



Personal Care Services in Europe

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PERSONAL CARE SERVICES IN EUROPE: CONTEXT AND ISSUES AT EUROPEAN LEVEL

Introduction: Defining the concept of personal care services

At European level, "personal care services" or "local services" are defined as being "services which, based on geographical and/or relational proximity, address collective or individual needs that are new or insufficiently met ¹". In compliance with the Communication from the European Commission entitled "*Implementing the Community Lisbon programme: Social services of general interest in the European Union*", these services provide customised assistance in order to facilitate social inclusion and ensure that fundamental rights are fulfilled. "*These services complement and support the role of families in providing care, in particular to the youngest and very elderly, including persons with long-term needs related to a disability or health problem*".

Currently, these services are highly regarded, as Europe's demographic and social structure has undergone changes for several years now, due to a combination of several factors: on one hand, the fertility rate of European women has decreased so that it is now significantly below the generation replacement rate with a European average of 1.5 children per woman, implying a long-term decrease in population, especially since couples are having children relatively late. Furthermore, progress made in healthcare has resulted in an increase in life expectancy by 8 years on average since the 1960s. These two elements, together with the fact that post-war baby boomers now reach retirement age, imply that by 2050, the number of people over 65 for each working-age person will increase by 50 per cent, from one elderly person for four people in working-age (current ratio), to one for two (ratio by 2050). This evolution will result in important economic consequences. According to the trends forecast, the total population of Europe should slightly decrease from 486.3 million in 2004 to 472.2 million in 2050. This estimate is based on the hypotheses that the current immigration policy will continue, and above all, that major changes will occur in the age structure, leading to a substantial increase in the number of people older than 60 and to a remaining low fertility rate of about 1.6.

In order to face up to this new situation, the member states of the European Union must adapt at several levels so as to prevent these elements from having too much of an economic impact, whilst ensuring an acceptable standard of living for everyone. We see that healthcare systems in particular will have to be adapted to the new needs of an ageing population. Parallel to this trend, the employment rate of women has greatly risen over the past few years, implying new service needs in order to better reconcile work and family life.

¹ "*Social economy and liberalization of services, the case of community services*". CERISIS, UCL, CES. Final report 2006/2009.

Consequently, the European Union ascribes a role of the first importance to personal care services in this context in order to meet the new sociodemographic challenges.

However, despite the European Commission's attempt to create a common definition, the term "personal care services" covers a variety of language uses. In France, consensus on the expression "*services provided to individual persons*" – "*services à la personne*" dates back to the launching of the Borloo Plan in 2005. Other European neighbours use other linguistic terms. In Belgium, the expression "*local services with social aims*" – "*services de proximité à finalité sociale*" has been adopted into the language (through the service vouchers' plan set up in 2001), whereas in Spain, the term "*services related to dependency*" is commonly used due to the promulgation of Act 39/2006. In Italy, the term "*Servizi sociali*" (*social services*) means all services offered to the young and elderly. According to Jean-Pierre YONNET, who founded the European Office for consultancy, research and training in social relations ORSEU, the expression "*Servizi alla persona*" is also in common use. In English, the terms "*facility management*", "*home care services*" or even "*relational services*" are in usage. The expression "*people's services*" can also be found, as the English translation of the "French" concept of "*services à la personne*". In this synthesis and for the sake of linguistic harmonisation, we use the term "*personal care services*".

1. The growth of the local economy in the context of the Lisbon strategy

With the Lisbon Strategy, the European states committed themselves in 2000 to strengthen their economies' competitiveness through innovation, knowledge and improved workforce skills in particular in sectors facing international competition. According to the economist Nicolas Bouzou, who is the founder and managing director of the consultancy company Asterès, "*one should not overlook branches of activity that are protected from global competition, such as the personal care services that support the community economy*"². As a result of the increased State funding allocated to this sector, wages have risen and jobs have been created. The sector is therefore working as a growth engine for the European Union during a period of economic recession. In order to better understand the phenomenon, it is necessary to highlight difficulties related to the change in demand and to show why the sector of personal care services should grow in the years to come. Two different kinds of factors are currently impacting on the development of the personal care services market: demographic and economic determinants on the one hand, public policies and changes to the format of the welfare state on the other.

a. Demographic and economic determinants

Due to the ageing population and to the increasing number of women in work, the need for personal care services is substantially increasing in all European countries, both in quantitative and qualitative respects. By way of an example, together with Italy and Germany, Spain is one of the three European countries most affected by the phenomenon of an aging population. More than 17.5% of residents are over 65 (compared to 16.4% in France). This

² Nicolas BOUZOU, founder of the economic consultancy firm Asterès
http://www.servicessalapersonne.gouv.fr/Public/P/ANSP/dossiers_de_presse/20081112_rencontresUE.pdf

proportion should further increase in the years to come. Now, the more the number of very elderly people increases, the greater and more pressing the inherent problems of dependency become. In the EU-15, 17 million inhabitants (4.4% of the population) are over 80 years old. In 2025, more than 26 million people will be over 80 (6.6 %)³, which may increase even more the need for personal care services. According to the French Caisse d'Épargne Observatory, three key socio-economic factors should be taken into account with regard to the increased need for personal care services:

"1) Reduced availability of women aged 45 to 69, on whom the main responsibility for caring for elderly relatives falls.

2) An increase in the number of women at work, in particular in Southern Europe.

3) Finally, a rise in the divorce rate among people over 40, leading to more one-parent families (making for less availability) or second families (hence weakened ties between daughters in-law/parents in-law)".

The personal care services industry currently accounts for 3% of employment in Europe. Whether it is a question of services for children, households or the elderly, there is a need to address families' wish to access services enabling them to have more time to dedicate to leisure activities, as well as to achieve a better work-family life balance⁴. All European countries therefore need to strengthen the personal care services sector. In some countries such as Sweden or Denmark public intervention is favoured, whereas in the Anglo-Saxon model the focus is put on the private sector. In Mediterranean countries (Italy and Spain to a lesser extent), people tend to rely on family solidarity, while in the continental model – applied in particular in Belgium and France – measures exist to support demand.

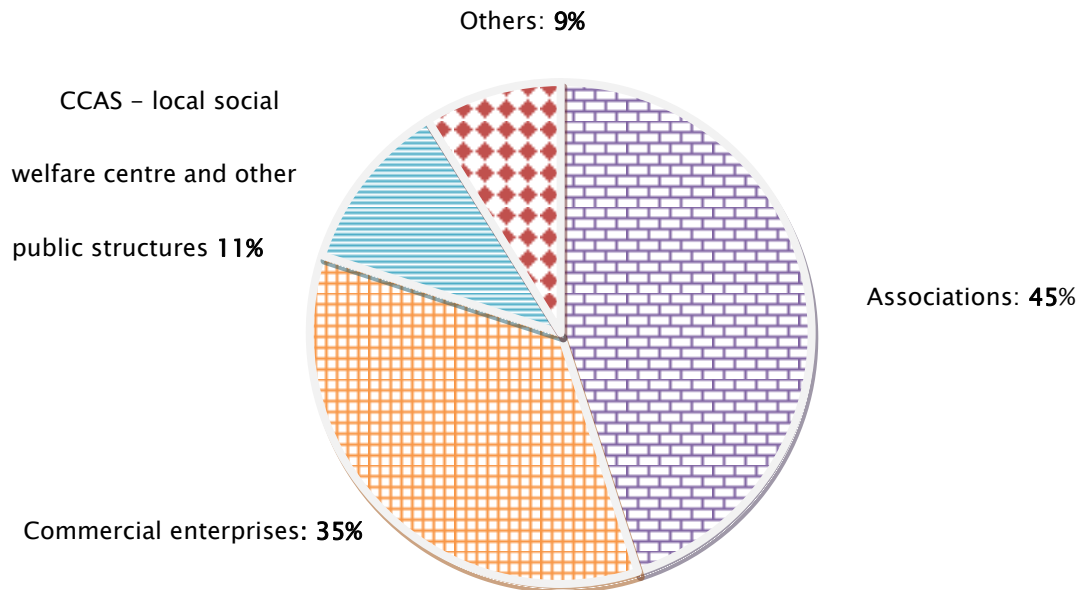
b. Public policies and changes to the format of the Welfare State

The cost of personal care services cannot solely be covered by either public or private funding. There is nevertheless a clear and generalised trend to have care for dependent persons predominantly financed by public funds. This is not the case in countries such as Sweden and the Netherlands, where the private sector is heavily involved. In France, the sharing of the costs of dependency care remains a rather delicate issue, as shown by the recent controversy over the proposal of having risks related to dependency financed by the elderly's assets¹. Consequently, in most European countries, the costs of dependency are covered by a mixed financing system combining public revenue (taxes and social security contributions) with private assets (savings/insurance). In those countries, the service providers are also of a mixed nature, i.e. public or private entities.

³ «Services à la personne : modes de vie, modes d'emploi », L'observatoire de la Caisse d'épargne 2006, http://www.groupe.caisse-epargne.com/cpp/101/fra/blob/pdf_diap_060330_obs_2006_ci_060329191141.pdf

⁴ Laurent Henart, president of the Agence Nationale des Services à la Personne – National Agency for Personal Health Care
http://www.servicesalapersonne.gouv.fr/Public/P/ANSP/dossiers_de_presse/20081112_rencontresUE.pdf

Pie Chart: providers of personal care services in France in 2007
 Erreur !



Source : 2007 Annual Report of the National Agency for Personal Health Care – Agence nationale des services à la personne (ANSP) based on a survey of 11,000 service providers.

Such systemic disparities are provoking a more wide-ranging discussion of the system in European countries, in which the welfare state is responsible for and provides social services. The decisions to take regarding the process of liberalising services is another long-term issue analysed in this document.

c. Supporting demand for personal care services

In the personal care services sector, there is significant public and private sector overlap in service **supply**. In Europe, personal care services were created in response to an existing long-term need, which has since increased considerably. As the sector took shape, it was characterized by a strong solidarity principle. Along the same lines, as the first European Convention on Personal Care Services took place (Paris, 12–13 November 2008), the State's authorities decided to subsidize demand. The economist Nicolas Bouzou underlines that *"given the increasing needs and the expansion of the sector, supporting **demand** by improving its solvency thus fostering the sector's development potential appeared to be a preferable option."* Jérôme Vignon, "Protection and Social Integration" director at the European Commission Directorate General Employment, Social Affairs and Equal Opportunities agrees and confirms this perspective as he states that *"those fields where no offer was available while a growing demand was expected to emerge had already been identified in Europe. The first difficulty we observed was the issue of solvency"*. Interestingly enough, within the EU, per capita purchasing power has tripled since 1970. Increased household wealth leads to a rise in both consumption and the demand for services, so much

so that services account for half of household expenditure. Moreover, people are willing to pay for time-saving services. Other motivating factors are:

- > Major income inequalities;
- > A high female employment rate;
- > A reduction in the male/female wage gap;
- > A high dependency rate due to an ageing population and the increase in life expectancy;
- > A high fertility rate, in particular in France and Ireland.

The potential demand therefore differs considerably from one country to another. Ireland, Portugal, Belgium, Denmark and France have a high potential demand, while it remains rather low in Italy, and is expanding in Spain. In the words of Jérôme Vignon, *"European countries have not yet developed a common vision of personal care services. Ten years ago, the creation of such services was supported as part of local development. Nowadays, the sector is becoming increasingly structured and is part of a European and global perspective."*

2. The European Framework: Personal Care Services in the Service Directive

Services liberalisation has been at the heart of the EU agenda since the very start of the EU development process, and is regarded as a means to achieve the internal European market. In the view of the European Commission, opening-up the market would positively impact on the development and quality of general interest services, as competition would allow a larger number of citizens to benefit from those services all over Europe; in particular low-income consumers. The disengagement of the public authorities from this sector, thus favouring market growth, would indeed have led to the creation of new jobs in this field.

Liberalisation has already gone through several phases – the most significant one being the Services Directive, which was adopted in 2006. This document provides a general framework for liberalisation and should be transposed into national law in each member state by the end of 2009.

The Services Directive firstly aims to complete the development of the internal market in order to open most services to broader competition – including social services. This is to be achieved by simplifying the conditions that a service provider from one EU member state has to fulfil in order to set up and operate in another member state.

As mentioned in the introduction, the term "personal care services" covers very diverse situations within the 27 EU countries, meaning that the European institutions find it difficult to develop a specific and comprehensive approach to this topic. The EU institutions therefore work on "social services" in general, thereby differentiating between "classic social services" and "social services of general interest" (SSGI). The definition of SSGI best covers the concept of personal care services.

The European definition of Services of General Interest (SGI)

The Treaty does not actually mention "services of general interest" as such. The expression derives from "services of general economic interest" (SGEI) contained in the Treaty and has come into common use in the EU institutions. The expression "services of general interest" has a broader meaning than SGEI as it covers market and non-market services that are considered by public authorities as serving the general interest and are subject to particular public services requirements.

The SSG (social services of general interest) include services of general interest (SGI) aiming to ensure social cohesion and to improve living conditions without any form of discrimination. Criteria are used to decide whether or not a service can be classified as a social service of general interest. Solidarity is obviously a *conditio sine qua non*, although it is not the only one. In the Communication⁵ from the European Commission on social services of general interest, emphasis is put on some specific criteria such as targeting persons in need, including the participation of voluntary workers, and not imposing solvency requirements on beneficiaries. Social services of general interest may be provided by the State, by entities that represent public authorities, or by private entities such as social economy enterprises. The Communication is nevertheless a non-binding document that fails to secure the legal situation of many personal care services.

More precisely, the SSGI encompass healthcare services, social housing, social security, social protection, services to combat poverty, some personal care services, home care, employment services, social and professional integration, youth help and protection... However, the SSGI do not comprise all social services: this category excludes profit-making services. Moreover, while a large segment of personal care services are part of "social services", the so-called "lifestyle services" have not yet been touched upon. Accordingly, there is neither a comprehensive approach to personal care services, nor uniformly applied sector legislation, meaning that the directive will have different repercussions on different services.

In this context, personal care services – even non-profit making services provided for free by an entity with a social aim – are delivered within a service market in which they may well compete with similar activities provided in return for remuneration by a profit-making entity. In other words, personal care services are not only social services but also economic services, thus open to competition. This also has a direct impact on funding, as the provider's nature and the social aim are not taken into account.

⁵ Communication from the European Commission, "Implementing the Community Lisbon programme: social services of general interest in the European Union", COM (2006) 177 final 2006, April 26th

Notwithstanding, the general interest as well as the social aim of these services may grant them a specific status due to their impact on social cohesion, in particular with regard to financing, mandatement, State aid, competition, etc. Such core questions are at the heart of the discussion about the transposal of the Directive in several member states of the EU, given the fact that the member states are responsible for creating their own definition of SGI and consequently deciding which services are subject to the Directive and other SGI-specific regulations. The definition of Services of General Interest is currently vague from a legal standpoint.

In practice, if a social service is recognised by the authorities as a service of general interest, this enables:

- Missions of general interest to be funded by subsidies or other public resources accounting for up to 100% of the costs with no obligation to provide the Commission with prior notification;
- Social services to be excluded from the scope of the Directive on Services in the internal market, from control by the authorisation system⁶ and override the freedom to provide services;
- Give a mandate to welfare workers *via* service concessions when welfare operators bear some of the operating risk involved in service provision⁷;
- Override the obligation to call for tenders in the case of public procurement for social services, in line with the provision of the Community Directive on public procurement of services⁸.

Yet, exemptions are not possible on a systematic basis, since member states are subject to precise regulations.

Firstly activating the provision that grants primacy for missions of general interest does not enable the Treaty's general principles, such as the principles of transparency⁹, necessity¹⁰, proportionality¹¹, and non-discrimination¹² to be ignored.

Secondly, qualifying as a service of general economic interest implies that the principles of universality¹³ and continuity¹⁴ are obeyed.

⁶ Control over the criteria for setting up the authorisation system.

⁷ Service concessions differ from public procurements in that they imply a transfer of operational responsibility. In Community law, a service concession applies when the welfare operator bears responsibility for setting up and business risks.

⁸ LE GUIDE SSIG des collectivités territoriales, Collectif SSIG-FR, Paris, July 2008, p. 6.

⁹ The contracting authority is bound to ensure adequate publicity *and accessibility* to any potential tenderer.

¹⁰ The Member State should prove that the project could not have been carried out without this aid.

¹¹ The amount and intensity of the aid should in particular be limited to the minimum required for running the given project.

¹² Non-discrimination between enterprises of the European Union when public authorities organise a public service in the form of a concession, as well as non-discrimination regarding the users of the services.

Finally, a rule “reviewing obvious general economic interest service classification errors” has been established. The Court of Justice of the European Communities (CJEC) is entitled at any time to rule that a classification error has been made with regard to the actual needs to be met, and can therefore decide that the given service should not be deemed to be a “service of general interest”.

This point is of vital importance for the future of social services of general interest and highlights once again the urgent need for public authorities to come to a clear and well-defined vision of missions of general interest¹⁵ as well as having convincing arguments in the case of a conflict arising with European authorities. The Commission and the European Court of Justice (CJEC) can have widely differing viewpoints on the issue.

It appears clear that while the sector of personal care services has been undergoing a substantial expansion and development in the past few years, its future remains undefined. Due to a lack of clear rules and appropriate legislation, European institutions are placing the emphasis on the competition and economic growth that the sector could generate, to the detriment of the major contribution those services can make to territorial and social cohesion within the EU. Another neglected aspect is their role in tackling social exclusion.

¹³ Access for all citizens and companies to quality and affordable services of general interest throughout the member states.

¹⁴ The service of general interest should be provided continuously.

¹⁵ In accordance with the BUPA Judgment (T283/03), “what is to be regarded as a service of general interest and how it should be operated are issues that are first and foremost decided locally”.

PERSONAL CARE SERVICES IN FRANCE BY UNA (UNION NATIONALE DE L'AIDE, DES SOINS ET DES SERVICES AUX DOMICILES¹⁶)

In France, personal care services are defined by the Development Plan for Personal Care Services as being “all services that contribute to improve the well-being of our fellow citizens in their own environment, be this their home, their workplace or place of leisure”. This plan was developed as of 2005 (it was actually the 5th since 1987) and aims to generate employment whilst allowing people to gain easier access to these services.

Most of these services are carried out at the person’s home or in an open environment (in a living place or environment which be an institution or a home). A list of activities was defined by the Decree of 29 December 2005. These services can be aimed at people “without any specific difficulties”, thus rendering them so-called lifestyle services. They may also be aimed at vulnerable population groups (services which help the elderly, those with disabilities or dependants to carry on living at their own place as well as childcare for under 6 year olds).

Personal care services in France are a widely growing sector of activity. The potential of creating jobs in the sector is such that public authorities have arranged to structure supply and demand.

The sector has multiple historical roots and draw from domestic work, associations' commitment and activism, social action and the public authorities' desire to give structure to these services.

This sector is made up of a myriad of jobs which are becoming increasingly professionalised, target different population groups and are made up of operators with various legal status ranging from associations, mutual entities, local social welfare centres, profit-making companies and private individuals being employers.

The public authorities' aim is to structure this sector so that it becomes a sector of economic activity in its own right. The legislation regulating the sector of the personal care services was set up in this perspective. The sector ruled by a rather recent regulation. Two regulations in particular are available to those who wish to generate professional activity in this sector: an authorisation procedure as well as an accreditation procedure.

This report aims to provide an overview of the existing personal care services in France. To start with, a historical background will be provided going through the gradual process of

¹⁶ NdT: National Federation of Home-Help Support, Care and Services

structuring in the sector. The main characteristics or the available service offer will then be described. The legal structuring of the sector will be discussed in the third part of this chapter.

1. Historical background : The gradual construction of the personal care services sector

Since the 1960s, home assistance has acquired a structure, with public authorities intending to meet a double target: helping those in vulnerable conditions thus fulfilling the public authority's role as the guarantor of social welfare on the one hand, and fighting unemployment on the other.

Over the years, public authorities have taken into consideration the needs of those who are at most vulnerable by setting up planned policies and specifically allocated funding.

Social policies first helped in developing and structuring home assistance for the elderly, the persons with disabilities and for families in difficulties. In 1953, a decree was passed, reforming the legislation on social assistance, and providing the legal base for home assistance. From that point on, the term "social aid" came to the forefront, whereas the word "assistance" was no longer in use. In 1962, the Laroque Report advocated for the integration of the elderly into society by way of appropriate home support. Since the end of the 1980s, in order to restructure the offer of services, a broad-ranking regulation has introduced many transformations which have helped to completely change the sector for home assistance.

At the beginning of the 1990s, the target of creating jobs was added to the objective of social action : the first steps aimed at enabling the demand for domestic jobs by improving solvency. In 1991, a tax reduction was initiated, amounting 50% of the total amount paid out (with a maximum limit) and applicable to natural persons. The Chèque emploi service¹⁷ (CES) was established in 1993 as a means of simplifying the administrative procedures that were associated with domestic jobs. This plan also aimed at cutting down on undeclared work. Direct work relations between a salaried employee and a private individual were then predominant in the sector. The public authorities have gradually encouraged the involvement of intermediary bodies working between the user and the intervener.

In 1996, the Act of 29 January and the related Implementing Decree of 24 June changed the landscape of home services. The accreditation procedure – "procédure d'agrément" – that had been created in 1991 and only applied to associations, was then opened to commercial enterprises. The year 1996 also saw the introduction of the Titre Emploi Service¹⁸ (TES), which can be used by businesses to partly finance services for their salaried employees.

The Act of 21 July 2001 established the personalised autonomy benefit – Allocation Personnalisée d'Autonomie (APA), which complements and completes the range of care

¹⁷ Translator's note: An automatic welfare deduction system for pay cheques for domestic help.

¹⁸ Translator's note : Service job vouchers used for payment, which work like luncheon vouchers

services available to persons in situations of loss of autonomy: the APA beneficiaries are entitled to get support and aids required to carry out their daily activities. Local authorities at the départements¹⁹ level are in charge of granting and managing such social benefits.

Act 2002-2 of 2 January 2002, which reformed social health care and social welfare policy, introduced a new article L.312-1 into the Code for Social Action and Families – Code de l'action sociale et des familles. This article applies to all actors in the home care sector, with the exception of institutions and services targeting families.

The content of Act 2002-2 can be summarised in four main orientations:

- > Reinforcing the “users” rights. Changing from a protective model, in which the institutions provide assistance to the persons, to a promoting model, intended to support the users and develop their potential.
- > Broadening the field of application of the Act. In this way, the Act provides a legal basis to home care (beforehand, there was no legal basis for home care).
- > Better planning based on two fundamental principles: authorisations and the Supreme Council for Social Healthcare and Social Welfare Services and Establishments²⁰ together with organisational schemes.
- > Improving coordination between the decision-makers and the parties involved. This improvement entails formalised dialogue and partnership procedures, such as a concerted analysis of needs, conventions, multi-annual contracts concerning objectives and measures...

In a decree²¹ passed in 2004, actions for vulnerable population groups at home are qualified as home care and support – aide et accompagnement à domicile. The decree also specified that these services should include an assessment of the person's needs as well as they should ensure continuous services provided by qualified professionals. In this way, this decree has contributed to professionalising the service.

The Act of 11 February 2005 initiated the allowance for handicap compensation –Prestation de Compensation du Handicap (PCH). The PCH is intended for financing the disabled persons' needs related to their loss of independence. The amount of the aid is customised according to each person's needs. The PCH allowance has to gradually replaced the compensatory allowance for third parties – Allocation Compensatrice Tierce-Personne (ACTP).

In 2005, the designation "personal care services" was established by the development plan for personal care services (known as the Borloo Plan, named after the then Minister for Employment and Social Affairs).

¹⁹ Local authority that can be compared with the UK county.

²⁰ Conseil supérieur des établissements et services sociaux et socio-médicaux

²¹ Decree 2004-613 of 25 June 2004.

This Plan added new activities to the range of personal care services benefiting from tax reductions, such as safekeeping of the main and second home, administrative assistance as well as IT and Internet assistance. Meal deliveries, shopping and ironing are also included when part of an array of services or part of home assistance services. The list of activities which allow tax reductions is yearly updated (see Part II).

In any case, if the service is provided by an intermediary body (be this private, public or an association), this must be accredited and must carry out their activity exclusively in the field of personal care services. Those two conditions are necessary to allow the user of the services and the intermediary body to both benefit from tax advantages that are specific to this sector (see Part III). The personal care services development plan which was part of the Social Cohesion Act of 26 July 2005 created the universal service job voucher – Chèque Emploi Service Universel (CESU).

In 2009, a new development plan for personal care services was introduced by the French government on 24 March.

As an extension of and in line with the development plan for personal care services of 2005, it aimed to:

- > Sustain job creation in personal care services with a target of creating 100,000 jobs each year.
- > Further professionalise the sector and improve job quality by setting up a barometer to assess progress in the practice.
- > Simplify and relax tools to achieve one billion Euros in pre-financed CESU by 2012.

2. The characteristics of the offer in personal care services

a. Personal care service activities:

Which are personal care services? What types of services are brought together under the banner of “Personal Care Services”, this quintessentially French term which was established by the Act of July 26 2005, also known as the Borloo Act?

According to the French Council for Employment, Income, and Social Cohesion²² (CERC) "the act of resorting to professional aid services carried out by a salaried employee directly at the user's home is what we call today the Personal Care Services sector". However, there is no legal and stable definition specific to the notion of personal care services – a term sanctioned by the Services Development Act of 2005. The list of activities has been amended by Decree 2007-854 of 14 May 2007 and should be periodically updated. Activities can be suggested by a provider or by an agent (article L.7262-6 of the Labour Code).

²² CERC : Conseil de l'emploi, des Revenus et de la Cohésion sociale, report No. 8 ; personal care services, February 2008.

Article L.7231-1 of the Labour Code sets out activities which are eligible for accreditation:

"Activities carried out at home for personal care services and related to child minding, care for the elderly, care for the persons with disabilities and for others who require personal care at home, or mobility assistance in their nearby surroundings to help them continue living in their homes, or a support to carry out housework family activities; those activities for which associations and companies are accredited are the following:

1. Housekeeping and household chores;
2. Small gardening jobs, including hedge trimming and weed cutting;
3. Basic D.I.Y maintenance, known as "odd-jobs";
4. Home-based childcare;
5. Tutoring at home or at school;
6. Preparing meals at home, including the time spent shopping;
7. Delivering meals at home, under the condition that this service is part of a service offer that includes a range of activities carried out at home;
8. Collecting and delivering ironed linen, under the condition that this service is part of a service offer that includes a range of activities carried out at home;
9. Assistance to the elderly or others who need personal home care, except for medical procedures;
10. Assistance to persons with disabilities including work as an interpreter in sign language, professionals in written language, LPC vocoder professionals;
11. Patient care except for medical procedures;
12. Mobility assistance and transporting people with mobility problems when this activity is part of an offer for home care services
13. By using their personal vehicle, driving the dependent from home to work, to the holiday home, for administrative procedures, under the condition that this service is part of a service offer that includes a range of activities carried out at home;
10. Accompanying and travelling with the user's children, the elderly or disabled outside the home environment (walks, using transport, daily activities), under the condition that this service is part of a service offer that includes a range of activities carried out at home;
11. Home shopping delivery, under the condition that this service is part of a service offer that includes a range of activities carried out at home;
12. IT and Internet assistance at home;
13. Caring for and taking dependents' pets for walks, excluding veterinary treatment and grooming;
14. In-home hairdressing and manicure services for dependents ;
15. Maintenance and temporary surveillance of the main home and secondary residence;
16. Home support for administrative formalities;
17. The activities which directly and exclusively contribute to coordinating and delivering the mentioned services in the first paragraph."

b. Modes of operation in the sector

Three distinct modes of operation allow to supply services provision: via a provider, via an agent and via direct employment or a mutual agreement.

1) Via a provider

In this method, the user appeals to a body which he pays in return for a service. The body sets out the organisation of operations and employs of the salaried employees who will operate at the user's home. As the employer of the salaried workers operating at home, the body manages the human resources involved, handles labour and wage disputes, enforces labour law and applies the relevant collective bargaining agreement if there is one applicable. This mode of operation is adopted by non-profit-making associations and private profit-making companies.

2) Via an agent

In this method, the user is the employer of the salaried employee who operates at the user's home. The user appeals to a body - the agent service - to help fulfilling his role as the employer: The agent service takes over administrative formalities related to the employment of a salaried worker to the management of the work contract.

According to regulation (Art. L. 7232-6 of the Labour Code) the agent service carries out in three types of provisions:

- > Placing workers with employers, employers being natural persons on the one hand; completing administrative formalities and social/tax declarations (related to the hiring of such workers) for the use of the employers on the other hand;
- > Recruiting workers to place them at the natural person's disposal against payment. In this case the associations' activities are considered to be non-profit-making, in compliance with articles L. 8231-1 and L.8241-1;
- > Supplying natural persons with service provision.

The user takes on his responsibility as the employer: He signs the work contract, exercises disciplinary hierarchical authority over his salaried employee, he pays the employee... The user applies the collective bargaining agreement of the individual employer.

3) Direct employment or a mutual agreement

In this case, the user directly hires the salaried worker and assumes his responsibility as the employer. The private employer ensures by himself the procedures related to the hiring and employment of the salaried worker. He organises alone the operation of the salaried worker and applies the collective bargaining agreement of the individual employer.

c. Operators in the sector

Four main types of operators carry out activities of personal care services: associations, public structures, commercial enterprises and mutual entities.

1) Associations

Non-profit-making associations (Loi 1901) have been operating in the sector since the very start of it. They carry out the vast majority of their activities with vulnerable population groups (the elderly, dependents, persons with disabilities, families in difficulties). Associations are currently the most numerous structures represented within the different types of operators.

2) Public structures

Municipalities enjoy some competencies as regards social welfare. They have therefore developed actions for home support and caring of the elderly. Local social welfare centres – centres communaux d'action sociale (CCAS) – offer range of various services as regards social action in favour of the elderly and children (day-nursery and crèches)...

Other public players also operate and position themselves in the sector of personal care services: town council communities – communautés de commune, and town council conglomerations – agglomérations de communes, among others.

3) Commercial enterprises

Commercial (profit-making) enterprises have expanded since the end of the 1990s. The Development Plan for Personal Care Services (Borloo Plan) initiated in 2005 strongly boosted the expansion of companies in this field. The companies mainly run service activities targeting non-vulnerable population groups (for example house maintenance, ironing or gardening for double-income couples), provide IT assistance at home and house tutoring. Nonetheless they do offer services to vulnerable population groups.

4) Other operators

Mutual organisations are also interested in personal care services. The members of the National Federation of French Mutual Insurance companies (FNMF – fédération nationale de la mutualité française) have assistance and care services and often belong to one of the five national federations of associations. The Farmer's Social Mutual Fund (MSA – mutuelle sociale agricole, the social security scheme for farmers) created homecare services in certain geographical areas. Personal care services network have also developed after the Borloo Plan: They gather together different operators under a same name in order to facilitate connection between service providers and users. Examples of networks: France domicile and Fourmi Verte.

3. Legal structuring of the sector

The legal status of personal care services in France depends on two factors:

- > The vulnerability of the person;
- > The fight against unemployment.

a. The "vulnerability"

The General Council is in charge of steering social, medical and welfare action ever since the Decentralisation Act of 2004.²³.

The structures operating with the elderly, the persons with disabilities or those in need of support are **authorised** by the General Council under the condition that they address the needs registered in the outline and benefit from a price rating. The legal status of the structures is ruled by the Code of Welfare Action and Families – Code de l'action sociale et des familles.

b. The fight against unemployment

For some years now, in order to organise the fight against unemployment, the French government has legislated in order to develop those personal care services that generate employment. In this way, in the name of fighting unemployment, the decision was made to simplify ²⁴ the initiation procedures of personal care services by creating a legal status of the personal care services that comes under the Authority of the Prefecture and the Labour Code.

From now on, those involved in personal care services have the right to choose between two legal systems for starting and running a service:

- > The Code of Welfare Action and Families;
- > The Labour Code.

The legal texts include provision for the two legal systems to be of equivalent quality, especially regarding compliance with fundamental human rights.

The main differences mainly affect:

- > The financing of the services – whereas the authorised services' prices are fixed by the local authorities at département level (Conseil Général), registered services are free to fix prices ;
- > The Conseil Général only authorises services addressing the populations' needs registered in the five-year plan (Social welfare outline);
- > The accreditation is declaratory; the controls foreseen by the rest of the legislation have not been implemented yet.

²³ Act No. 2004-809 of 13 August 2004

²⁴ Act No. 2005-841 of 27 July 2005 known as the "Borloo Act"

> The assessment of structures differs from one system to another; whereas authorised structures must prove that they apply the “good professional practises” identified and determined by the professionals in the sector, accredited services only need to obtain an AFNOR, certification which is necessary for running a structure but does not cover professional practises.

These legal statuses are likely to change following the new plan for personal care services from last March on one hand, and the application of European legislation on the other hand (and in particular the transposition of the Service Directive).

The public authorities have fostered the development of personal care service activities by means of three levers:

> Reducing costs by changing social contributions and charges as well as tax rules, in particular VAT;

> Subsidising i.e. the costs being partially covered by public financings, be there part of social policies (persons with disabilities, the elderly dependents, childcare of young children) or, in a more general way, subsidising some activities (tax reductions for household resorting to personal care services, tax reductions for businesses who offer these services to their salaried workers);

> Regulation concerning the operation of parties involved (authorised or accredited).

Flagship changes will affect the sector in the near future. The new personal care services development plan unveiled in March 2009 thus contained changes aimed at reinforcing the economical stature of the sector and promoting job creation. The transposition of the European Directive on the liberalisation of services should also have a partial impact on the regulation of the sector.

PERSONAL CARE SERVICES IN ITALY: THE ROLE OF SOCIAL COOPERATIVES BY DIESIS

This report, carried out by DIESIS, assesses in four steps the current state of personal care services in Italy. First of all, it looks at the emergence of social cooperatives as the suppliers of social services within the context of the crisis faced by the welfare state and the social assistance system. It then establishes the characteristics of the social cooperatives by analysing Law 118/2005. Furthermore, the study analyses the reforms made by the health and social systems in looking at the different methods used by the Italian state, such as the setting up of the Framework Law on assistance reforms. Finally, this report will study the role played by the social cooperatives in running personal care services.

1. “Italian welfare” and the rise of the third sector in Italy

The emergence of social cooperatives as providers of social services can be explained by the crisis faced by the welfare state and the Italian social assistance system. In fact, throughout the 1960s, state services were deemed insufficient and fragmented. State intervention took place if necessary and did not take into account the specific needs of certain users. In this typically Mediterranean model, families, villages or even the church played a crucial role in supplying services, thus overcoming state and market failures.

Other aspects characterised the post-war Italian system :

- > There was a deep territorial imbalance between the north and south of the country in both socioeconomic terms and in terms of mechanisms in implementing public policies. The industrial sector is mainly concentrated in the north whilst services in the south are fewer. The high rate of unemployment in the south led to the development of the informal sector based on the subsistence economy.
- > A pension scheme that was largely financed at the expense of social policies. The social assistance systems and the needs of their users varied according to each area with no optimum way of meeting the demands of state support concerning families.
- > Policies were elaborated in a self-referential way according to internal logic, in a “top down” way, leaving little room for evaluating and claiming citizens' rights.

The changes in the labour market (the process of globalisation) and cultural changes (improved qualifications, development of female employment) asked whether these services should be outsourced. In other words, families themselves could no longer be made responsible for providing social assistance and the inadequate policies created for the needs of the state's citizens highlighted the limits of the system.

Furthermore, the “deinstitutionalisation” movement, which ushered in a new ideology, casted doubts on the modernisation of public services and its ability to adapt to the needs of its

users. Defending diversity as a right and rejecting “institutions” which concealed its disabled, alienated or even elderly citizens introduced a profound cultural change.

Throughout the 1970s, the social cooperatives' first initiatives, which were essentially carried out by social workers and Catholic groups, aimed at creating jobs in favour of the underprivileged. The cooperative therefore became the only chance of integrating into work those who usually were not recruited by classic companies and public bodies. The rapid development of the cooperatives is also related to the wave of company restructuring processes which gave rise to an increase in redundant workers and rejects.

The non-profit-making sector expanded considerably to also act within the scope of social care services, functioning as a complement or as an alternative to public services which had already been established. The social economy became less and less visible and developed in its role of social assistance and as a medium between society and public administrations. Two main trends can be identified:

> Catholic denominational organisations asserting their social aid practises and who have a long history in charity giving and providing support to the destitute. These cooperatives supplied social, health and education services to people from the most underprivileged sectors of society, deemed as the main beneficiaries of the services.

> Organisations born out of workers' movements, syndicates aiming for a better consideration of citizens' rights and an institutional reform (the "deinstitutionalisation movement") aimed at taking social needs into account. These “labour” cooperatives increasingly aimed at inserting underprivileged people and saw themselves as social enterprises that enhance salaried workers' individual capabilities.

The effectiveness of this commercial form within which volunteers ensure management tasks and salaried workers in the process of reintegration caused this model to spread in the 1980s. The very conception of the State's role changed from that of an omnipresent force possessing an almost near-complete monopoly on social services to that of a state which guarantees the creation of a network of services for all, accommodating users and cooperatives in the running of such services. This is known as “privato sociale” in Italian. In other words, this means developing the social private sector as opposed to the "private profit-making" one.

2. Social and health system reforms

The first wave of reforms occurred throughout the 1970s, especially through the granting of greater autonomy to certain regions and the regionalisation of the health services.

Throughout the 1990s, major reforms were introduced in Italy in order to reduce budgetary deficits and to improve state finances. Three main trends emerged: a period of rationalisation which aimed at reducing public spending and increasing revenues, a period of privatisation and the current period centred on decentralisation. The decentralisation of competences and missions led to the formation of an enlarged governance system within

which the local area, provider and in charge of the creation of social services, became a space of interaction between various parties (public authorities, society).

The legislative framework established by the Framework Law on assistance reforms (328/2000) became the first reform of social aid in Italy. Aid was introduced as a right and the law guaranteed a minimal level of aid throughout the whole country. It also referred to the principles of an "integrated system of aid and social services". "Integration" here meant harmonising services at social, socio-health, school and professional levels according to the need of the individuals, their economical situation, housing, integration into society, age and their degree of disability or dependency.

The concept of a service network constitutes the very heart of the reform and implies the involvement of various parties involved in planning and running the services: the regions, provinces, communes, non-profit-making bodies for social use, local health units, foundations, social promotion bodies and associations, voluntary organisations and cooperatives. Law 328/2000 acknowledges the specific role of the third sector in planning and running the services and makes explicit references to home assistance services.

a. Social reform methods

The elaboration of public policies within the framework of programming assistance is dependent on a complex process, implying a various parties, each one responsible for a stage of the operation. The principle of subsidiarity (vertical and horizontal) implies that each party takes part in creating an optimal service in order to provide the most appropriate reply to the demands of the social services.

In order to carry out the governing mechanisms, stimulate the creation of a social services network and favour a continued service of quality, a new method of regulating and producing services defined the role of each party: the Zone plan.

The Zone plan- planning documents which have been elaborated by parties from a given area -defines local social policy, its main objective being to favour the following on its territory :

- > Knowledge and analysis of the population's needs
- > Identifying, qualifying and quantifying resources that are available and spare
- > Defining strategic targets and priorities for using resources
- > Structuring services and various types of services provided
- > Organisational and economical relations between the different parties (agreements, delegations, conventions and protocols)
- > Locating services, team structure and functions

b. Quality of service methods

1) Authorisation and approval

- > Minimal conditions come into immediate effect for the new services;
- > Other services have provisional municipal authorisation;
- > Alignment in 5 years;
- > The communes grant approval;
- > The regions create norms, grant authorisations for innovative services and define tools for evaluating results.

2) Social services chart

- > Offers information concerning services, essential levels for social security payments, access modalities, tariffs;
- > Allows citizens to take part in defining the personalized project and in the "informed contract";
- > Allows citizens to take part in measures for consulting and evaluating social services;
- > Access criteria to the services;
- > Methods of granting and financing services and allowances;
- > Defines levels of provided assistance;
- > The quality standards of the services;
- > The conventions of protecting the rights of the users;
- > The rules to apply when the chart is not respected and the modes of appeal.

3) The elderly dependents' fund

In 2007, a fund dedicated to dependent elderly persons was set up and was awarded an initial budget of 500 million Euros by the Finance Law of 2007 to cover the 2007–2009 period.

The incorporation of dependency levels amongst the elderly and allocated resources linked to such are determined by the establishment of a "level of social assistance for self-sufficiency" (LESNA) by the government.

Realistically, besides the quality and the type of services provided, the Italian system is increasingly characterized by a model that persists in splitting up and diversifying its services in spite of the national framework which aimed for certain unification. The distinctive feature of the regulation (decentralisation) confers to the regions the possibility of carrying out social assistance in a discretionary manner, which may or may not comply with national legislation. Therefore, the regulation of personal care services is embedded in the national legislative framework and, at the same time, is divided on a legislative level depending on local areas. This raises questions regarding how equal access to services in Italy really is, as the main problem with decentralisation is the relation between expenditure and the financing of these services. The poorest regions have more difficulties in financing the services which were until then a matter for the State. Economical disparities between the richer northern regions and the south of Italy imply a rethinking, taking into account service costs in the poorest regions of the country. Since then certain regions (especially the north)

have tended to develop innovative integration models of the social services in contrast to the south, which has just started this process.

Planning and organising social services: The role of the different parties.

- **Function of the communes :**
 - Planning and creating a networked social system
 - Innovative sectors,
 - Authorises, approves and watches services and structures,
 - Coordinates programmes, activities and agreements with the local health company (ASL),
 - Consults with social partners and private parties to evaluate the quality and effectiveness of services and to reformulate proposals.

- **Function of the provinces :**
 - Analysing the area's needs and resources,
 - Promoting coordination measures between communes and the third sector,
 - Participating in the definition of the Zone plan and carrying out the "Zone plans",
 - Institutionalising the provincial branch of the social cooperatives' register as well as the voluntary organisations' register.

- **Function of the regions :**
 - Defining the management "zones" of social services,
 - Collecting and elaborating data on the needs, resources and offer of social services (regional information system),
 - Adopting the regional plan for action and social services ,
 - Defining quality of service indicators, criteria for authorising and approving those receiving benefits and criteria for defining tariffs,
 - Defining criteria for obtaining service job vouchers.

3. The role of social cooperatives in managing personal care services

Like the majority of European industrialised countries, Italy has to face up to the problem of an ageing population. This is a major stake given that Italy's population is the oldest in Europe. 65 year olds make up 11,379,341 of the population of which 6,662,171 are female and 4,717,170 are male.

In the personal care services sector, type A social cooperatives– state approved with a social character– are the main service providers in comparison with public institutions and profit–making private companies. In 2003, their services were available to over 3.3 million people. The number of users that have been cared for has continued to increase. These cooperatives are characterised as follows:

> Activities: social, health or education services,

- > **Services:** home assistance, therapeutic communities, nursing homes, crèches.
- > **Target audience:** the elderly, minors, the disabled, drug addicts, sufferers of psychiatric illnesses, AIDS victims. **Members:** everyone.

In this way, 59.1% of Type A cooperatives operates in the field of social assistance and personal care. 21% are active in the field of education and research, whilst 10.7% and 9% operate in the fields of culture (sport) and health respectively. A cooperative offers on average home assistance services to more than 760 users. As a general rule the latter are spread out throughout the country in the following way:

- > Assistance services for elderly dependants are mainly situated in the north-east.
- > In the north-west, the users are mainly the sick, immigrants or unemployed.
- > In the centre and in the south – those with no specific problems.

LOCAL SERVICES WITH SOCIAL AIM IN BELGIUM, BY SAW-B (SOLIDARITY GROUP FOR ALTERNATIVES IN WALLONIA AND BRUSSELS)

In Belgium, just like elsewhere, local services constitute a great variety of parties and activities grouped together: crèches, home assistance, dial a ride, discounted grocery stores, day nurseries, home care for the sick or elderly, domestic assistance, small gardening jobs etc. This diversity carries over directly into legislation covered by the sector and the ministries which it depends on.

In order to enable a better understanding of this complex reality, we will concentrate on four main areas:

- > Family and elderly care services
- > Home assistance services
- > Infancy
- > Small gardening and D.I.Y jobs

Family and elderly care services fall under the jurisdiction of each region. In the region of Wallonia this domain depends on the Minister for Social Aid. In Brussels Capital-Region it falls under the jurisdiction of the COCOF (French Community Commission). In Flanders the Minister for Welfare, Health and the Family is in charge of this domain.

Home assistance services are partly dependent on the federal government. The financial system which they benefit from, the so-called titres-services is in fact run by the Federal Ministry for Employment.

The infancy sector partly depends on both the level of regional government and community. Crèches that have been established by so-called ASDL (NPO) ²⁵and CPAS ²⁶ depend on the Walloon Minister for Social Aid. On the other hand, the Office de la naissance et de l'enfance (Office of Births and Infants, ONE), which is dependent in turn on the Minister for Infancy in the French Community, is responsible for subsidising and recognising all Walloon crèches and French-speaking crèches in Brussels. In Flanders the equivalent of the ONE is "Kind en gezin" (Child and family). This body directly depends on the Minister for Welfare, Health and the Family.

Finally, small gardening and D.I.Y jobs services are mainly approved and subsidised by the regional ministers in charge of the social economy.

²⁵ Non-profit organisation

²⁶ Public centre for social action

1. Assistance for families and the elderly

The Walloon government approves and subsidises family and elderly care services. The latter carry out assistance for day-to-day activities and/or home care. The current legal framework which governs the approval of these services and their subsidies is the Decree of December 6 2007 which relates to family and elderly assistance services.

In Brussels, the COCOF, the French Community Commission, approves and subsidises these services. The Decree of May 27 1999 relating to the approval and granting of subsidies to home care services regulates these matters.

Family and elderly support services are provided either by public bodies (Public centres for social action, bodies shared by several communes etc) or by non-profit organisations or private establishments in the framework concerning the social economy. Non-profit associations have often been the first to offer local services in a social economy framework. In fact, some of these associations were already established in the 1940s.

The measure of support offered to family and elderly care support services are relatively similar across regions. As this is the case we propose to concentrate solely on Walloon care support services. The Decree of December 6 2007 which relates to these services ²⁷ mentions that the latter *“operate at home in order to favourise remaining and returning home, accompanying and assisting isolated, elderly, disabled and sick persons as well as families with difficulties in their everyday life, in accordance with their familiar and relational environment. These services aim to stimulate these persons, thus enabling them to maintain their independence to the fullest”*.

Article 5 tackles the mission for home care, which is described as follows: *“accompanying the beneficiary who is in need of the continuous presence of a person and who, for health reasons or a disability, is not able to travel unaccompanied outside their home. Its principal aim is to ensure a 24-hour active presence complementary to the beneficiary's entourage and to optimise the beneficiary's mental, physical and social well-being by means of defined actions laid out in the home care statute”*

The decree also implies that day-to-day assistance may be extended to helpers close to the beneficiary. It therefore consists of guidance, information and support for sanitary requirements, handling, education and administrative tasks concerning the person in need of assistance. It is a priority that assistance is given to those who are in need the most and who are the least favoured according to the financial plan.

The third chapter of this text is devoted to the family and elderly assistance services' approval requirements. It stipulates that, in order to be approved and financed by the Walloon region, the service has to fulfil a series of very precise criteria. In addition to respecting the targets mentioned above, the service must employ at least three family care /

²⁷ This decree can be downloaded at the following address:
<http://wallex.wallonie.be/index.php?doc=9423&rev=8571-4159>

senior care workers on a permanent full-time basis²⁸. All family care workers and senior care workers must have taken part in a training scheme acknowledged by the Walloon region. Under a contract of employment, the service must entail a social assistant, a socially qualified nurse, a specialist nurse qualified in community or public health and an administrative worker. Finally, the service must have a switchboard working at least five days out of seven and for a minimum of 8 hours a day. This slot may be a minimum of 4 hours a day for services with less than 6 family care workers.

2. Service job vouchers

The *titres-services*, service job vouchers, first came to light in 2001 by means of the Law of July 20.²⁹ This defined the service as a *“payment order, allowing the user to pay for work services or local services carried out by an authorised company through financial state aid in the form of a subsidy.»*

In concrete terms the registered company receives the sum of 20.80 Euros per hour for services offered. The user purchases each voucher at 7.50 Euros³⁰, which he can then deduct from his taxes. This then amounts to 5.25 Euros for the vouchers. To compensate the difference, the state pays the authorised company the sum of 13.30 Euros. This mechanism therefore boosts the demand and not the offer, as is the case for family support services. The user benefits from a service at a much lower price that he would not pay for without state intervention. The aim of this step is to also create jobs and above all to fight undeclared work which was at large in the home-help sector before this service came into force.

The law stipulates that the private individual can only resort to the service job vouchers for services of a domestic nature³¹.

Initially intended for social economic businesses, the measure has been finally extended to all types of businesses: commercial companies, public centres for social action, local employment agencies (ALE/PWA), non-profit organisations, companies with a social objective, freelance workers employing salaried workers and mutual insurance companies. However, an application for approval must be obtained from the Federal Minister for Employment by the company before offering these services. Temping businesses may also be approved, leading to bitter negotiations between French speakers, who were opposed to the idea, and Dutch speakers, who were in favour.

²⁸ A full-time job may be replaced by two part-time jobs, provided that they are consistent with at least one job that would equate to a full-time job

²⁹ Coordinated Law of 20 July 2001 for favouring the development of services and local employment

³⁰ The original price for service job vouchers was 6.20€. It was then increased to 6.70€ on 1 January 2005 and to 7€ on 1 May 2008. It was increased yet again to 7.5€ on 1 January 2009.

³¹ In the first bill, service job vouchers were designed to cover home cleaning activities, child minding and care for the sick or elderly. The latter two however have been abandoned.

3. Lokale diensteneconomie

In Flanders local services are supported by the government through the recognition of the "lokale diensteneconomie". These services aim to meet local needs and at the same time offer work to those who have difficulty in accessing the typical job market. The Decree of December 22 2006 ³² states that the initiatives which are a matter for the "lokale diensteneconomie" may offer the following services (in an individual or collective way): personal care, care services for children in the community, transport services, energy controllers (small tasks aiming to reduce the energy consumption in a building), use of a bicycle lot, social restaurant, maintenance of green spaces and neighbourhoods, maintenance of bicycle lanes and pavements, community sport centres.

Only workers from the target group are considered for granting subsidies to the structure of local services. These workers must not have a school diploma that is higher than secondary and must have been registered as unemployed for at least a year. Workers receiving benefit from RIS and financial and material support are also considered for subsidy grants.

As Tine De Vriendt explains in her description of the Flemish "dome" of local services, the "lokale diensteneconomie" decree proposes that recognised initiatives work with a three-branched scheme of financing.

Subsidisation by the public domain by the "lokale diensteneconomie" Decree	Subsidisation by means of employment placement: SINE, Activa,..
Flemish or local co-financing, depending on the services provided.	Clients' contribution

This means that they will have to rely on the combined financial contribution of different authorities and different clients which benefit from their activities. Apart from financing granted by the Flemish Minister for the Social Economy, authorised "lokale diensteneconomie" structures may benefit from federal state assistance through SINE and other measures. Furthermore, "lokale diensteneconomie" initiatives offer an accessible and quality provision of services as well as longterm employment for groups at risk. This is why the goal is to ensure

³² The Flemish decree concerning relational services can be found at the following address : <http://www.socialeconomie.be/sites/default/files/200612%2022%20decreet%20houdende%20de%20lokale%20diensteneconomie.pdf>

that they are financially supported by the public authorities in which they operate or by the authorities related to the domain of activities in which the services are active.

Finally, the client's contribution, however minimal, also plays a role in the financing of the services.

4. The situation of the local services with social aims sector in Belgium

In Belgium, local services cover so many different realities that it is difficult to establish a general conclusion about their situation. However, it is possible to establish some points.

The first one concerns their financing. Some structures may find themselves with a legal framework and a relatively stable structural support but this does not mean that it is the case for all. Many structures struggle to find the necessary means to carry on with the various duties that have been confined to them or those that they wish to pursue such as integrating vulnerable persons, quality services that are accessible to the highest amount of people, training and supervising workers etc. These structures respond to unmet needs considered to be difficult to solve and rather unprofitable for classic companies. Therefore, support from the public authorities, whether these be local, regional or federal, is essential for them working well and is completely justifiable, considering the general benefits that these services generate (transporting persons with reduced mobility, playgroups, green waste collection etc). The representatives of all of the diverse public authorities must be consulted to improve the existing plans and to develop new ones in order to effectively support the so-called local services with social aim.

The second focal point concerns the duties entrusted to the local services. Faced with considerable unemployment rates known to Belgium, the public authorities have a tendency to consider the local services – and in a more general matter, the social economy – only as a force in creating jobs for those who are the most vulnerable. The majority of financing granted to them is linked to putting those who are generally excluded from the typical work market back into work. This target, whilst being of importance, can, within the local services framework, contradict the other goals that give it structure. These services, through the close relationship that they have formed with their users, require the worker to develop solid skills and a relationship of trust which are vital for the service to progress smoothly. This requires a significant accompaniment and training for the worker and therefore financial means which the businesses do not always have at their disposal. In addition, some local services with social aim, faced with a lack of financing, appear to have become forced to let workers go after a year or two when these no longer benefit from job support. These “springboard” jobs jeopardise the creation of a relationship of trust which is necessary for carrying out such services at the user's home.

Finally, the third point concerns the new needs to which the local services will answer tomorrow. Certain sectors are already in short numbers, such as the infancy or elderly sector. Others are even inactive but the needs seem significant nonetheless: small tasks for reducing energy consumption, green waste collection, transport and mobility etc. Through their goals and modes of management, social economy businesses are able to offer

innovative and pertinent solutions to these needs by creating quality jobs and by integrating the users in the definition of the services. Once again, it will be necessary to think about developing structural measures to allow these initiatives to develop themselves or to persist. Restoring the social usefulness of the services at the heart of these discussions is vital for offering them a real chance in meeting the expectations and needs of the population.

LEGALISATION OF PERSONAL CARE SERVICES IN SPAIN ANALYSIS OF THE DEPENDENCY ACT (39/2006) BY POUR LA SOLIDARITÉ

This synthesis discusses the legalisation of services related to dependency in Spain, which took place during the Socialist government's first term in office under José Luis Rodríguez Zapatero (2004–2008), and was characterised by significant legal changes as regards the civil rights protection. Firstly, it provides clarification of the theoretical scope and field of application of Act 39/2006 on dependent care. A person is legally considered to be a dependent when, for reasons linked to loss of or lack of physical, mental or intellectual capacity, he or she needs assistance or significant help in carrying out daily activities.

This synthesis then goes on to study the implementation of said Dependency Act, demonstrating how it has fostered increased participation from the Spanish Autonomous Communities in both political and budgetary terms, with mixed financing to cover dependency through a combination of public revenue (taxes, contributions) and/or private (savings/insurance schemes). In conclusion, the study explains how Spain, together with Italy and Germany, has become one of the three European countries that is most affected by the phenomenon of an ageing population, thereby promoting increased need for personal care services.

1. National political context and scope of the dependency act in Spain

The Dependency Act 39/2006 on 14th December 2006 *“to promote personal autonomy and assistance for persons in situations of dependency”* was promulgated during José Luis Rodríguez Zapatero’s first Socialist government. This was characterised by significant legal changes in terms of civil rights protection: the fight for equal opportunities and for the protection of women from domestic violence, education reform, integration of immigrants, ratification of the UN Convention on the Rights of Persons with Disabilities, as well as enshrining care services in law. These various reform policies are not individually isolated but operate in close synergy. The scope of Act 39/2006 therefore encompasses three complementary sectors of Spanish Government's policy: social policies (for elderly or disabled persons), policies aimed at harmonising and reconciling work and family life and finally, policies on equal opportunities.³³

The Dependency Act constitutes a legal, political and ethical challenge, in order to achieve recognition of support for people whose daily lives are conditioned, to various extents, by

³³ Statement by Zapatero’s government spokesperson, María Teresa Fernández de la Vega, in an article on the draft Dependency Act, *El Mundo*, 23/12/2005
<http://www.elmundo.es/elmundo/2005/12/23/espana/1135325020.html>

the need for outside assistance. Indeed, before this act was implemented, a study by the Autonomous University of Madrid entitled: “*The elderly in situations of dependency. Proposal for a mixed protection model and estimated cost of insurance in Spain*” showed that in 2004, Spain was well below average in the OECD countries in terms of total expenditure on dependency care: 0.6% of Spain’s GDP, compared with 1.25% for OECD countries on average.³⁴

In 2005, the draft bill aimed to assist 200,000 citizens in situations of dependency by 2007, and 373,000 persons in situations of severe dependency by 2009³⁵. Nevertheless there are significant differences in the estimates of the law’s scope, depending on the source quoted. In 2007, the Catalan Institute of Ageing, which has created a national scale aiming to establish the degree of dependency of the elderly (and whose activities are also linked to the Agrupació Mútua foundation), estimated that “*this new dependency act may affect 1.2 million Spaniards and lead to the creation of 150,000 to 200,000 new jobs*”, while highlighting that “*this act will be implemented on a gradual basis by 2015*”: “*It will firstly be applied to the most dependent persons*”.³⁶

2. Identifying dependent persons

A person is considered to be dependent from the time when, for reasons linked to loss or lack of physical, mental or intellectual capacity, they need assistance or significant help in carrying out daily activities. 80% of people who are identified as being dependent are over 65 years old. They seek help from a family member first of all. The relative asked is often a woman who, from that time on, cannot work outside of the home. However, it should be noted that not only the elderly are dependent. Very young children can from now on be considered as dependent persons, as a result of political initiatives in several regions (such as Asturias, Cantabria and Catalonia). Since the debate on the draft bill began in 2005, the latter have been demanding that children under three who are in situations of dependency be included in the field of application of said act, following the example of the federation of centrist and autonomist political parties in Catalonia (CiU, Convergència i Unió).

³⁴ “We spend little on care for dependency”, Article on the site Portal Mayores, 26/04/2006

<http://www.imsersomayores.csic.es/productos/dependencia/dossier-prensa/2006/not-26-04-2006bis2.html>

³⁵ Presentation of a summary of the Dependency Act 39/2006 on the Spanish site Discapnet, giving information on the services available to disabled people

http://www.discapnet.es/guias/2008/dependencia/xhtml/detalle_ley03.htm

³⁶ “*Dependency: the Spanish scale to be put in place by the Catalan Institute of Ageing*”, by Actusenior, The magazine for seniors online, 20/03/2006.

http://www.senioractu.com/Dependance-le-bareme-espagnol-sera-mis-en-place-par-l-Institut-catalan-pour-le-vieillissement_a5476.html?start_liste=30&paa=7

3. Scale of assessment of the situation of dependency

In Spain, a general scale of assessment of the status of dependency does exist, in addition to a specific scale of assessment relating to minors under three years old. It was established by the Catalan Institute of Ageing. Following the promulgation of the act, Royal Decree 504/2007 of 20th April 2007, approving the assessment scale of dependency, considers that a person who needs help at least once a day carry out basic daily activities is in a situation of moderate dependency. Severe dependency involves seeking outside help two or three times a day. Finally, great dependency means total loss of independence and autonomy resulting in essential and constant need of a 'carer'³⁷.

4. Field of application of Act 39/2006

Article 3 of the Dependency Act aims to build recognition of the public nature of benefits of the assistance system throughout the whole of Spain, as well as to achieve universality of access for all persons in situations of dependency, with equal conditions and without any form of discrimination. Article 5 stipulates that, in order to benefit from the provisions of the Dependency Act, a person should: be Spanish or have lived for at least five years in Spain, and have been declared "dependent" by the assessment body of the relevant Autonomous Community. Once the degree of dependency has been established, a person requiring assistance is entitled to benefit from the list of services provided by the System for Autonomy and Dependency Care (SAAD) which includes:

> Preventive care services for situations of dependency and for the promotion of personal autonomy (Article 21);

The telecare service (Article 22);

> The home care service (Article 23), including household chores and personal care;

> Services provided by the 24-hour care centre (Article 24);

> The Residential Assistance Service for persons in situations of dependency (Article 25); including retirement homes as well as residential care homes for persons with disabilities.

³⁷ "The Dependency Act will also help children under three", in the newspaper *La voix des Asturies*, 31/03/06
<http://www.lavozdeasturias.es/noticias/noticia.asp?pkid=263363>

5. Public and/or private assistance for dependency in Spain

People recognised as dependents on the basis of Act 39/2006 are entitled to seek the following services:

- > Services provided through public offer by the social services network of the autonomous communities, by means of centres and the relevant public or private services;
- > When assistance by a public service cannot be ensured, people recognised as dependents may resort to services provided by a professional through private offer. Regular financial assistance can be arranged. This must be linked to the purchase of a service declared to be suitable to the needs of the beneficiary;
- > Exceptionally, private financial assistance can be granted to non-professionals, such as the family or relatives of a dependent person.

Given the mixed nature of dependency coverage, which is a combination of public revenues (taxes, contributions) and/or private revenues (savings/insurance schemes), suitable management of the various services is required, with involvement of local stakeholders. The implementation of the Dependency Act promotes increased participation from the Spanish Autonomous Communities, in both political and budgetary terms.

6. Decentralised management

- > From a political point of view, the communities have real power to take initiative, as we have already seen with the proposal to extend the field of application of the Dependency Act to children under three years of age (on the initiative of Catalonia, Asturias and Cantabria for example), or with the development of the national scale aiming to identify the degree of dependency of elderly persons, on the initiative of the Catalan Institute of Ageing.
- > From a budgetary point of view, decentralisation of skills towards the Autonomous Communities (that is, the Spanish regions) implies a shared effort in dividing up the costs of care services for dependent persons, between the central government on the one hand and the Autonomous Communities on the other. The Dependency Act is national legislation that applies to all autonomous communities. The funding is therefore shared, 50% being covered by the Autonomous Communities and 50% by the State.
- > The budget that each Autonomous Community must allocate to the provision of dependency care services is proportional to the number of dependent persons in that community, as well as to their degree of dependency. The Autonomous Communities with the highest number of dependent persons are Catalonia and Andalusia. Funding methods for Autonomous Communities are defined in Organic Law 8/1980, which establishes their financial independence from the Central State for developing and implementing their competencies (Article 1), while guaranteeing them sufficient resources (Article 2)³⁸.

³⁸ Ley Orgánica 8/1980, of 22nd September 1980, on funding of the Autonomous Communities http://www.porticolegal.com/pa_ley.php?ref=24

> The annual State budget for expenses linked to the application of Act 39/2006 is laid down in the general budget. The total budget contributed by the general State administration for forecast expenses was to the tune of 400 million Euros for the year 2007, 871 million Euros for 2008 and 1,158 million for 2009, thereby illustrating the priority given to dependency-related services in the Spanish social policy agenda.

However, despite such an exponential increase in the State budget, there is still much criticism of the disproportionate cost incurred by the regions regarding the provision of dependency-related services, not only in Spain but also on a larger scale in Europe.

Why could co-financing of implementing the Dependency Act turn into a major burden for the regions? How challenging is the local implementation of the Act? In accordance with Article 32.3 of the above-mentioned law 39/2006, "*the yearly financial contribution of the Autonomous Community shall be at least equal to that of the General Administration of the State*". Yet, the law's field of application is becoming ever broader: given the effects of the economic crisis, citizens are inclined to demand greater intervention from the Welfare State, which then gradually extends the provision of dependency-related services to categories II (severe dependency) and I (moderate dependency) of grade I. This explains the resulting boom in demand for care services in Spain, entailed by their legalisation.

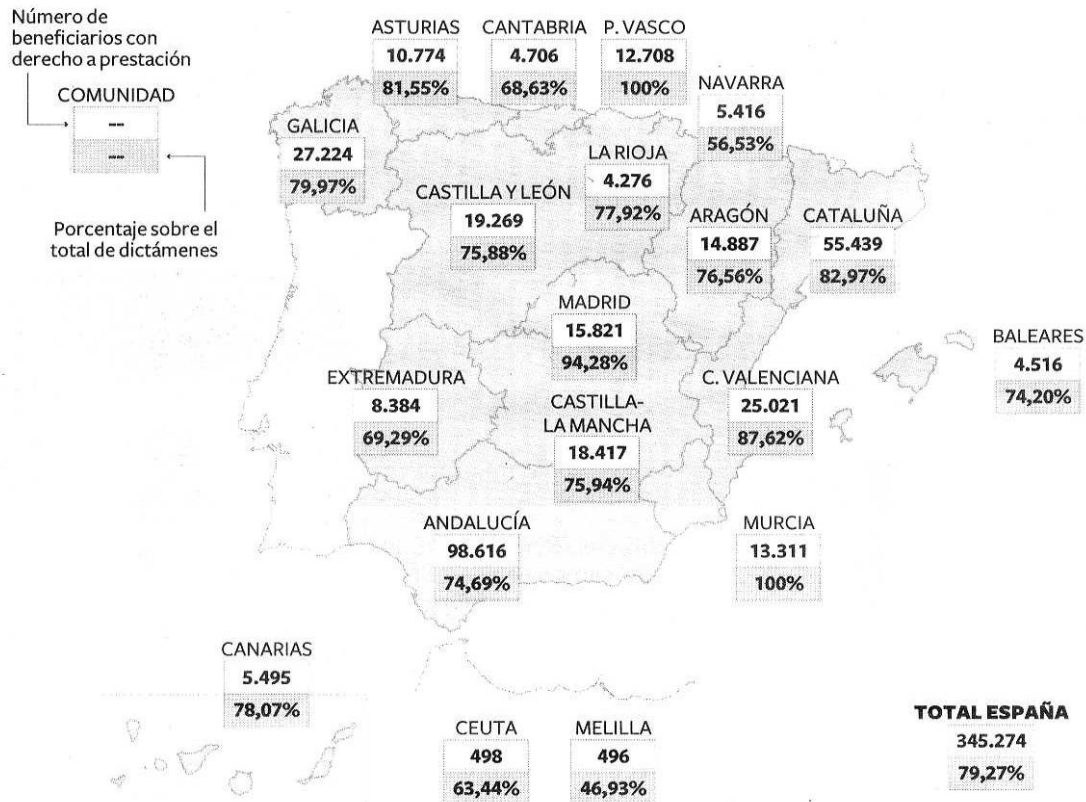
Consequently, the image has arisen, rightly or wrongly, of a trial of strength between certain regions (such as Catalonia) and the central government, over the temporary inability to provide the services laid down in the Dependency Act (see criticism from the leader of the Catalan left Joan Puigcercós, in an article in ABC on the 6th of December 2008³⁹). In addition to Catalonia, the region of Aragon has also expressed and experienced unforeseen difficulties, namely a much higher number of dependent people than the initial estimate. We should recall that the communities with the highest social costs related to dependent persons are Catalonia, the Canary Islands, the Basque Country, Andalusia and the Madrid region in particular⁴⁰.

³⁹ <http://www.abc.es/20081006/nacional-sociedad/cataluna-plantea-suspender-dependencia-20081006.html>

⁴⁰ "*Dependency and the Dependency Act*" Portal mayores, 26/04/2006
<http://www.imsersomayores.csic.es/productos/dependencia/dossier-prensa/2006/not-26-04-2006bis2.html>

Beneficiarios con derecho a prestación

A 1 de septiembre de 2008. Esta cifra no coincide necesariamente con el número de personas que reciben la prestación



Legend:

*Número de beneficiarios con derecho a prestación : number of beneficiaries with the right to receive benefits

*Porcentaje sobre el total de dictámenes : Percentages of the total reports

7. Increased need for personal care services and the ageing population

Together with Italy and Germany, Spain is one of the three European countries most affected by the phenomenon of an aging population. More than 17.5% of residents are over 65 (compared to 16.4% in France). This proportion should further increase in the years to come. Now, the more the number of very elderly people increases, the greater and more pressing the inherent problems of dependency become. In the EU-15, 17 million inhabitants (4.4% of the population) are over 80 years old. In 2025, more than 26 million people will be over 80 (6.6 %) ⁴¹, which may increase even more the need for personal care services. According to the French Caisse d'Épargne Observatory, three key socio-economic factors should be taken into account with regard to the increased need for personal care services:

⁴¹ «Services à la personne : modes de vie, modes d'emploi », L'observatoire de la Caisse d'épargne 2006, http://www.groupe.caisse-epargne.com/cpp/101/fra/blob/pdf_diap_060330_obs_2006_ci_060329191141.pdf

"1) Reduced availability of women aged 45 to 69, on whom the main responsibility for caring for elderly relatives falls.

2) An increase in the number of women at work, in particular in Southern Europe.

3) Finally, a rise in the divorce rate among people over 40, leading to more one-parent families (making for less availability) or second families (hence weakened ties between daughters in-law/parents in-law)".

Although the terms "personal care services" or "local services" are little used in Spain, where the term "dependency assistance" is primarily used, all public and private services put in place since the promulgation of Act 39/2006 do indeed agree with the observation that care services throughout the European Union have become more widespread, defined as *"services which, based on geographical and/or relational proximity, address collective or individual needs that are new or insufficiently met"*⁴². In compliance with the Communication from the European Commission entitled *"Implementing the Community Lisbon programme: Social services of general interest in the European Union"*, services related to the implementation of the Dependency Act in Spain play a role of prevention and contribute to improve social cohesion; those services provide customised assistance in order to facilitate social inclusion and ensure that fundamental rights are fulfilled. *"These services complement and support the role of families in providing care, in particular to the youngest and very elderly, including persons with long-term needs related to a disability or health problem"*.

Currently, providing a practical assessment of the scope of the Dependency Act in Spain, remains a difficult task, given the fact that it was implemented only recently. The Act undeniably represents a step forward in the European social field, for example thanks to the correlation established between the increasing rate of women at work, the creation of new jobs and legalisation of personal care services.

⁴² 'Social economy and liberalization of services, the case of community services'. CERISIS, UCL, CES. Final report 2006/2009.

Conclusion

Stakeholders involved in the personal care services sector, irrespective of which European country they are from or whether they are employers or employees, are currently faced with the same difficulties. Personal care services are carried out within the framework of social relations involving interaction between provider and user, or client. Such a peculiarity makes an approach that prevents personal care services from being transformed into a mundane product indispensable⁴³. Home assistance for the elderly is the archetype of such an approach. This raises the question as regards to the compatibility between the service's professional and authentic character and the social and economic frailty in which the workers who carry out these services find themselves. Can we consider the professionalisation of the employees without questioning the quality of services rendered or the nature of working conditions or conditions of employment? Beyond the simple stakes of the sector, these questions deal with the very choice of society. Nowadays, questions regarding training and levels of income constitute the main stakes to which it will be necessary to provide answers for on a European level.

Various factors can be highlighted:

> As regards to the financing of services in Europe, whereas certain structures may be provided with a legal framework and a structural support that is relatively stable, that is far from being the case for all. Many structures struggle to find the necessary means to carry on with the duties that have been confined to them or those that they wish to pursue such as integrating vulnerable persons, a quality of services that are accessible to the highest amount of people, training and supervising workers etc. These structures respond to unmet needs considered to be difficult to solve and rather unprofitable for classic companies. Therefore, support from the public authorities, whether these be local, regional or federal, is essential for them working well and is completely justifiable, considering the general benefits that these services generate (transporting persons with reduced mobility, playgroups, green waste collection, etc). Representatives of all diverse public authorities must be consulted to improve the existing plans and to develop new ones in order to effectively support the local services with social aim. European legislation must promote this role and cannot be seen as a hindrance, for it risks doing so in the current context.

> The second focal point concerns the duties entrusted to the relational services. Faced with considerable unemployment rates known to Europe, the public authorities have a tendency to consider the relational services, – and, in a more general matter the social economy – only as a force in creating jobs for those who are the most vulnerable. The majority of financing granted to them is linked to putting those who are generally excluded from the typical work market back into work. This target, whilst being of importance, can, within the relational services framework, contradict the other goals that give it structure. These services, through the close relationship that they have formed with their users, require the worker to develop

⁴³ Les services à la personne François-Xavier DEVETTER, Florence JANY-CATRICE, Thierry RIBAUT, Collections Repères, La Découverte, 2009.

solid skills and a relationship of trust which are vital for the service progressing smoothly. This requires a significant accompaniment and training for the worker and therefore financial means which the businesses do not always have at their disposal. In addition, due to a lack of finances, some local services with social aim, faced with a lack of financing, appear to have become forced to let workers go after a year or two when these no longer benefit from job support. These “springboard” jobs jeopardise the creation of a relationship of trust which is necessary for carrying out such services at the user's home.

> Finally, the third point concerns the new needs to which the relational services will answer tomorrow. Certain sectors are already in short numbers, such as the infancy or elderly sector. Others are even inactive but the needs seem significant nonetheless: small tasks for reducing energy consumption, green waste collection, transport and mobility etc. Through their goals and modes of management, social economy businesses are able to offer innovative and pertinent solutions by creating quality jobs and by integrating the users in the definition of the services. Once again, it will be necessary to think about developing structural measures to allow these initiatives to develop themselves or to persist. Restoring the social usefulness of the services at the heart of these discussions is vital for offering them a real chance in meeting the expectations and needs of the population.



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