



Services of General Economic Interest (SGEI) and State Aid rules

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Is a SGEI compensation State Aid ? (I)

The compensation does not constitute State Aid if:

- ✓ The undertaking actually has public service obligations to discharge and these obligations are clearly defined (entrustment act)
- ✓ The parameters of the compensation are objective and established in advance in a transparent manner
- ✓ The compensation does not exceed the net costs and a reasonable profit (no overcompensation)
- ✓ Choice of service provider:
 - Tender procedure or
 - Compensation on the basis of the costs of a typical well run undertaking

Is a SGEI compensation State Aid ? (II)

- ✓ "Small" compensation of SGEI do not constitute State Aid: *de minimis*
SGEI Regulation No 360/2012
- ✓ Objective: simplification for local services
- ✓ Higher amount than general *de minimis*
- ✓ Conditions:
 - SGEI with “light” entrustment act
 - Parameters to ensure that the service is “local” : amount of compensation per undertaking is below **EUR 500 000** over three years

What if a SGEI compensation is a State aid?

- ✓ If a measure is qualified as a State aid:
 - It has to be notified to the Commission by the Member State (in principle);
 - It cannot be implemented before having been authorised by the Commission

- ✓ If a State aid is implemented without having been authorised, it is an unlawful aid. The Commission or the national judge can order its suspension and recovery.

Legal framework for Aid to SGEI

2012/21/EU Commission Decision

- “Small” SGEI:
(annual compensation < EUR 15 million)
- Social services without limitation of amount
- “Small” airports and ports air and maritime links (limitation of passengers)

**EXEMPT FROM
NOTIFICATION**

2012/C 8/03 FRAMEWORK

“Large” SGEI

NOTIFICATION

TRANSPARENCY DIRECTIVE

Separate accounts
required for:

- SGEI activities
and
- commercial activities
- shows cost allocation/non over compensation

Definitions and examples of social services exempted from notification

- ✓ Hospitals providing medical care, including, emergency services
- ✓ Services providing needs as regards health and long term care, childcare, access to and reintegration into the labour market, social housing and the care and social inclusion of vulnerable groups

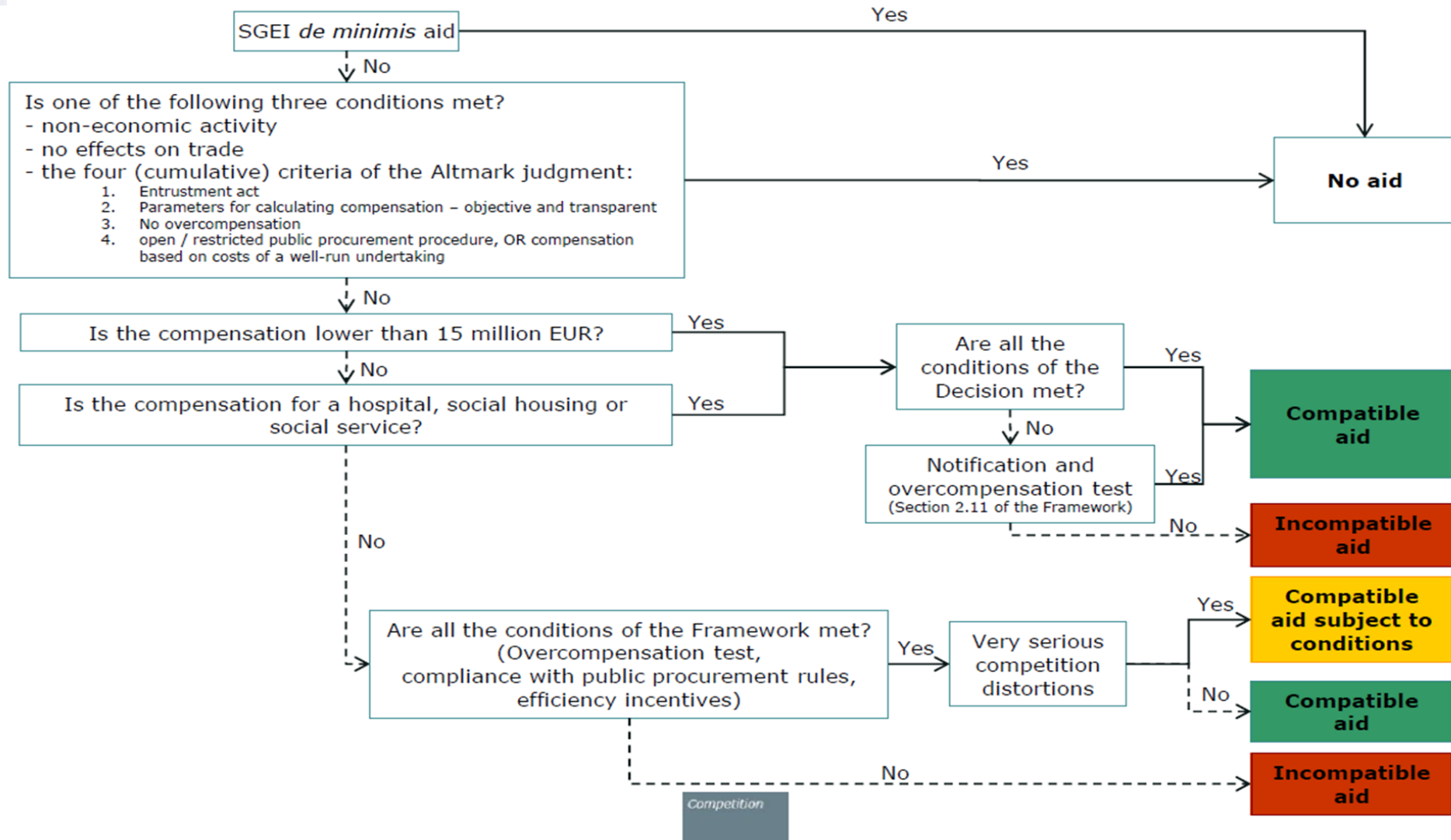
Assessment of "big" SGEI under the Framework (I)

- ✓ Prior public consultation: to take interests of users/providers into account, unless no significant added value to recent consultation
- ✓ Duration of the period of entrustment: flexibility but needs to be justified by objective criteria (e.g. depreciation time for assets)
- ✓ Compliance with public procurement (including in particular, transparency, equal treatment and non-discrimination)
- ✓ Where the same SGEI is assigned to several providers, same calculation method for the compensation

Assessment of "big" SGEI under the Framework (II)

- ✓ Amount of compensation: net cost + reasonable profit
- ✓ Expected costs/revenues or incurred costs/revenues or both
- ✓ Net avoided cost methodology, unless not feasible or appropriate
- ✓ Efficiency incentives, unless not feasible or appropriate:
 - Member States are free to design how
 - rewards resulting from efficiency gains are to be shared between provider and authority
 - efficiency gains should not affect quality
- ✓ Transparency: MS must publish basic info for each SGEI (the results of the public consultation, the content and duration of the public service obligations, the undertaking and the territory concerned, the amounts of aid granted to the undertaking on a yearly basis

SGEI Analysis Tree





http://ec.europa.eu/competition/state_aid/legislation/sgei.html

Thank you for your attention