

## The CECOP position on the European Commission's consultation on State aid rules on services of general economic interest (SGEI)

Brussels, 10 September 2010

*CECOP – CICOPA Europe (European Confederation of Worker Cooperatives, Social Cooperatives and Social and Participative Enterprises) is a European confederation grouping national organisations in 16 countries which in turn affiliate over 50.000 cooperative and participative enterprises in industry and services. The vast majority are SMEs, while some of them are second-degree enterprises of SMEs. They employ 1.4 million workers across Europe. Among the main sectors of activity, we find metal industries, mechanical industries, construction and public work, wood industry and furniture, white goods, textiles and garments, transport, media-related activities, social-health services, long term care, employment services, education and culture, environmental activities, etc. Finally, more than a thousand worker cooperatives in the CECOP network were born as business transfers to employees of conventional enterprises in crisis or without heirs.*

Cooperatives are economic actors on the market. Their operating principles, based on democracy and economic participation, have enabled them to develop successfully in different highly competitive sectors, promoting their members' interests and thereby pursuing a sustainable type of economic and social development.

An important number of the cooperatives affiliated to CECOP provide services of general economic interest that are not classified as "social" (transport, waste management, generation of electricity, environment, communication, etc) as well as social services of general economic interest (social-health services, long term care, employment services, social housing services, etc) to the population in various countries in EU.

### Consultation process

A first general observation concerning this consultation involves the high-level technicality of the questionnaire. In our view, if the European Commission wants to effectively consult service providers and other stakeholders on such important topics, then it needs to adapt the questions in the way that a maximum number of structures are able to respond. From our knowledge, a lot of European stakeholders directly concerned by the provision of the SGEI will not answer to the consultation for the reasons mentioned above.

### Definition of SGEI

According to CECOP, the definition given by the European Commission to an economic activity should remain unchanged: "Any activity consisting in offering goods and/or services on a given market is an economic activity. In this context, the fact that the activity concerned may be qualified as "social" is not relevant."<sup>1</sup> CECOP agrees with this definition since the letter specifies that an economic activity can be social or not.

### Altmark ruling

Concerning the application of the Altmark ruling, the 4th condition states that "(...) where the

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<sup>1</sup> SEC (2007) 1516 final

*undertaking which is to discharge public service obligations is not chosen pursuant to a public procurement procedure which would allow for the selection of the bidder capable of providing those services at the least cost to the community, the level of compensation needed must be established on the basis of an analysis of the costs which a typical undertaking, well run and adequately equipped, would have incurred.*". Several vague areas still remain with regard to the application of the last criteria: what is a "well run undertaking"? This concept needs to be clarified at EU level.

### Act of entrustment

Entrustment by public authorities is generally an important characteristic of the SIEG. The form of these contracts is freely defined by the public authority. The essential point is that the entrustment clearly appears.

Several clauses must be explicitly mentioned in the entrustment contracts<sup>2</sup>. Today, many official documents of the territorial authorities entrusting a SGEI to an enterprise do not contain all those mentions. An effort in this sense will have to be requested of them because their absence creates conditions for litigation.

The conditions for the involvement of cooperatives and other social economy actors in systems of entrustment through calls for tender for public contracts or through service concessions and public-private partnerships (PPP) should take into account their long-term and structural general interest mission, impacting on the quality of the services, their affordability, geographical accessibility and long-term duration. Those characteristics are guaranteed by cooperative's specific mode of operation and governance (democracy and participation) and the costs that this entails which, in fact, given the above-mentioned positive characteristics of the services that such modes of operation help generate, are an investment over the long term, even if they appear as a cost in the short term.

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<sup>2</sup> listed under article 4 of the decision of November 28, 2005