Services of General Interest = Sustainable Development?
Sustainable Development = Services of General Interest?

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Issues

- Some thoughts on sustainability
- Some thoughts on SGI
- The Communautarian framework
- *Sustainability v SGI*?
A major question

„When advising on mergers, do you also advise on how to avoid a merger failure? Or how to avoid a failure of the merged companies?“

(MEP Christa Randzio-Plath, EC Merger Control Conference, Brussels 7 and 8 November 2002)
Sustainability - Definitions

- „To meet the needs of the present without compromising the ability of future generations to meet their own needs“
  (Brundtland Commission, Our Common Future, 1987)

- „An economy and way of life in which both people and nature flourish, a culture that can last“
  (NGO Northwest Environment Watch)

- „Sustainability is like love and democracy – multiple meanings, not always perfectly realised, but always struggled for.“
  (Denise Lach, Oregon State University)
Core Sustainability Indicators

**Economic indicators**
- Real income (= GDP – capital depreciation)
- Fixed Capital Formation (= share of man-made & natural capital. total not to diminish)
- Employment (= utilisation of human labour for productive purposes)

**Social indicators**
- Poverty (= reduced or no access to income, security, political rights and public services)
- Health and Education (= life expectancy at birth, under-5 mortality, adult literacy)
- Equity (= distribution of income, assets, security, political rights and public services)

**Environmental indicators**
- Biodiversity (= different types of ecosystems, habitats, flora and fauna species)
- Environmental Quality (= quality of air, water and land)
- National resource stocks (= non-renewables: maintain; renewables: do not exceed)

(Source: European Commission, Sustainability Study 1999)
Services of general interest
– Search for of a definition

No „Brundtland equivalent“

It is, however, possible to describe characteristics:

- The service meets users‘ basic needs
- No reasonable alternative to the service
- The provider may be public or private, but follows market principles
- There are a few providers of the service
- The service is based on a long-term relationship

(Thomas Wilhelmsson, University of Helsinki)
Core SGI Indicators

**Economic indicators:**
- Choice (even for basic services)
- Quality
- Safety
- Continuity and reliability

**Social indicators:**
- Access (economical, i.e. affordable prices, social and geographical)
- Equality of access and treatment

**The „more-than-a-consumer“ indicators:**
- Transparency (rates, costs, delivery conditions)
- Independent regulatory bodies
- Active representation and participation
- Complaints and justice

(Source: Giustino Trancia, Cittadinanza Attiva (1999); classification: D.S.)
Sustainable development and Services of general interest: something in common...

- Long-term commitments – always endangered by short-sighted concepts (this includes business people and politicians)

- Many joint, overlapping and/or complementing indicators

- Definitions become less (e.g., distinction SGI / SGEI), measurable indicators become more important

- A bias in perception (Sustainability = ecology only; SGI = social only); falls short regarding economics
... and some things apart

- Sustainability boasts a fix set of elements (economical / ecological / social). Link SGI – Cohesion (territorial / social / economical) seems less stable; components tend to vary.

- Sustainability has become a „common aim“ and a well-established part of European law and policy. Seems dynamic, covering new issues (e.g. CSR). SGI, in contrast, often risks to become victim of religious zeals (e.g. „Langen-Report“), seems static. Recently, no major push forward.

- „Europeanisation“ / internationalisation positive for sustainability, ambiguous for SGI (e.g. TEN)
The EC Treaty framework on Sustainability

**Favourable:**
- Article 2 („sustainable development of economic activities“, env. quality)
- Article 6 (Horizontal environmental clause)
- Articles 98 – 104 (stable and sound public finances)
- Article 174 (principles of environmental law)
- Article 228 (ECJ may impose fines in case of persistent non-compliance)
- Article 255 (access to documents – may help to foster Aarhus Convention)

**Disfavourable:**
- Article 33 (agriculture and fisheries – only focus on productivity increase)
- Article 175(2) and 99 (unanimity requirement in environmental decision-making)

**Ambigious:**
- Article 17 (Union citizenship – exclusion of non-citizens)
- Article 133 (Nice version – expanded COM mandate at international stage)
The EC Treaty framework on SGI

**Favourable:**
- Article 2 (“economic and social cohesion”)
- Article 3 (1) t (consumer protection)
- Article 16 (acknowledgement of SGI re social and territorial cohesion)

**Disfavourable:**
- Article 133 (expanded mandate for COM – current WTO round / liberalisation)

**Ambigous:**
- Article 3 (creation of internal market – market opening)
- Article 5 (subsidiarity – SGI torn between fragmetation and “Europeanisation”)
- Article 17 (Union citizenship – justification of SGI - “Europeanisation”)
- Article 31 (abolition of monopolies)
- Article 86 (2) and 87 – 89 (prohibition of state aid; “SGI clause”)
- Article 98 – 104 (public sector under strict scrutiny)
- Article 295 (neutrality clause – risk of mere lip paying service)
Recent developments / Sustainability

- Follow-up of Johannesburg Summit (Aug/Sep 2002)
- Development of „EU Sustainability Strategy“
- Methology for sustainable impact assessment (SIA; to be applied with WTO negotiations – study of January 2002)
- Draft Convention: „The Union shall work for a Europe of sustainable development based of balanced economic growth and social justice....“ (Article III § 2)
Recent developments / SGI

- Charter of Fundamental Rights: „The Union recognises and respects access to services of general economic interest (...) in order to promote the social and territorial cohesion of the Union“ (Article 36)

- Draft Convention: „The Union (...) shall promote economic and social cohesion“ (Article III § 2)

- GATS: Commission‘s final WTO offer includes environmental services (but not water), sea / air transport and postal services; excluded: education, health services, audiovisual

- Green Paper on SGI before June. Key question: (Un-) necessity of binding EU rules.
Future challenges

- Enlargement – sustainable development *by means of social / economical / territorial cohesion* is *the key challenge*
  
  (in EU 25, 25% of total EU population will live in regions with per capita GDP < 75%. 60% of those will be nationals of accession countries / Current EU 15: 18%. To reach current level of EU15 employment, 3 Mio. jobs need to be created)

- Public budget restaints will further increase, due to current recession

- Scrutinity on *financing SGI* will increase (Ferring, Altmark, GEMO,....)

- Will cohesion in EU15 be at stake given the eastward shift of structural funds 2007-13?
In case of crisis – merge!
A „Sustainability & SGI“ formula

Sustainability and SGI may complement each other:

- The idea of sustainability is, by its nature, global. It can help to open up SGI’s often „small world“.
- It may also foster dynamism and flexibility.
- Horizontal dissemination may „open doors“ to SGI.

- SGI can add a forth dimension of sustainability: democracy.
- It can break down the often too-vage idea of sustainability to specific and concrete, measurable commitments.
- It can foster new concepts like CSR and SIA.

Charter of Fundamental Rights and Convention pave the way.