

The latest meeting of the European Parliament's Public Services Intergroup on 1 February focused on the topic : Not-for-profit organisations and State Aid. Invited speakers included Conny Reuter, Secretary General of Solidar and current president of the Social Platform; Katharina Wegner, of the German organisation Diakonie as well as a speaker representing the European Commission DG Competition.

Issues arising within local governments (collectivités territoriales) in their relations with associations providing social services have made clear the need for a debate on this topic. On one hand the local authority takes on the role of client, ordering services from the provider. On the other hand, social services have a very particular role in society responding to social needs and challenges often addressing vulnerable demographic groups. This aspect changes the relationship from a simple client-provider one, because it introduces philosophical questions about how the service should be provided and to what end. For many working in the sector it is clear that the debate is not about how to organise competition to make the sector more profitable, since many social services are by their very nature unprofitable if they are provided to the adequate standards of quality.

A speaker from the European Commission DG Competition gave a summary of the new package. It was presented in December 2011, and is composed of four texts in total:

- a Communication on the application of the EU State aid rules to compensation granted for the provision of services of general economic interest;
- a Decision on State aid in the form of public service compensation for SGEI, including new rules regarding exemption from state aid modification;
- a Communication on an EU framework for State aid in the form of public service compensation (including the application of the four Altmark criteria);
- a Regulation on de minimis aid granted to undertakings providing Services of General Economic Interest

Conny Reuter thanked the intergroup for bringing the situation of associations into the debate and pointed out that this is something new on the agenda with regard to state aids. The question of what makes associations different as actors in the single market, he said, has been puzzled over since the 1980s and the answer is the extent to which they conduct economic activity and operate in the market. Mr Reuter said the question was to recognise the role that these NGOs play and understand its social importance.

The point is that the market is not the be-all and end-all, and there is no agreement that

competition is an inappropriate tool through which to ensure adequate provision of social services – it is a belief based on ideological assumptions.

As a response to the global economic crisis, the austerity measures which have been promoted and imposed by the EU and by the majority neo-liberal governments in Europe have meant that public authorities have been pressured to cut 'luxury items', that NGOs provide, Mr Reuter explained. This has led to the need for professionalisation of associations' activities – after all, they are employers and they need to finance their activities. Therefore they need to become economic actors which means they must follow market rules.

The sector 'woke up late' to the dangers this implied – associations are not merely a different legal form from commercial companies, but they work differently and for different purposes than companies, and therefore it is essential to recognise these specificities and make a space for them in the internal market rules. Otherwise their work and their vital contribution to European society will be lost.

Mr Reuter said that it was vital to finally recognise a specific status for European associations . He recalled that a majority of the European Parliament has put its support behind the call to establish this legal status. There is huge opposition from the member state governments, because they fear the effect on their own domestic systems. For the Commission's part, there is a lack of motivation because they only think in economic terms, however if one thinks from a logic of service provision, the statute is needed.

Benoît Mychak of the CNJAEP presented what he called the worries of youth and non-formal education activists. Since the Monti-Kroes package in 2005 there has been a resurgence in calls for offers of service from local authorities, encroaching on the role of non profits as service providers. While Reuter was talking about 'advances' made by the Almunia package, from the standpoint he represented these advances seem very marginal.

Mr Mychak judged that this is a threat to the innovating capacity of the sector, and a threat to its ability to identify and tackle new and emerging social problems.

Katerina Wegner underlined the fact that many of the services under discussion simply aren't profitable or competitive when provided to the adequate standard of quality – the question in

this sector is usually not how to organise competition, but where to find funding. Ms Wegner pointed out that there have been zero cases of abuse of state aid, and no cases where service providers in receipt of public funding have had to pay it back due to contravention of the EU rules. Diakonie is happy about the progressive movement in the de minimis threshold – it is now €500 000 over 3 years in stead of 30k in one year. Ms Wegner said that it is important for stakeholders to use their connections to national level to get the word out that the new regulation is an improvement, and that it provides a workable framework for the smaller non profit organisation.

Marie Christine Vergiat MEP underlined the problem that, as ever, the European Commission standpoint is starting from an economic ideology and ignores in this case the reality of the mode of intervention acting on social problems. Therefore it fails to grasp that the services being provided to respond to social needs may arise spontaneously from a citizen effort, and not at all be the result of a request or order from a public authority. These citizen initiatives have nothing whatsoever to do with the market.

Ms Vergiat asked when will there ever be a real examination of the full meaning of article 14. She said that under the prevailing state of affairs, the social needs are not considered worthy of protection, even if competition in the single market is. Conny Reuter assented to this view saying that when it is possible to explain to 27 member states that social services are not something which can be regulated by the market, but indeed it is about social needs, citizens needs, then progress will have been made.

Do you have information or experiences to share regarding state aids for non profit service providers? Contact CEDAG secretariat to disseminate your story!