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Opinion

RETHINKING THE ACQUIS COMMUNAUTAIRE OF SERVICES OF GENERAL INTEREST: BEYOND THE ACQUIS + GLOSSARY

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Executive Summary

- The Treaty of Lisbon fundamentally reformed the framework for services of general interest. Its revision was linked to the assumption that the act of services of general interest could at this point be closed.

- However, the need to take account of services of general interest particularly in forthcoming legislative initiatives seems to have been lost sight of. In 2013, SGI Europe published for the first time the glossary "Acquis+"[1] on the basis of the changes in the Treaty of Lisbon, which served as a guide for the interpretation of the concept in EU law and primary and secondary legislation.

- Taking into account societal transformations and the changes in competition policy and the internal market, SGI Europe observes that the special and protected function of services of general interest is not always sufficiently considered. SGI Europe therefore recommends rethinking the acquis communautaire of services of general interest and better integrating into European legislative initiatives.

- As integral part of the ongoing changes, we particularly call for a recognition of the Acquis + in the following fields:
    - Safeguarding state resources
    - Smart Cities and data sovereignty
    - The specific role of public undertakings as employers.

[1] The Acquis + Glossary (available here) is a description of the EU primary and secondary law, case law and soft law impacting the provision of SGIs in the European Union, from a transversial point of view. The present compilation can be regarded as an auxiliary reference guide for the interpretation of the SGEI concept in European Law in the light of the Lisbon Treaty and can be of help when analysing legislative proposals by the European Commission. SGI Europe calls on the European Institutions to be the guardians of the full and coherent implementation of the new provisions and to take full account of the fact that SGEIs need to be given special consideration in EU legislation in order to ensure high quality, safety, affordability of services based on equal treatment, universal access and respect of users' rights.

Services of general interest

A service of general interest exists if it is provided in the general interest and is therefore subject to specific public service obligations imposed by the Member States. The general interest does not have to be pan-European but can only relate to the interests of the Member States.[2]

Services of general interest are defined differently by the authorities of the Member States at national, regional or local level, provided that the service is classified as being of general interest and subject to specific public service obligations. Their practical implementation is the responsibility of the Member States[3]. Member States are therefore in principle free to decide what constitutes a service of general interest - unless this obligation is enshrined in Union law.[4] If the object of a service of general interest - i.e. the performance of a public service obligation - is clearly defined, it is not necessary to categorise the service in question as being of general economic interest. The same applies to social services of general interest that are economical.

Services of general economic interest are governed by Articles 14 and 106 (2) of the TFEU and by Protocol No 26. In its quality framework, the Commission defines services of general interest as economic activities which serve the general interest and which, without State intervention, could not be provided in the market at all or could only be provided to different standards in terms of quality, safety, affordability, equal treatment or universal access. The public service obligation is imposed on the service provider by means of a contract which includes a public service component, so as to ensure that the service is provided under conditions which enable the service provider to fulfil its mission.[5] Various decisions of the Court of Justice have emphasised the specific characteristics of services of general economic interest compared to other economic activities.[6]

Although services of general interest are an autonomous concept in the Union legal order, there is a wide margin of manoeuvre for Member States in defining the general (economic) interest of the provision of services. The control of the Commission and the Union Courts is limited to the investigation of an abusive application in individual cases. This corresponds to Article 106 (2) TFEU against the background of Article 14 TFEU. The legal concept of services of general economic interest used in Article 14 TFEU summarises Member State responsibility. In addition, Article 36 of the Charter of Fundamental Rights postulates the access of EU citizens to services of general interest as a subjective right of participation.

Social services of general interest and non-economic services of general interest are not subject to European Competition law. They are governed solely by the EU principles of transparency, non-discrimination, equal treatment and proportionality. Nor are they subjecting to specific procedural rules. However, they are increasingly influenced by the rules on state aid and public procurement. While social services of general

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[2] Communication from the Commission - Services of general interest in Europe, COM/2000/0580 final.
[3] The individual practice of each Member State in the provision of services of general interest results from their different historical development in Europe. In this sense, the European Commission also expresses itself in the Green Paper on services of general interest: "Terminological differences, semantic ambiguity and different traditions in the Member States have given rise to numerous misunderstandings in the discussion at European level. Different terms and definitions are used in the Member States, reflecting their respective historical, economic, cultural and political development. (Green Paper on services of general interest, COM (2003) 270 final, paragraph 15, p. 7). This means that the concepts that have developed and established themselves in the individual Member States differ from one another, not least in semantic terms. Consequently, what exactly services of general interest comprise is, in the sense of subsidiarity, generally the responsibility of the Member States.
[4] This is for example the case for universal services in the postal and telecommunications sectors.
[5] SWD (2013) 53 final/2, p. 20.
[6] Judgment of the Court of Justice of 10 December 1991, Merci Convenzionali Porto di Genova SpA/Siderurgica Gabrielli SpA, C-179/90, Slg. 1991, I-5889, paragraph 27; Judgment of the Court of 17 July 1997, GT-Link A/S/De Danske Statsbaner (DSB), Slg. 1997, I- 4449, paragraph 53; Judgment of the Court of Justice of 18 June 1998, Corsica Ferries France SA/Gruppo Antichi Ormeggiatori del porto di Genova Coop. arl, Gruppo Ormeggiatori del Golfo di La Spezia Coop. arl, Ministero dei Trasporti e della Navigazione, Slg. 1998, I-3949, paragraph 45.

interest generally fall very uncritically under the general interest criterion, services of general economic interest are subject to restrictions and consequently part of the European competition and internal market rules.

An acquis + for services of general interest

The historically based principle of a state responsibility to guarantee the constitutionally or fundamentally secured needs of life and existential basic needs exists in various forms throughout Europe. The Member States, i.e. national, regional and local authorities, have general competences and discretionary powers to define, provide, commission and finance services of general interest. The role of the European institutions is limited to monitoring obvious mistakes. In view of the European Union's obligations and framework for services of general interest, “golden rules” for public services have been formulated by SGI Europe in its Acquis+ analysis[7]:

- The internal market and competition rules do not apply to non-economic services, as non-economic services are covered by the general principles of the EU.
- Services of general economic interest are subject to the rules on competition and the internal market only if these rules do not obstruct the performance of the specific mission of services of general economic interest (Article 106 TFEU). The effective performance of a task of general interest takes precedence over the Treaty rules in case of conflict.

- In addition, the competent authorities are free to choose the type of management. The European institutions are neutral with regard to the ownership of undertakings providing services of general interest.
- Standards of quality, safety, affordability, equal treatment, promotion of universal access and user rights (Protocol 26) must be implemented for all services of general interest.

- Appropriate guarantees for the provision of services of general economic interest are also required in relation to public procurement obligations and concessions in the future.

The objective of public undertakings in the EU is to perform public service tasks in the public interest. The EU provides the general framework and lays down the rules for services of general interest in primary and secondary EU law. These legal provisions form the framework of an Acquis+.

All European institutions should be aware of their role as guardians of the acquis communautaire in new provisions and take into account that services of general interest require special consideration in EU legislation. Without such a consideration of services of general interest on the basis of equal treatment, universal access and respect for users' rights, no high-quality, safe and affordable services can be guaranteed.

[7] CEEP.2017/SGI.01, The EU in a globalized world.

The importance of competition policy and the internal market

The inclusion of further treaty objectives in the Amsterdam Treaty and then further in the Lisbon Treaty removed European law from its close economic link. Nevertheless, economic objectives play a decisive role in the realisation of the internal market. This forms the basis for a comprehensive exchange of goods within the meaning of Article 26 (2) TFEU. At the same time, non-economic aspects are becoming increasingly important. Finally, the internal market, which serves as a central point of reference, is itself supplemented by social and ecological priorities in Article 3 (3) TEU.

Due to blocked multilateral WTO negotiations, the EU is increasingly negotiating so-called new generation trade agreements, which include a “WTO-plus” agenda for the elimination of non-tariff barriers to services and investment, but also cover regulatory requirements, public procurement and competition rules. These trade agreements usually also include normative aspects such as human rights and sustainable development.[8]

Addressing regulatory issues brings new trade opportunities, but also carries the risk of destabilising the existing market economy balance in favour of private interests: While constitutional rights and competitiveness have the potential to strengthen each other with positive synergy effects, they can also lead to tensions and political inconsistencies. In particular, new generation trade agreements could have an impact on public services and services of general interest by addressing and advancing areas such as the liberalisation of services, access to public procurement markets, competition rules and State aid.

In this context, SGI Europe considers that a better model is needed to ensure the protection of the provision of services of general interest in future international trade agreements. A standard clause to protect services of general interest could fulfil this task and should include the following points[9]:

- The clause should be in line with the "golden rules" of the Acquis+ already set out in this paper, i.e. recognising the existence of market failures in addressing specific societal challenges and protecting the role of services of general economic interest.
- This clause should apply to all types and forms of provision of services of general interest and must guarantee the discretion of public authorities in providing, commissioning and organising services of general interest at European, national, regional and local level.
- European, national, regional and local authorities should not be forced to further open up services of general interest to market access. SGI Europe therefore calls for a general exclusion of services of general interest from market access obligations.
- With regard to public contracts and concessions, the clause should ensure the direct award of services of general economic interest in accordance with EU secondary legislation (in-house) and take social, environmental and innovative criteria into account when awarding public contracts and concessions in accordance with EU public procurement rules.

[8] CEEP.2016/SGI.01, Trade agreements
[9] CEEP.2016/SGI.01, Trade agreements

Ensuring the acquis communautaire in European policy instruments

Services of general economic interest play an essential role in the daily life of EU citizens. They are a response to public demands to meet societal needs. The freedom of Member States to determine the type and scope of services of general interest results from the historically developed principle of state responsibility to ensure that the basic needs of life and existential requirements are guaranteed in a general and barrier-free manner.

The focus for services of general interest lies in key societal issues or problems identified collectively or by individual actors. The state is therefore responsible for answering questions raised by society as relevant or urgent and for finding a solution to the problems or implementing them with the help of these services. Services of general interest contribute to reducing the gap between social inequalities. These competences are reflected in primary EU law through Article 14 TFEU and Protocol No 26 TFEU, as well as in secondary legislation.

Services of general interest reflect the needs of society. They are the answer to social questions and problems, which are linked to the objective of a general improvement in quality of life. Services of general interest are therefore not static. On the contrary, they have to constantly adapt to the demands of society. However, this sometimes stands in the way of downstream legal standardisation, which does not provide for or even allow adjustments. It is therefore essential to review the existing framework with regard to these answers provided by the Member States.

For it should be borne in mind that an acquis communautaire can only ever reflect a past situation. It is therefore more a guarantee of what has been achieved. Because what is considered worthy of protection at present may be subject to completely different requirements in the future. In this sense, it is essential that it be constantly questioned with regard to its social requirements and, if necessary, supplemented. In addition to protecting the acquis communautaire, a crucial task is therefore to recognise the need and provide opportunities to take sufficient account of a fast-moving and globalised world.

We need a recognition of the Acquis + regarding transformations

Our society is subject to constant change. Technical developments, political requirements such as the achievement of climate protection and energy efficiency targets, and megatrends such as urbanization, digitization, or the handling of demographic change ensure that services are subject to fundamental change. In the future, these services will increasingly converge across sectors and be provided digitally.

Digitisation is also fundamentally changing services of general interest. Even when operating digitally, services of general interest must be subject to special legal protection which emphasizes the consideration of the general interest, but at the same time allows competition on an equal level with private providers.

The European Commission's main objective is to create a single European data area and a single market for data.[10] Using data by businesses and administrations, better decisions should be made to promote social and economic well-being. The needs of the individual should be considered, thus creating added value for the economy and society. In order to be able to exploit these opportunities of digitisation, better access to data and responsible data use in the European Union should be guaranteed.

[10] COM(2020) 66 final, 19.02.2020, p. 5.

Transformations are more and more not politically located in public authorities. Instead, preference is in tendency given to other actors, who often lack appropriate protective measures and general welfare interests. This shift in actors is a major problem. In this context, it is evident that services of general interest are increasingly less regarded as natural partners for the realisation of European policy objectives. While the reason for the existence of services of general interest lies in the shaping of transformations, the private sector is now increasingly involved, which, unlike the public sector, primarily pursues the goal of maximising profits. After all, shaping transformations for a more sustainable and social Europe is not the interest of the private sector and is therefore only implemented secondarily at best by the private sector.

Services of general interest shape and implement these processes of transformation for all of society with due regard for the general interest. It is therefore of crucial importance that the Comission's legislative initiatives take into account the specific characteristics and the guaranteed framework of services of general interest. In the following, we highlight problematic aspects of the current analysis of European legislative projects with regard to the acquis communautaire on services of general interest and sketch possible approaches to solutions.

Safeguarding state resources

Services of general interest provide the basis for economic activities - whether it be the transport network, the education system, childcare, schools, health care or public administration - by investing in public infrastructure. Furthermore, the state and its companies invest in research and development, which founders and well-established companies adopt to build business models and generate further innovation. All these investments need to be financed on a solid basis. Consequently, it is important to look at government revenues.

Theoretical as well as empirical studies have emphasised the positive correlation between high-quality public infrastructure and macroeconomic productivity.[11] The assumption that start-ups or the private sector are pioneers in transformation processes and promote innovation has not been scientifically proven. In fact, it can be observed that most companies and banks tend to finance only low-risk innovations. Historically, those high-risk areas that are characterised by high capital intensity and high technical and market risks are avoided by the private sector.[12] Accordingly, the role of the state is indeed to research and finance cost-intensive, innovative domains.[13] The role of the state has always been particularly strong in the development and initial financing of innovations.[14] Many technological innovations that have generated long-term economic growth have been financed primarily by the state.[15]

[11] Buffie, Edward/ Berg, Andrew/ Pattillo, Catherine/ Portillo, Rafael/ Zanna, Luis-Felipe: Public Investment, Growth, and Debt Sustainability: Putting Together the Pieces, IMF Working Paper WP/12/144, International Monetary Fund, Washington 2012; Ghazanchyan, M./ Stotsky, J.: Drivers of Growth: Evidence from sub-Saharan Africa, IMF Working Paper WP/13/236, International Monetary Fund, Washington 2013; Gupta, Sanjeev/ Kangur, Alvar/ Papageorgiou, Chris/ Wane, Abdoul: Efficiency-Adjusted Public Capital and Growth, in: World Economic Development, Vol. 57, Issue C, 2014, p. 164-78.
[12] Mazzucato, Mariana: Das Kapital des Staates. Eine andere Geschichte von Innovation und Wachstum, p. 37.
[13] Mazzucato, Mariana: Das Kapital des Staates. Eine andere Geschichte von Innovation und Wachstum, p. 18.
[14] "For many technologies, it has not been Adam Smith's invisible hand, but the hand of government that has proven decisive in their development. Moreover, the innovation economy depends on a series of principles that are at fundamental variance with market fundamentalism." (Block, Fred: Innovation and the Invisible Hand of Government, in: Fred Block/ Matthew R. Keller: State of Innovation. The U.S: government's role in technology development, Paradigm Publishers, Boulder/ London 2011, p. 3).
[15] Mazzucato, Mariana: Das Kapital des Staates. Eine andere Geschichte von Innovation und Wachstum, München 2014.

Technological innovations are capable of stimulating economic activity. They thus pave the way for increased productivity and material prosperity, but also carry the risk that technology will not be applied in the interest of citizens.[16] The link between innovation and inequality is scientifically well documented. In general, new technologies increase productivity. They also increase income and the level of prosperity. However, not everyone can participate in this growth equally. Recent research results show that innovation also changes the distribution of income. The winners from innovation earnings are disproportionately high-top earners such as entrepreneurs or managers of large companies. In the United States alone, the share of top earners in total income doubled between 1975 and 2013 from 8.8 to 20.1 percent.[17]

For example, in Germany, the general public now has a share of only 1 percent of the gross domestic product (GDP) in total national wealth. As a result, private assets account for 99 percent of GDP. Since the 1970s, the quantity, but also the quality of state property in Germany has declined continuously.[18] The type and extent of infrastructure is closely linked to a country's level of prosperity. A high gross domestic product and social prosperity are often regarded as essential determinants for a sufficient infrastructure.[19]

The distribution of profits to the various stakeholders involved must actually reflect their different contributions. However, if only a few stakeholders receive large shares of the profits that are disproportionate to their contributions, innovation will continue to increase inequality. The answer to such inequality in Europe must therefore be to combat it in a focused way, i.e. ownership of publicly financed innovations must primarily be transferred to the entire society.

Whether the state invests in the Internet in the name of national security or in clean energy in the name of climate protection, it can do so on a scale and with instruments that are not available to the private sector. A central obstacle for private institutions to invest in new technologies is that private companies do not invest on their own initiative in a way that generates a profit for the general interest.[20] This drives inequality further. For only a small proportion profits from innovation projects - often (partially) financed by the state.

The public sector must therefore take on this role and consider how it can transform such investments into new economic growth in the future. The public sector should provide its financial share and a major regulatory role in the innovations it supports. It is not acceptable that the public sector should finance research and development and that the subsequent revenues should essentially be allocated to private companies, while the decisive consequential costs are usually paid by the general public. Public assets and potential are being wasted here. For while the state provides the financial resources and often also the necessary infrastructure, it does not secure a legal and financial share in the innovations, especially in the case of innovations that firstly generate a lot of profit for private companies and secondly do not primarily serve the general public.

[16] Jürgens, Kerstin/ Hoffmann, Reiner/ Schildmann, Christina: Arbeit transformieren! Denkanstöße der Kommission „Arbeit der Zukunft“ (Forschung aus der Hans-Böckler-Stiftung 189), transcript Verlag, Bielefeld 2017, p. 207.
[17] Aghion, Philippe/ Akcigit, Ufuk/ Bergeaud, Antonin/ Blundell, Richard/ Hemous, David: Innovation and Top Income Inequality, NBER WP 21247, 2015.
[18] Piketty, Thomas/ Zucman, Gabriel: Capital is back: Wealth-income ratios in rich countries 1700-2010, in: The Quarterly Journal of Economics (2014), p. 1255–1310, p. 1275 ff.
[19] Eck, Alexander/ Ragnitz, Joachim/ Scharfe, Simone/ Thater, Christian/ Wieland, Bernhard: Öffentliche Infrastrukturinvestitionen. Entwicklung, Bestimmungsfaktoren und Wachstumswirkungen (ifo Dresden Studien 72), Dresden 2015, p. 3.
[20] Mazzucato, Mariana: Das Kapital des Staates. Eine andere Geschichte von Innovation und Wachstum.

Smart Cities and data sovereignty

The increasing political will to create Smart Cities is very relevant for the sustainability of the public economy. Smart Cities pursue the goal that investments in network infrastructures lead to sustainable economic growth and a higher quality of life. This is to be accompanied by a sensible use of natural resources and participatory governance.[21]

An example of Smart City plans is the attempt by Alphabet Group to create a Smart City in a district of Toronto. Alphabet's subsidiary, Sidewalk Labs, is primarily promoting the use of innovative technologies to solve urban problems such as environmental pollution, traffic congestion and the lack of affordable housing. Alphabet aims to become the first tech group to build a complete mini metropolis. In this city, all kinds of infrastructures and public services are to be "smartly" networked. For such a complete network, this part of the city is to be equipped with many sensors that monitor and record everything.[22]

What at first glance looks like a "brave new world" here has its price: data. The data of such a Smart City is no longer the responsibility of the public authorities, but of a profit-oriented private company that already dominates the market. A city like the one Alphabet is building is the product of an already ongoing process in which individuals no longer have any real control over their data and in which privacy and data security must be bought. However, the default must remain the preservation of data sovereignty - especially for services of general interest. This can only be achieved with the public sector.

With the digital transformation of society, people, machines and objects will become physically and digitally networked across the usual scope and sectors of services of general interest. Smart home, smart grid, virtual power plants, autonomous driving, internet of things and electric mobility are just a few keywords in such this changing world. In this context, data-oriented services are gaining in importance. The analysis and sale of user data is already a lucrative business model for platform providers. However, other companies also intend to benefit from this data and consider data driven concepts as a new business field. Consequently, the analysis and use of data forms an increasingly important part of value accumulation. It is crucial to pose the question of who owns the data and how it is possible for those who provide their data to share the profits, with which companies ultimately make profits.

Therefore, an organised and transparent process is needed to enable all people and public enterprises and other public entities of general interest to deal with their personal data in a sovereign manner. Such digital sovereignty has different dimensions:

- The ability of the individual to be able to comprehend data processing operations by means of digital competence, which must be acquired without barriers, and thus allow the informational self-determination of each individual to take effect. So far, such necessary skills for informational self-determination have been primarily located at the European political level with non-profit organisations[23] and with the citizens themselves. A pan-European approach in this matter with appropriate strategies does not seem to be envisaged in European policy.[24]
- The comprehensibility and explainability of the systems used, their products and results should be made possible both by appropriately binding regulatory frameworks and by creating transparency with

[21] Jaekel, Michael/ Bronnert, Karsten: Die digitale Evolution moderner Großstädte. Apps-basierte innovative Geschäftsmodele für neue Urbanität, Springer Vieweg, Wiesbaden 2013, p. 11.
[22] https://www.sidewalktoronto.ca
[23] The following organisations and research institutions can be cited as examples: https://mydata.org; https://decodeproject.eu; https://solid.mit.edu; https://www.radicalxchange.org (all last accessed on 26.03.2020)
[24] COM(2020) 66 final, p. 12.

regard to the political and economic objectives of their providers. Oligopolistic or even monopolistic structures that hinder competition must be prevented or disrupted, for example by supporting alternative software, hardware and service providers and suitable interfaces. Although the European Commission has identified a general problem in this field, it does not intend to take regulatory measures, but rather relies on voluntary measures by the stakeholders.[25]

- Therefore, it is necessary to define standards when using algorithms and AI systems. Particularly in the area of algorithm-based categorisation of persons or population groups, discriminatory distortions have regularly been proven or could not be excluded in investigations of currently used algorithms and AI systems. This applies to a wide range of application fields such as face recognition, crime prevention, language analysis, university admissions or advertising.[26] One reason for this is that the underlying algorithms are usually developed by private companies. In most cases, it is not possible to understand or even intervene in the structure of the algorithms or the data sets, models and assumptions on which they are based. These algorithms are primarily focused on profit or the reduction of expenses, as well as economic efficiency. In their conception and development, public welfare effects and interests usually play a secondary role. However, their adequate consideration must be guaranteed when using these products.
- Furthermore, it is important to maintain independence from individual providers of digital services. This means that suitable mechanisms and exit strategies are needed to prevent lock-in effects (in particular dependencies on individual cloud providers but also other service or software providers). To identify and control service or system providers who could act as gatekeepers, appropriate measures must also be defined. The possibility of intervention must also be ensured with regard to the possibility of intervening in processes that underlie automated decisions.
- Conditions for a suitable framework must be defined in the field of IT security. This includes binding minimum standards for the security and robustness of the systems used, a culture of transparent error analysis and the introduction of pan-European digital product liability. A decisive factor for a successful transformation lies in the creation of such framework conditions to guarantee digital sovereignty for all people.

We are setting the course now for a world in which we want to live in the future. The question we face is whether we want a world that leads to surveillance by data accumulators and data users and the loss of all self-determination or a world that protects human rights and safeguards individual sovereignty.

In this matter we identify an urgent need for political action. The rapidly growing possibilities of IT technology require new strategies, processes and products. This also includes, as well as the corresponding protection and appreciation of the citizens by the EU. Service providers of general interest should be much more involved in this process as guarantors of digital self-determination. For only they are state-controlled and legitimate. They can meet these challenges, which, under changed social and structural conditions, serve the general interest and protect European fundamental rights.

[25] COM(2020) 66 final, p. 12.
[26] Orwat, Carsten: Diskriminierungsrisiken durch Verwendung von Algorithmen. Eine Studie, erstellt mit einer Zuwendung der Antidiskriminierungsstelle des Bundes, Nomos, Berlin 2019.

The specific role of public undertakings as employers

Providers of services of general interest must ensure that metropolitan areas, cities and regions remain attractive to live in and are able to promote economic and social prosperity. They are part of the European welfare model. Globalisation increases people's demand for social services such as mobility, education, health and housing.

Employers depend on a well-functioning IT-infrastructure, a stable investment climate and transparent administrative structures. Employees demand social work protection. Particulary as the working environment and industrial relations change and become more flexible, basic structures are needed to preserve the high value of employee protection.

Essential actors in such a process is the public sector. This is because they link services for the general public with socio-political processes. Thus, the tasks of services of general interest and the special rights that may be associated with them arise from the point of view of the general interest, especially with regard to security of supply, environmental protection, economic and social solidarity, spatial planning and consumer protection. Its fundamental objectives are continuity, equal access, universality and transparency of services.[27]

State and social partners as actors of empowerment

Services of general interest cannot be subjected unconditionally to economic efficiency criteria without their quality suffering. For example, educators, teachers or nursing staff should not look after as many children, pupils or people in need of care as possible, but should devote themselves to their tasks as well as possible according to all available knowledge. Public services, and in particular social services, contribute directly to social prosperity and to the general improvement of the quality of life. The education, raising and care of children, pupils and those in need of care form the basis for participation in the labour market and the growth of the workforce of the future. Consequently, the current concept of productivity is not a suitable benchmark for services of general interest. Rather, what is needed are measurement criteria and indicators that do better justice to the special character of services of general interest and reflect their value for society and the economy more realistically than in the past. We need a new understanding of productivity in order to better reconcile the goal of sustainability of public finances with the goals of economic, ecological and social sustainability.[28]

As person-related services are of elementary importance, an enhancement of this activity is a task for society as a whole, which has to take into account the special features of person-related services and take up the interests and recognition claims of employees, patients and clients. The enhancement will not only be achieved by the willingness of society to pay more. It also requires a socially anchored understanding that such activities are part of the services of general interest of a state that is capable of acting and must create the financial basis for this. The following concrete starting points are possible[29]:

- The creation of a new understanding of productivity with the aim of achieving equal status for economic, ecological and social sustainability.

[27] Communication from the Commission - Services of general interest in Europe, COM/2000/0580 final.
[28] Jürgens, Kerstin/ Hoffmann, Reiner/ Schildmann, Christina: Arbeit transformieren! Denkanstöße der Kommission „Arbeit der Zukunft" (Forschung aus der Hans-Böckler-Stiftung 189), transcript Verlag, Bielefeld 2017, p. 65.
[29] Jürgens, Kerstin/ Hoffmann, Reiner/ Schildmann, Christina: Arbeit transformieren! Denkanstöße der Kommission „Arbeit der Zukunft" (Forschung aus der Hans-Böckler-Stiftung 189), transcript Verlag, Bielefeld 2017, p. 66 f.

- Restrictive cost regulations have led to an insufficient concentration of jobs and a massive increase in work in the public sector. Binding European guidelines for personnel assessment and mandatory standards in occupational health and safety should definitely be given more attention.
- Many initiatives on the future of work have so far focused on industry or platform operators. It would be desirable that public and social services also become the subject of such initiatives shaping a positive picture of the future of work in the public sector.

We are part of the transformation!

The changes in the service sector affect all areas of the public sector. Services of general interest are strongly affected by transformation processes such as digitisation and the associated handling of digital data or the EU's sustainability goals as set out in the "2030 Agenda for Sustainable Development and the SDGs". The challenges associated with this transformation can only be realised in a process involving society as a whole.

The sustainable design of future transformation processes requires the right framework conditions and greater attention to the acquis communautaire on services of general interest. In line with the principle of subsidiarity, future legislative projects should always include an analysis of the acquis communautaire for services of general interest. At the same time, framework conditions should be created that enable and promote a social, green and digital economy in Europe and the individual sovereignty of all EU citizens.