



Leveraging State aid possibilities related to services of general economic interest

Synthesis report

Written by ICF
August 2023



EUROPEAN COMMISSION

Directorate-General for Employment, Social Affairs and Inclusion

Directorate G — Funds: Programming and Implementation

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Manuscript completed in July 2023

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Table of Contents

1	Introduction	1
2	Services of General Economic Interest.....	1
2.1	Overview	1
2.2	SGEI in Member States.....	4
2.3	Increasing the use of SGEI to support the social economy	7
3	Conclusions and key learnings points.....	8

1 Introduction

This report presents the key findings from the mutual learning workshop on ‘Leveraging State aid possibilities related to services of general economic interest’. The workshop was the third in a series of three mutual learning events organised by the European Commission’s Directorate-General for Employment, Social Affairs and Inclusion (DG EMPL) to highlight the opportunities for using State aid to support the social economy.

The workshop aimed at clarifying the concept of services of general economic interest (SGEI) and explaining the SGEI package, whether the granting of public support in this context amounts to State aid, if and how the State aid should be notified to the Commission and whether the SGEI package can help to support the social economy. It was also a space for Member States to showcase national and local practices, as well as to discuss potential next steps on how to further use the SGEI package to finance large programmes to support the social economy.

The event was held online on 29 June and brought together 45 participants, including 39 public officials from national, regional and local administrations in 18 Member States.

2 Services of General Economic Interest

2.1 Overview

Services of general economic interest are essential for the economic, social, and cultural development of a society. Although there is no clear definition in the EU law of these services and their scope, they can be compared to public services. The European Commission defines SGEI as economic activities that deliver outcomes in the overall public good, that could not be supplied by the market alone without public intervention¹. They are generally provided by public or private entities under a framework ensuring their availability and accessibility to all, and especially to those in need. SGEI are defined by public authorities as including healthcare, education, public transportation, social housing, energy, water supply, waste management, and telecommunications – many of which are also of relevance to the social economy sector.

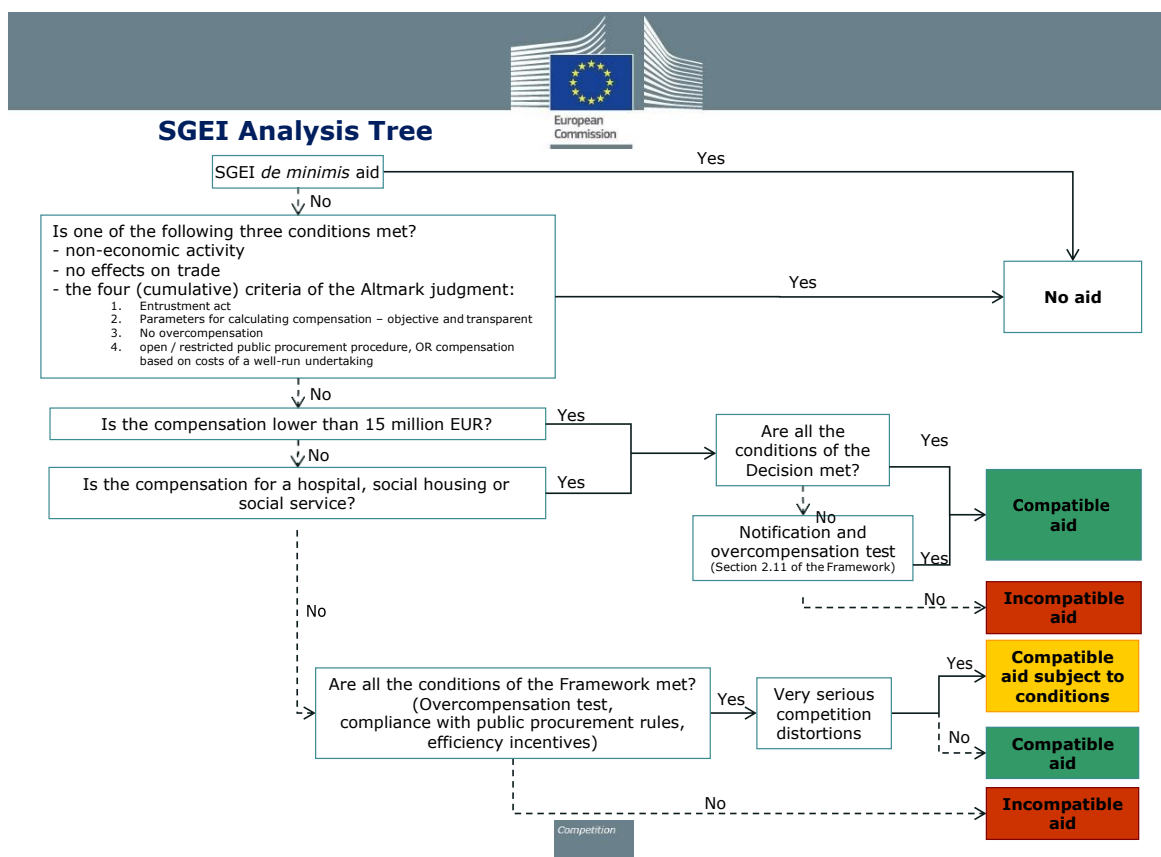
For the adequate provision of certain SGEI, public support may be necessary, including through State aid. The Commission allows the granting of State aid for the provision of SGEI under the following conditions:

1. Member States must issue an **entrustment act** – a legally binding assignment that formally entrusts a company with a specific service;
2. The **parameters of the compensation** – including the costs associated with SGEI provision, revenues, and reasonable profit – must be defined in advance;
3. **Overcompensation must be avoided**, meaning that the compensation must not exceed what is necessary to cover the costs and reasonable profit; and
4. The SGEI provider has to be selected under an **appropriate open and transparent tendering procedure** at the least cost to the community or through a benchmarking exercise.

In general, all planned State aid measures must be notified to the European Commission before they can be granted, as summarised in Figure 1. based on the applicable legal framework concerning the granting of State aid for the provision of SGEI.

¹ Communication from the European Commission, ‘A Quality Framework for Services of General Interest in Europe’, COM (2011)900, at 3.

Figure 1. SGEI Analysis tree



Source: https://competition-policy.ec.europa.eu/system/files/2021-04/SGEI_analysis_tree_en.pdf

However, under certain conditions – set in the SGEI de minimis Regulation 2012² or in the 2012 Commission SGEI Decision³ – it is possible to grant State aid for SGEI provision without notifying the European Commission. According to the current SGEI de minimis Regulation, certain compensation measures not exceeding EUR 500,000 over any period of 3 fiscal years do not need to be notified. At the same time, the 2012 Commission SGEI Decision declares certain types of SGEI compensation constituting State aid beyond the ‘de minimis’ threshold⁴ and up to EUR 15 million, compatible and exempted from notification. Compensation provided above the EUR 15 million threshold per service per year (apart from social services) must generally be notified to the Commission under the SGEI Framework.

Table 1. The SGEI de minimis Regulation and the 2012 Commission SGEI Decision

SGEI de minimis Regulation	2012 Commission SGEI Decision
<ul style="list-style-type: none"> There is no need to notify compensation up to EUR 500,000 over any period of 3 fiscal years. The ceiling includes any form of the de minimis aid and cannot 	<ul style="list-style-type: none"> It applies to compensation for the provision of SGEI over EUR 500,000

² Commission Regulation (EU) No 360/2012 of 25.4.2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to undertakings providing services of general economic interest Official Journal L 114 of 26.4.2012, p. 8

³ Commission Decision 2012/21/EU of 20.12.2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest, OJ L 7 of 11.1.2012, p. 3.

⁴ EUR 500,000 as of May 2023.

be cumulated with any compensation for the provision of the same SGEI, regardless of whether or not it constitutes State aid.

- Public authorities may provide the compensation (up to the ceiling) as a grant, a loan or a loan guarantee.
- The beneficiary undertaking should be entrusted in writing, stating the prospective amount of aid and that it is granted as de minimis aid.
- May not be granted to undertakings in difficulty.
- As there is no verification of the costs incurred in providing the service, there is no need to check for overcompensation.

and up to EUR 15 million per service per year.

- The compensation can only cover the necessary net costs incurred in discharging the public service obligations and reasonable profit.
- If the reasonable profit is the return on capital not exceeding the relevance swap rate plus 100 basis points, it is considered reasonable by the Commission.
- The content of entrustment is more detailed than in the de minimis SGEI Regulation and the duration should not be longer than ten years.
- No public tender procedure is required to select providers.

Source: Prepared by ICF based on the thematic paper and presentation prepared by Juan Jorge Piernas López for the third workshop in the series.

The 2012 Commission SGEI Decision recognises the specific features and positive impacts of social services. Accordingly, significant financial support can be granted to pursue social economy objectives under the current rules of SGEI. In particular, State aid can be granted for the provision of social services, such as:

- social housing and hospitals;
- services meeting social needs regarding health and long-term care;
- childcare;
- access to and reintegration into the labour market; or
- the care and social inclusion of vulnerable groups.

The advantage of qualifying a service as a social service under the 2012 Commission SGEI Decision is that there is no economic threshold to the compensation that the providers of these services can receive for their provision. Hence, Member States can grant as much compensation as they deem necessary to provide these services without notifying the Commission. However, Member States should define them properly and meet the rest of the criteria enshrined in the 2012 Commission SGEI Decision.

The European Commission has recently published the results of the evaluation of 'the State subsidy rules for health and social services of general economic interest and of the SGEI de minimis Regulation'.⁵ Although the evaluation concludes that the 2012 SGEI Decision generally reached the objectives of clarification and simplification, it also noted that certain concepts still needed to be clarified.⁶ The need to further clarify / simplify the rules to ensure coherence between the general and the SGEI de minimis Regulations was also

⁵ Commission Staff Working Document Evaluation, 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) 389 final}

⁶ Such as economic and non-economic activity, effect on trade, reasonable profit, market failure and social housing.

highlighted.⁷ In April 2023, the Commission proposed to revise the SGEI *de minimis* threshold to adapt it to the current economic context.⁸

Box 1 – Where to find information on State aid for SGEI on the Commission website?

The SGEI legislative package is available on the Directorate-General for Competition (DG COMP) SGEI State aid webpage including:

- [SGEI Communication](#) on the application of the European Union State aid rules to compensation granted for the provision of SGEI;
- [SGEI Decision](#) on the application of Article 106(2) of the TFEU to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of SGEI;
- [SGEI Framework](#) for State aid in the form of public service compensation;
- [SGEI De minimis Regulation](#) on the application of Articles 107 and 108 of the TFEU to de minimis aid granted to undertakings providing SGEI.

The [DG COMP search engine](#) has been revamped to facilitate search. Information related to SGEI can be accessed by selecting 'services of general economic interest' under the filter 'primary objective'.

The [SGEI Analysis Tree](#) (see Figure 1) allows to identify if a measure is considered as State aid and, if yes, whether it is compatible with EU rules.

Guidance on pre-notification for State aid can be found in the [Code of Best Practices for the conduct of State aid control procedures](#).

The Commission has also created an [e-State aid wiki platform](#) accessible only to State aid coordinators in the Member States and Commission services for interpretation questions.

[Guidance on the application of State aid rules and, in particular, for SGEI](#) is also available.

Source: Directorate-General for Competition, European Commission.

2.2 SGEI in Member States

Member States presented various examples where they fund economic activities through SGEI. In relation to **healthcare and long-term care**, Czechia is providing support for home care, intensive care and coordination activities to hospitals and private entities, including not-for-profit organisations. Czechia is also supporting education in the nursing field. In France, medical establishments receive grants for older people's health and long-term care.

Member States also shared practices related to **providing access to and reintegration into the labour market**. Finland has a limited liability company owned by the State promoting employment of people with disabilities. The company has social objectives but is not considered a social enterprise. Participants raised the question of whether such a company could be an undertaking if it is completely owned by the State, to which the Commission confirmed the answer is yes. In fact, being owned by the State does not mean that a company cannot be an undertaking carrying out economic activity.

Further diverse practices include:

- Belgium (Wallonia) is supporting all social services included in the 2012 SGEI Decision, except those related to healthcare.

⁷ Coherence is needed as regards the notion of 'single undertaking', the provisions on mergers and acquisitions, and the application of the de minimis rules to undertakings in difficulty.

⁸ Public consultation from 19.04.2023 to 01.06.2023, https://competition-policy.ec.europa.eu/public-consultations/2023-sgei_en

- Cyprus is funding various projects through the Recovery and Resilience Facility to provide social economic activities across a range of fields, including healthcare, childcare, labour market integration and the social economy.
- Czechia is developing new educational programmes for teachers and trainers that are considered economic activities and, therefore, must be justified when they are compensated. In addition, childcare is also regulated by a comprehensive law.
- France has social utility enterprises (ESUS) that provide fiscal advantages for investments with a social component. This means that they complement social housing carried out by public companies with this facility.⁹
- Concerning other, less common social economy activities, Portugal supports cultural activities related to welfare benefits to the communities. Hungary referred to supporting services of general economic interest, such as postal services, environmental protection, urban sanitation, etc.. They are usually run by municipal or state-owned companies.

Despite the potential of SGEIs to promote policy objectives in various areas, such as the social economy, social services, and labour market inclusion, SSE (Social Services Europe) observed that some countries still underutilise them, particularly in terms of investing in energy efficiency, pollution reduction, and digitalisation. Additionally, social service provision remains predominantly local and regional due to its specific nature, and this has not changed significantly over the past decade.

SSE noted a lack of evidence indicating significant distortion of cross-border trade as a general feature, although this depends on how Member States establish maximum profit margins for social service providers. An example from the public procurement field that can have relevance in the State aid realm in this regard is a 2022 study done by the Dutch government. The study looks at the cross-border dimension of public procurement – for example for elderly care and youth welfare – and shows that only 0.5 % of the examined tenders have a cross-border dimension. However, none of the tenders with a cross-border dimension were eventually awarded, leaving cross-border trade unaffected.

Administrations, particularly at the local level, express concerns about incorrect application of State aid rules, audits, and potential lawsuits, inhibiting the full use of State aid potential in the social economy. Social service providers interviewed by SSE expressed a need for better use of public financial support for workforce investment, service quality improvement, and the digital and green transitions.

Furthermore, the complexity associated with combining funding from different EU funds, including the COVID EU State Aid Framework, often discourages requests for such support.

Box 2 – IDESS scheme, Belgium (Wallonia)

IDESSE stands for 'Initiatives for the development of employment in the sector of local services with a social purpose'. The initiative was established in 2006-2007 in Belgium (Wallonia) – before the adoption of the Social Economy Law Decree that defined the sector in 2008 – with a main focus on the employment of the vulnerable population.

Although IDESS covers the entire population, it mainly targets the long-term unemployed and people excluded from the workplace, with customers including people with low income and/or with disabilities, people aged over 65 years and social economy associations.

The initiative supports various activities at reduced costs, such as:

⁹ For more information about the 'ESUS' label in France, see the synthesis report of the second workshop on "General Block Exemption Regulation, its content and application. Specific focus on access to finance for the social economy": https://social-economy-gateway.ec.europa.eu/document/download/e419d78d-b5ba-4524-aa25-42c6a524fa00_en?filename=WS2_Synthesis%20report.pdf

- small household repairs;
- maintenance of small courtyards and gardens;
- social transportation;
- social laundry; and
- social stores.

Between 2008-2017, IDESS has been operating under the SGEI de minimis regulation. However, after 10 years, it was recognised that the EUR 500,000 ceiling for 3 years did not allow the project to expand beyond certain limits. Therefore, the decision was taken to transition under the 2012 Commission SGEI Decision. In this process, certain adjustments were put in place. One of these was changing the period of the entrustment act given to social economy entities – ten years under the SGEI Decision – to four years. In addition, when controlling the use of grants, Wallonia also had to ensure adequate justification. Therefore, a balance is aimed to be maintained between benefits and revenues, losses and costs, and profits must also remain reasonable.

To adjust to the new legal framework, Wallonia adapted a new law as well. Through these changes, the IDESS initiative has gained a new impetus, resulting in the expansion of its budget since 2018 and an increase in the number of people who were put back to the labour market thanks to the project.

Source: Wallonia Public Service, Belgium.

Box 3 – State aid for social housing, Slovakia

Slovakia's "State aid scheme for the improvement of housing conditions with elements of transitional housing for disadvantaged groups of residents and socially weaker groups, with an emphasis on residents of marginalised Roma communities" falls under the 2012 Commission SGEI Decision.

The scheme aims to set up a vertical multi-level system of social housing in the form of rental housing, from the lowest through to higher levels of housing. Its purpose is to provide support for technical infrastructure in municipalities where marginalised Roma communities (MRC) are located. This entails offering aid to facilitate the physical, economic, and social revitalisation of MRC in both urban and rural areas, as well as increasing the number of Roma households with access to improved living conditions.

The expected outcome of the scheme is to enable beneficiaries to acquire independent and suitable housing that ensures human dignity, thereby enhancing their overall housing conditions. Alongside individual housing provisions, social work is also implemented to assist household members in learning to live independently.

According to the scheme, State aid is granted in alignment with the definition of social housing as outlined in the third section of the amended [Act on Subsidies and Social Housing](#). Public sector recipients consist of municipalities where MRC are present, while non-profit sector recipients include:

- non-profit organisations providing generally beneficial services;
- church and religious societies;
- associations; and
- the Slovak Red Cross.

The scheme uses State aid in the form of compensation for services in the public interest granted by the company in connection with the SGEI as per the 2012 Commission SGEI Decision. Social housing as SGEI thus includes two interconnected sub-services: 1) rental housing with transitional housing elements; and 2) performing the social work of the housing assistant.

Eligible expenses under the scheme related to investment in infrastructure include for instance long-term tangible assets, such as buildings. Moreover, eligible expenses related to performing the activity of a housing assistant are salary expenses.

Source: Ministry of Labour, Social Affairs and Family, Slovakia.

2.3 Increasing the use of SGEI to support the social economy

Participants identified three main steps throughout the workshop to increase the use of SGEI to support the social economy in their country:

1. Assessment of the needs

Member States should first **identify market failures** where the State should intervene and provide aid to support the development of specific activities that would be missing. From this initial analysis, central and local administration can **highlight which target groups need protection or financial support** to develop efficient and adequate measures to support the social economy that fit the local, regional or national reality. Public authorities can start by collecting evidence and gathering data on the situation and needs of social economy actors from relevant experts and stakeholders. This approach will allow Member States also to check whether beneficiaries have the financial capacity to co-finance the measure.

It was noted that if public authorities do not have the expertise or human resources to assess the needs of the social economy sector, assistance could be sought from external experts (e.g. consultancies).

Once the needs of the social economy stakeholders have been assessed, **Member States should define the objectives and expected outcomes** of the measures that are being developed.

2. Assessment of the measure

Once evidence and data have been collated, public authorities should identify:

- whether there are State aid implications for the measure they want to develop;
- if the activity is economic and considered as SGEI;
- the potential effect on trade; and
- the applicable State aid rules (de minimis, SGEI decision, SGEI framework etc).

As already highlighted in the first two workshops, participants stressed the importance of **raising awareness and organising capacity building about the potential of State aid measures related to SGEI**. Developing these activities will help public authorities to establish State aid measures that will be both compliant and efficient. For instance, in the German-speaking community of Belgium, the units involved with social economy actors have received training to help them understand the implications of State aid. A specialised lawyer was also hired to support public authorities in developing compliant State aid measures.

Training can also help to grasp financial aspects and opportunities better. For instance, a combination of funding from different EU funds is possible but often perceived as too complex and, therefore, not exploited to its full potential.

During the discussion, participants highlighted the **importance of disseminating knowledge about SGEI opportunities** for the social economy at the regional and local levels. They emphasised the need to organise training sessions to ensure this knowledge is effectively transmitted. The Commission also suggested that Member States appoint social economy ambassadors at the regional/sub-national level to promote initiatives as it is an adequate scale to make interaction happen.

Collaboration between diverse units or organisations is crucial for effectively leveraging the full potential of State aid related to SGEI while considering the specific context of the

social economy. However, participants' experiences revealed that experts proficient in both sectors are scarce or entirely absent.

To address this challenge, it is essential to foster cooperation among experts from the early stages of developing State aid measures. This entails cooperation and collaboration with all relevant stakeholders from the start, enabling them to raise concerns and contribute ideas while there is still ample opportunity to incorporate them. Such collaboration facilitates a comprehensive assessment of potential measures, leading to informed decision-making.

3. Compliance with Altmark criteria and implementation

Public authorities should prepare well to **fulfil the four criteria¹⁰ from the Altmark judgment** to ensure the provision of State aid does not provide an advantage to the beneficiary.

Member States should carefully consider how they approach entrustment acts and the level of transparency they desire. Even for State aid measures below the EUR 15 million threshold, publishing the acts can be beneficial for implementation purposes. This transparency enhances accountability and facilitates the smooth execution of the measures.

Monitoring and evaluating implemented measures were also highlighted as crucial steps. By assessing the effectiveness and impact of these measures, opportunities for improvement can be identified, and valuable insights can inform the development of future measures.

Participants unanimously acknowledged the significance of strong political will in capitalising on the opportunities presented by State aid for SGEI. Designing State aid incentives should be done by leveraging existing processes aligned with national strategies. This will ensure they are built within an existing framework and not as ad-hoc solution. This approach can expedite the development of measures that align with overarching goals.

Moreover, fostering mutual learning among Member States was seen as a valuable practice. This exchange allows for the comparison of successful strategies and lessons learned, which can inform the design of future measures and ensure continuous improvement.

3 Conclusions and key learnings points

This was the third workshop in the series of mutual learning events focused on State aid as a means of supporting the social economy. The workshop provided an opportunity for public officials and other stakeholders to come together, explore the potential offered by the SGEI (Services of General Economic Interest) package, exchange good practices, and discuss future actions.

The SGEI package presents significant funding opportunities for social economy entities. SGEIs are economic activities that deliver outcomes benefiting the public good, which would not be adequately provided by the market alone without public intervention. Currently, there are five recognised types of activities falling under the SGEI framework: healthcare and long-term care, childcare, access and reintegration into the labour market, social housing, and care and social inclusion.

Public authorities possess considerable discretion in defining SGEIs, but they must clearly justify how the specific service differs from other economic activities. To compensate SGEIs, public authorities must meet four criteria:

- having an entrustment act;

¹⁰ Namely, entrustment act, parameters of compensation, avoid overcompensation and selection of SGEI provider.

- establishing compensation parameters;
- avoiding overcompensation and
- selecting SGEI providers in a transparent and competitive way.

As for State aid within the General Block Exemption Regulation (GBER) framework, certain parameters should be considered to ensure compliance with EU rules when it comes to SGEI. However, various tools are available to support Member States in navigating this process.

Do not be afraid of using State aid

- The series of mutual learning events emphasised the importance of considering State aid as a viable option for supporting the social economy. Uncertainty has been identified as a key factor limiting its use. The workshops provided clarity on State aid concepts and their potential benefits for the social economy. Numerous possibilities exist for granting State aid while adhering to EU rules, and the success rate is high even when aid requires notification. State aid in the context of SGEI is primarily granted at the local level and rarely causes trade distortions.

The European Commission offers support for compliance

- The European Commission is committed to assisting Member States in ensuring their State aid measures comply with EU State aid rules. Efforts are being made to clarify and further explain these rules to Member States. Valuable resources are available on the SGEI webpage of DG COMP's website (see Box 1), and Member States are encouraged to reach out to the Commission for informal pre-notification discussions. This channel allows for a comprehensive understanding of the requirements for formal notification and enables confidential discussions on the legal and economic aspects of the measure. The [Social Economy Gateway](#) also provides valuable resources, including a dedicated section on State aid.

Adopt a bottom-up approach for developing State aid measures

- Conducting thorough needs assessments is vital to identify effective measures that benefit a wide range of stakeholders in the social economy. Member States should refrain from developing 'one-size-fits-all' measures that are not adapted to the reality of a given territory and/or context. Partnerships between public authorities and relevant stakeholders are crucial in this regard. Involving stakeholders from the beginning ensures the implementation of efficient measures and promotes support from the field. In France, it has been recognised that without proper needs assessment, State interventions may not align with the reality of the territory and may end up benefiting only a limited number of beneficiaries, which can lead to decreased motivation for future initiatives supporting the social economy.

Encourage innovative approaches to support the social economy

- The evaluation of the State aid rules for health and social SGEI conducted by the Commission identified room for improvement to clarify various concepts such as economic and non-economic activities, or an aid measure's effect on trade. The workshop's participants agreed that the evaluation can serve as a basis to define clearer categories for the social economy and explore more creative options. For instance, possibilities exist in the research and innovation sector to support activities. State aid can be granted to universities considered non-aid recipients because they do not perform economic activities. A similar setting could be envisaged for social economy entities.



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