.

The effort to ensure adequate social and health services will have to be supported with suitable financial resources, deployed in adequate public investments, as well as with specific State aid targeted at such sectors. The current State aid rules, approved in 2012, would therefore need to be adapted to ensure fair competition and the achieving of general interest objectives.

We recommends a significant **increase of the de minimis ceiling** for health and social services higher to the one recently envisaged in the proposed amendment of the horizontal de minimis ceiling set forth by Regulation No 1407/2013, taking into due consideration the increasing strategic role of social and health services across the EU.

The modification of the maximum de minimis thresholds, some clarifications be put forward regarding:

- i) a more extensive definition of "social housing";
- ii) a better definition of the "reasonable profit margin" concept, considering a distinction for the social economy enterprises whose economic margins are linked to a social purpose;
- iii) the concept of "market failure".

Our main proposal is to raise the state aid threshold for care services:

We believe that social and health services should benefit from a **de minimis ceiling** over three financial years, which should be significantly raised, compared to the one guaranteed to other SGEIs.

The role of social and health services in terms of social cohesion would justify a raised ceiling with the triple advantage of:

- 1. allowing more aid in the simplified and faster de minimis framework;**
- 2. taking into account the return of inflation at the macroeconomic level, which require periodic revisions of the ceilings over three financial years;**
- 3. recognize the subsidiarity and social cohesion function performed by many social economy entities.**

As highlighted by the Commission evaluation, the situation is made even worse by the fact that certain Member States indicated that "they do not allow SGEI providers to get a reasonable profit as part of the compensation due to the complexity of the concept".

The "**reasonable profit margin**" definition, a distinction should be made in favor of social economy enterprises, which are bound to reinvest the economic margins generated into their own statutory activities, thereby creating a virtuous economic effect which should be encouraged and supported.

We underline the necessity to take into consideration the most recent case law of the European Court of Justice on the notion of "economic activity" for the purpose of adapting the SGEI 2012 package rules in the future, underlining that specific activities related to health and social services might not be economic in nature. In the event that an entity concurrently carries out both economic and non-economic activities, keeping separated and clear accounting is a very useful tool to ensure transparency .

In particular, the rules set forth for by Decision no. 21/2012, require additional clarification on three points:

1. determination of the reasonable profit margin with respect to the capital employed to guarantee the service, considering the operational risk.
2. determination of the fixed and structural costs that can be counted among the management costs of this kind of services.
3. to what extent the distinctiveness of services and organizational models typical of social economy entities could be enhanced when they manage and implement services of general economic interest.

The notion of "**market failure**" enshrined in the 2012 package facilitated compliance with the SGEI rules applicable to health and social services, at least partially.

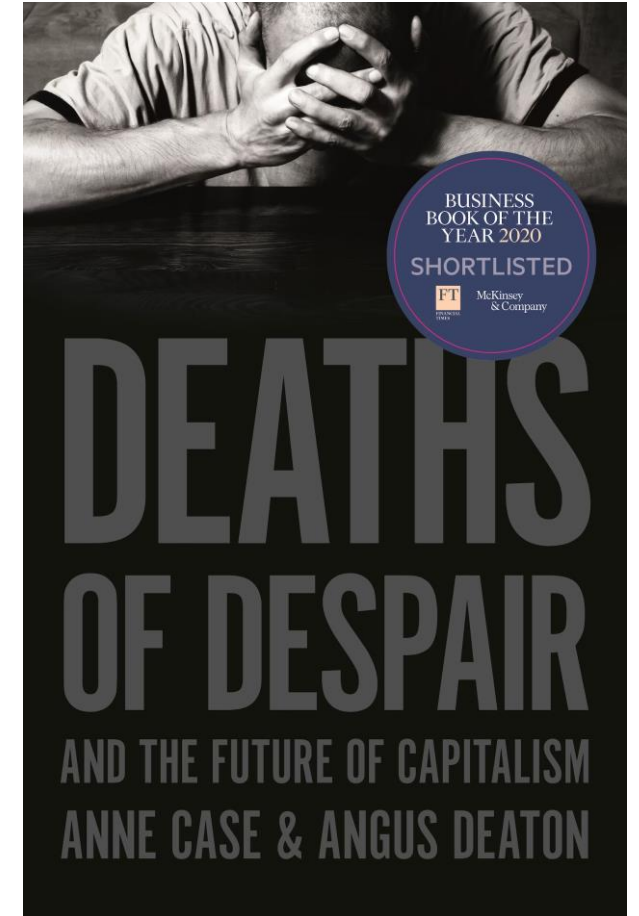
In this respect, the EESC wishes to note that a market failure can be flagged not only in the event that a given service is not delivered by the market, but also and especially when the market is not able to deliver adequate quality, as well as fair and affordable access for everybody to the service, with adverse consequences on social cohesion and equal opportunities.

I would like to mention a book by 2 American economists Anne Case and Angus Deaton, with a very impressive title, Deaths of Despair

The book highlights the failure of US healthcare, apparently inspired by a "free market" ideology.

Such an ideology protects profits more than the health of citizens (monopoly power guaranteed by public regulations).

This approach ended up determining that the US healthcare system costs too much for what it offers.



- The presence of information asymmetries that cannot be removed in health and social services, **requires a greater responsibility in regulating the market and protecting the weakest parts**, that are the citizens, starting with the most fragile ones.
- I am convinced that **the higher quality and better health conditions of Europeans are the due not only to the presence of a more extensive public welfare system, but also a better regulation of the single market** than the European Union has been able to achieve.

New challenges for the European society require new ways to regulate the market for care services:

- ageing population;
- growth of non self-sufficiency;
- fragility of families;
- educational needs;
- new forms of poverty



- European rules on state aid should improve the margins for the new public and private investments necessary to develop social and health infrastructures.
- Health and social services are often guaranteed through non-economic activities and, even when performed within the market context, health and social services have a predominantly local dimension without cross-border relevance on the demand side.
- The local dimension is even more evident when social and health services are managed by social economy entities with the involvement of local communities to achieve social cohesion and public interest.

Thank you for your attention

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