

<http://lipietz.net/An-improved-however-still-not-strong-enough-message>

Debriefing on the Herzog report : Services of General  
Interest

# An improved, however still not strong enough message

- Député européen (Verts, France) - Économie - Les services d'intérêt général -



Publication date: mercredi 14 janvier 2004

---

right © Alain Lipietz - Tous droits réservés

---

**The Parliament today adopted the report in a roll call vote by 383 : 123 : 13 votes. The vast majority of Green/EFA voted against despite considerable improvements - not at least due to the adoption of key Green/EFA amendments - compared to the original report presented to the Plenary. The overall message of this purely indicative report, however, should have been stronger and less biased (which goes in some instances as far as contradiction).**

The main defeat for us was that we did not achieve consent of Parliament on the demand for a Framework Directive on SGI, which would be needed to create legal clarity and to counterbalance the predominance of competition law in this area. A clear exemption from competition rules of SIG, and of non-profit organisation in this field in particular, as defined by the respective political level has not been achieved.

The results of liberalisation of key public services so far have been much more mixed than the report admits (It even, in its para 13 voted, welcomes unconditionally liberalisation in the transport sector, which has allegedly create more than 1 million jobs).

In deleting any reference to the new article on services of general interest in the draft Treaty, the majority of the House seems to distance itself from this hard-achieved new legal base for protecting and promoting Services of General Interest in Europe.

On the other hand, we are highly satisfied that we could achieve major amendments of the report. This is particularly true for the demand to evaluate the effects of liberalisation of the sector so far before embarking on new areas. The importance of public broadcasting and Member States' competencies in this field have been endorsed (while the demand to exempt public broadcasters from European competition rules was been rejected). The confirmation of subsidiarity for choices of missions and financing of SGI has been confirmed. While the majority rejects the demand vor adaptation of competition rules in order not to hinder the proper development of SGI, the House voted our amendment, that the Commission should only be empowered to supervise abuse of definition power for SIG, and confirmed (with a one-vote majority) the right of public authorities to self-produce services (inhouse), an amendment (15) stating that local authorities remain free to choose management of SGI has been rejected. Our amendment (49) that water and waste services should not be subject to EU-Directives, while maintaining EU responsibility for environment protection standards in this sector has been narrowly adopted, together with anoter amendment which calls "without going as far as liberalisation" for water supply to be "modernised".

### Positive points in the report

- ▶ urges for evaluation before embarking on new phases of liberalisation (am 13 ; 290:233:6) ; but rejection of our similar am 50 (143:360:7)
- ▶ in some cases liberalisation has jeopardised SIG (our am 41 ; 266:261:5)
- ▶ public broadcaster important, Member States have the right to fund and define remit (broad majority for 1st and 3rd part on am 14)
- ▶ deletion of paragraph 6 (300:228) stating that liberalisation is major component of improvement of SIG
- ▶ competition rules to be "compatible" with SIG (am 25 adopted 266:253:18) ; but we lost our am 43, which was stronger on the issue ;
- ▶ common principles of SIG to be established (adoption am 26 by 266:255:16) ; but rejection of our similar am 44 (246:266:20)
- ▶ asking for proposal for criteria to distinguish between economic and non-economic SIG (para 21, 2nd part)
- ▶

## An improved, however still not strong enough message

---

COM only to supervise abuse of definition -power for essential services ; same for information pluralism (these parts of our am 45 adopted by a large majority ; 3rd part asking the COM to defend this position i GATS adopted only by 265:249:9)

- ▶ COM is asked to defend the "right to regulate" in international trade negotiations (our am 37 ; 262:245:6).
- ▶ subsidiarity for choices of missions an financing of SGI (para 18 ; 489:12:30)
- ▶ right of public authorities to self-produce services and protection of inhouse services (am 31, 1st part ; 261:260:10) (and not subject to certain thresholds
- ▶ rejection of (full) liberalisation of the water sector (am 103 ; 265:249:11) ; not sectoral EU Directive for water and waste, but maintaining EU responsibility for environment protection standards (our am 51 ; 266:238:21)
- ▶ problem of calculating costs : tentative waiver ruling (am 28 262:244:18) (but we lost am 87 to include external costs etc in calculation (261:261:9)
- ▶ a follow up of the COM on Green book is asked for with proposal for legal framework with co-decision, but this only "when the...competition rules are being implemented (am 18, second part ; 470:59:9)
- ▶ regular evaluation of SGI with role for EP (am 51) - but against a pluralistic European observatory on the subject (am 109 ; 121:394:9)
- ▶ an "eco social" market economy is the model for the future (part eco-social adopted by 366:108:42 votes as 2nd part of consideration U)

### Negative points

- ▶ we lost our am 38 asking the COM to make proposals how to better protect SIG (229:290:15)
- ▶ we lost reference to the Langen report and request for a Framework Directive (am 57 ; 238:291:8)
- ▶ full success of sector specific regulation stated (para 9 remains)
- ▶ no clear exemption of public broadcasters from competition rules (2nd part of am 14 ; 167:361:6)
- ▶ no exemptions of charities in SGI from competition rules (rejection of our am 46 170:348:13)
- ▶ private sector and liberal profession being seen as more efficient (confirmation of para 32 ; 407:108:21) ; fundamental obligation of public sector is to tender out their services (broad confirmation para 33)
- ▶ we did not achieve deletion para 13 welcoming liberalisation of transport etc., which has created "nearly one million jobs" (273:245:16) - same direction approval of para 14 - 16 : liberalisation not to the detriment of SIG)
- ▶ we lost our am 42 asking for a Framework Directive and key content such as ecological criteria (234:278:20)
- ▶ we did not achieve deletion para 17, which does not want the Constitution to be invoked until after it has been ratified ;
- ▶ deletion of call not to make "comparable market service" the sole criterion to apply competition rules (am 77) and request to adapt competition rules for SGEI (am 78 ; 138:389:8) ;
- ▶ no deletion of the "private investor" criterion to assess management of SGI (our am 47 rejected ; 158:373:1)
- ▶ rejection of our am 42 asking for a Framework-Directive without putting into question substantive social and ecological achievements In Member States (234:278:20)
- ▶ rejection of our am 49 calling for a new Directive on liberalisation of energy markets taking account of recent blackouts (116:391:8)