

D2.2

Legal Mapping

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Disclaimer

This deliverable is part of Task 2.3 'Legal Mapping and Doctrinal Legal Research' of Work Package 2. This Task aims at conducting a doctrinal analysis of EU law strands relevant to social services, focusing on state aid, competition, and free movement laws. This desk-based research, essential for understanding EU regulatory frameworks, will also explore the enforcement of state aid and competition law, particularly in relation to the RRF.

The deliverable aims to map current EU legal frameworks, identify gaps, and assess their impact on national legal systems, and outcomes that will inform the operational framework of SWINS. It is intended solely for research and informational purposes. It provides a legal mapping and analysis of relevant EU law as of 30 May 2026 and does not constitute legal advice. Any developments, including legislative amendments, judicial interpretation, and policy changes, occurred after the cut-off date are not reflected in this deliverable.

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Table of Acronyms

ALMP	Active Labour Market Policies
AVMSD	Audio-Visual Media Services Directive
CEDEFOP	European Centre for the Development of Vocational Training
CFR	Charter of Fundamental Rights of the European Union
CJEU	Court of Justice of the European Union
CRPD	Convention on the Rights of Persons with Disabilities
CPC	Contract Performance Conditions
EAA	European Accessibility Act
EAHP	European Affordable Housing Plan
EaSI	European Programme for Employment and Social Innovation
EASPD	European Association of Service Providers for Persons with Disabilities
EEA	European Economic Area
EC	European Commission
ECEC	Early Childhood Education and Care
EDS	European Disability Strategy
EEC	European Economic Community
EGD	European Green Deal
EP	European Parliament
EPSR	European Pillar of Social Rights
ERDF	European Regional Development Fund
ESF	European Social Fund
ESF+	European Social Fund+
ESM	European Social Model
ETF	European Training Foundation
ETS2	Emissions Trading System 2
EU	European Union
EUSF	European Union Solidarity Fund
FEAD	Fund for European Aid to the most Deprived
GBER	General Block Exemption Regulation

GDP	Gross Domestic Product
JTM	Just Transition Mechanism
LTC	Long Term Care
MEOP	Market Economy Operator Principle
MFF	Multiannual Financial Framework
MIP	Macroeconomic Imbalances Procedure
NCP	National Contact Points
NEET	Not in Employment, Education, or Training
NGEU	NextGenerationEU
OMC	Open Method Coordination
SCF	Social Climate Fund
SGEI	Services of General Economic Interest
SSGEI	Social Services of General Economic Interest
SSGI	Social Services of General Interest
SGP	Stability and Growth Pact
SME	Small and Medium Enterprises
TEU	Treaty on the European Union
TFEU	Treaty on the Functioning of the European Union
UN	United Nations
VET	Vocational Education and Training
WAD	Web Accessibility Directive

Executive Summary

Deliverable 2.2 (D 2.2), in line with the objectives of SWINS and its commitment to advancing a modern social policy, seeks to map the various strands of European Union (EU) law relevant to social services within the scope of Work Package (WP) 2. WP2 focuses on developing an advanced theoretical and analytical framework on the relationship between a rights-based social investment approach to social services and the transition towards sustainable well-being. The legal mapping is grounded on desk-based legal research, and aims to assessing the extent to which EU regulatory frameworks, broadly conceived of, either facilitate or hamper the provision of social services at the national level. In this respect, D 2.2 foregrounds a deeper understanding of how EU law supports social investment and the broader shift towards sustainable well-being.

The deliverable revolves around three overarching and intertwined research questions:

1. **How are social services conceptualised, legally defined and regulated (directly or indirectly) across different strands of EU law?**
2. **How do EU legal rules delimit the scope of national intervention in social services?**
3. **To what extent do relevant EU legal frameworks create normative tensions or ambiguities that affect national social investment?**

In answering these questions, D 2.2 identifies three main ways through which EU law impacts on social investment and social services: first, EU law **frames and orientates** social services through EU policies; secondly, it **shapes, but also constrains**, the provision and delivery of social services through funding mechanisms and regulatory frameworks such as State aid rules, public procurement legislation and other mechanisms. Finally, it **enables and transforms** social services and investment within the Union through free movement law.

D 2.2 attempts to provide an original contribution by mapping and undertaking a doctrinal analysis of the fragmented strands of EU law that frame and orientate, shape and constrain, whilst also enabling and transforming social services, which are often examined in isolation. It further advances the state of the art by identifying inconsistencies and interpretative ambiguities that may hinder the development of social investment, whilst highlighting opportunities for national governments to strengthen social service provision. It also demonstrates how Member States can leverage EU law to deliver more effective and responsive services for diverse populations. To best exemplify the mapping of social investments across the EU, D 2.2 places a particular emphasis on Vocational Education and Training (VET) and social housing via case studies in Section 6. Healthcare, long-term care and other social services are addressed throughout the report, given the plurality of regulatory frameworks applicable to their provision.

The focus on VET and Social Housing reflects key priorities in current EU law. First, the Draghi Report identifies VET as a vital pillar for addressing EU skills gap, reducing persistent labour shortages, and driving sustainable economic competitiveness. It also positions social housing as foundational economic infrastructure, in that that the housing crisis dampens labour mobility and productivity. The European Parliament (EP) has formally pushed to address the housing crisis as a social priority and the European Commission has launched the first ever European Affordable Housing Plan. Thus, Social Housing is currently at the forefront of the EU social action. Taken together, VET and social housing illustrate how EU law operationalises the broader shift towards social investment: VET enhances human capital and labour market participation, while social housing ensures basic social stability and inclusion.

D 2.2 adopts a broad definition of social services that centres on **services in kind**, rather than direct cash transfers. In that regard, D 2.2 addresses both publicly provided social services and social services provided by the ‘social economy’.

As discussed in this deliverable, EU law and policy impact on the deployment and provision of social services in Member States through a combination of soft-law instruments, funding mechanisms, regulatory frameworks, and free movement rules. While not all EU instruments are legally binding, they nevertheless influence national priorities, policy design, and implementation choices.

The policy landscape that **frames and orientates** social services policies revolves around the **European Pillar of Social Rights (EPSR) which provides an important framework to orientate Member State action**. The EPSR is notable in that it links the provision of social services to social rights, as well as to broader objectives such as social protection, labour market inclusion, and equal access. Other EU policies express general social priorities and interact with more concrete legal and financial instruments.

EU law shapes the provision of social services through funding mechanisms. In fact, EU funding tools play a significant role in supporting and steering national social services. The EU budget operates through the Multiannual Financial Framework (MFF) and annual budgets, which set spending priorities and limits. Although the EU budget must remain balanced and cannot operate through deficit spending, it has significant policy influence. By allocating funds to areas such as employment, health, education, infrastructure, digital transformation, climate action, and social inclusion, the EU can direct Member State attention toward specific social and economic objectives and determine which forms of social investment are prioritised, and what types of projects are supported. An array of EU regulatory instruments shape and constrain the provision of social services. **State aid rules** are particularly important in this respect, as they **shape the conditions under which Member States may financially support social services**. Overall, EU law does not prohibit public funding of social services as such, but it does structure and constrain how their funding mechanisms must be designed and implemented. **Public procurement law** is another important framework covered in this deliverable that **regulates how public authorities spend public funding**.

Finally, D 2.2 highlights how **free movement law has a significant and transformative impact** on social services. EU citizenship and the free movement of persons allow access to social services in other Member states. Furthermore, the free movement of services, and freedom of establishment allow cross-border provision. These rules transform social services from purely national arrangements into areas affected by internal market law.

Overall, D 2.2 demonstrates that EU law plays a dual role in the development of social investment across the European Union. While it provides financial, policy and legal mechanisms that facilitate social inclusion and support the delivery of social services, it also establishes regulatory constraints that influence how Member States design, finance and administer those services.



1. Introduction

1.1. Background and Aims of the Project

As noted in the Theoretical Framework of the project,¹ SWINS embeds ‘the paradigm shift in the way welfare is conceptualised and operationalised within the European context’ in its overall analysis. Moving beyond a traditional understanding of welfare as a reactive system designed to protect individuals from market failures, SWINS aims to advance a strategic vision in which social policy becomes a key driver of long-term resilience and competition between actors, as well as of sustainable well-being.²

SWINS pursues five key objectives.³ First, it aims to identify the social services that yield high economic and social returns across the ‘life course’, particularly those that enhance human capital, reduce intergenerational inequality, and promote active citizenship. Second, it seeks to clarify the mechanisms through which these services affect core macroeconomic variables, including employment, income distribution, fiscal sustainability, and internal demand. Third, SWINS develops a coherent model that integrates micro-level effects with macro-level outcomes, enabling a more comprehensive assessment of policy impact. Fourth, the framework provides an operational structure for embedding social investment evaluation into existing fiscal and policy assessment tools, allowing policymakers to weigh long-term benefits alongside short-term costs. Finally, SWINS aspires to contribute to a reorientation of European economic governance by advocating for the systematic inclusion of well-being, social cohesion, and environmental sustainability metrics in parallel with traditional indicators of competitiveness. Crucially, SWINS does not call for ‘more’ social spending as such, but advances a reframing of relevant European Union (EU) policies to provide greater clarity on the issue.⁴

In light of the objectives pursued by SWINS, and its overarching aim to promote a modern approach to social policy, **Work Package (WP) 2 aims to provide an advanced theoretical and analytical framework on the nexus between a rights-based social investment approach to social services and transition towards sustainable well-being.** Within this WP, as it will be discussed below, Task 2.3 puts forward a legal mapping of different EU law strands relevant to social services. This desk-based research is essential for understanding how EU regulatory frameworks constrain or facilitate the provision of social services at the national level. In doing so, Task 2.3 contextualises the operational structure for embedding social investment in the EU. The legal mapping also supports other WPs, by providing a comprehensive legal backdrop, thereby enhancing the overall coherence and effectiveness of the project.

¹ F Ciani and I Fattacciu, ‘Theoretical Framework for SWINS – Sustainable Well-being through Investment in Social Services’ (2025) D2.1, SWINS – Sustainable Well-being through Investment in Social Services, ARCO, research lab at PIN Foundation <www.swins.eu> accessed 29 April 2026.

² N Morel, B Palier, and J Palme (eds), *Towards a Social Investment Welfare State?: Ideas, Policies and Challenges* (Bristol University Press 2012); A Hemerijck, *The Uses of Social Investment Social Investment* (Oxford University Press 2017); F Vandenbroucke, ‘The Idea of a European Social Union: A Normative Introduction Chapter’ in F Vandenbroucke, C Barnard, and G De Baere (eds), *A European Social Union after the Crisis* (Cambridge University Press 2017).

³ F Ciani and I Fattacciu, ‘Theoretical Framework for SWINS – Sustainable Well-being through Investment in Social Services’ (2025).

⁴ C Bene and others, ‘Review Article: Resilience, Poverty and Development’ (2014) 26 *Journal of International Development* 598.

1.2. Tasks 2.3: Research Questions and Methodology

The aim of Task 2.3 is to investigate relevant EU legal frameworks, identifying gaps, and assessing their impact on national legal systems. In line with the core of this task, this deliverable (D 2.2) provides a novel reconstruction and advances an understanding of which approaches to social services emerge from primary law, secondary legislation, and Court of Justice of the EU (CJEU) case law. It revolves around three overarching and intertwined research questions:

1. **How are social services conceptualised, legally defined and regulated (directly or indirectly) across different strands of EU law?**
2. **How do EU legal rules delimit the scope of national intervention in social services?**
3. **To what extent do relevant EU legal frameworks create normative tensions or ambiguities that affect national social investment?**

Consistent with the aim of Task 2.3, the **methodology** employed within D 2.2 is **doctrinal** in nature. D 2.2 relies on **traditional legal research, i.e. focuses on interpretation and systematisation of legal sources including the Treaties, secondary legislation and CJEU case law**. In this respect, and in order to accomplish the overall task, we embrace the view that ‘writing about EU law means exposing which norms of EU law exist on a given subject, how they interact, and how they are put into practice by the legal system’.⁵ We have undertaken an initial scoping review of relevant legal literature and desk-based research on primary legal sources, i.e. Treaties, regulations, and directives, but also relevant soft law and soft governance mechanisms.

While this deliverable occasionally refers to literature outside the legal field, and to scholarly work in adjacent disciplines, such as political science and sociology, the analysis remains fundamentally grounded in legal scholarship and legal methodology. The primary purpose of the deliverable is ultimately to address legal questions and contribute to legal research objectives within the SWINS project, and references to non-legal literature are therefore used only where they provide necessary contextual, conceptual, or empirical support for the legal analysis. As such, they are intended to complement the legal dimension of the deliverable by situating the legal discussion within its broader social, political, and institutional context.

In this deliverable we use the terms ‘EU law’ in a general fashion to encompass hard and soft law. For the purpose of this deliverable, soft law entails ‘rules of conduct which, in principle, have no legally binding force but which nevertheless may have practical effects’, or even legal effects,⁶ and is used as umbrella term to encompass a range of formally non-binding norms that remain at the bottom of the legal sources hierarchy, but do have legal relevance.⁷ When we use the term policies, we refer specifically to soft law instruments as quasi-legal instruments (such as recommendations, communications of the Commission, guidelines, conclusions of the Council of the EU...), which do not have a legally binding force but display legal effects. EU soft law has expanded greatly as ‘an instrument of governance’ and is widely used by EU institutions and agencies.⁸ While soft law can be an effective regulatory tool to guide the behaviour of its addressees, it remains formally devoid of legal prescriptiveness and relies primarily on its practical effectiveness and persuasiveness.

⁵ B De Witte, ‘Legal Methods for the Study of EU Institutional Practice’ (2022) 18 European Constitutional Law Review 637.

⁶ F Snyder, ‘The Effectiveness of European Community Law: Institutions, Processes, Tools and Techniques’ (1993) 56 Modern Law Review 19, 32.

⁷ L Senden, *Soft Law in European Community Law* (Hart 2004).

⁸ P L Láncoš and L A Jiménez, ‘Chapter 1: Introduction to The Legal Effects of EU Soft Law’ in P L Láncoš, N Xanthoulis, and L A Jiménez, *The Legal Effects of EU Soft Law* (Edward Elgar Publishing 2023).



The deliverable does not, however, engage with questions concerning the legitimacy and effectiveness of soft law, nor with issues related to its justiciability which have been dealt extensively by legal scholars and remain outside the scope of D 2.2.⁹ We recognise that soft law is often intertwined - either because of being complementary, or having a planning, or preparatory, nature - to EU legislation. In the following sections we highlight this interconnection, in line with previous analysis centring the 'hybridity' - meaning that hard law and soft law are mutually inter-dependent - of EU law.¹⁰

D 2.2 relies on approaches such as literal interpretation (examining the exact wording), systematic interpretation (considering the provision within the broader legal framework), and teleological interpretation (focusing on the purpose and objectives of the law), placing emphasis on the key role of the CJEU in moulding EU norms and principles like supremacy and direct effect.¹¹ This examination is needed to understand why reforms or specific approaches to social services are difficult to implement at a national level. In that vein, where feasible, we also employ comparative analysis in order to understand the implications of EU law at the national level.

1.3. Original Contribution and Expected Outcomes

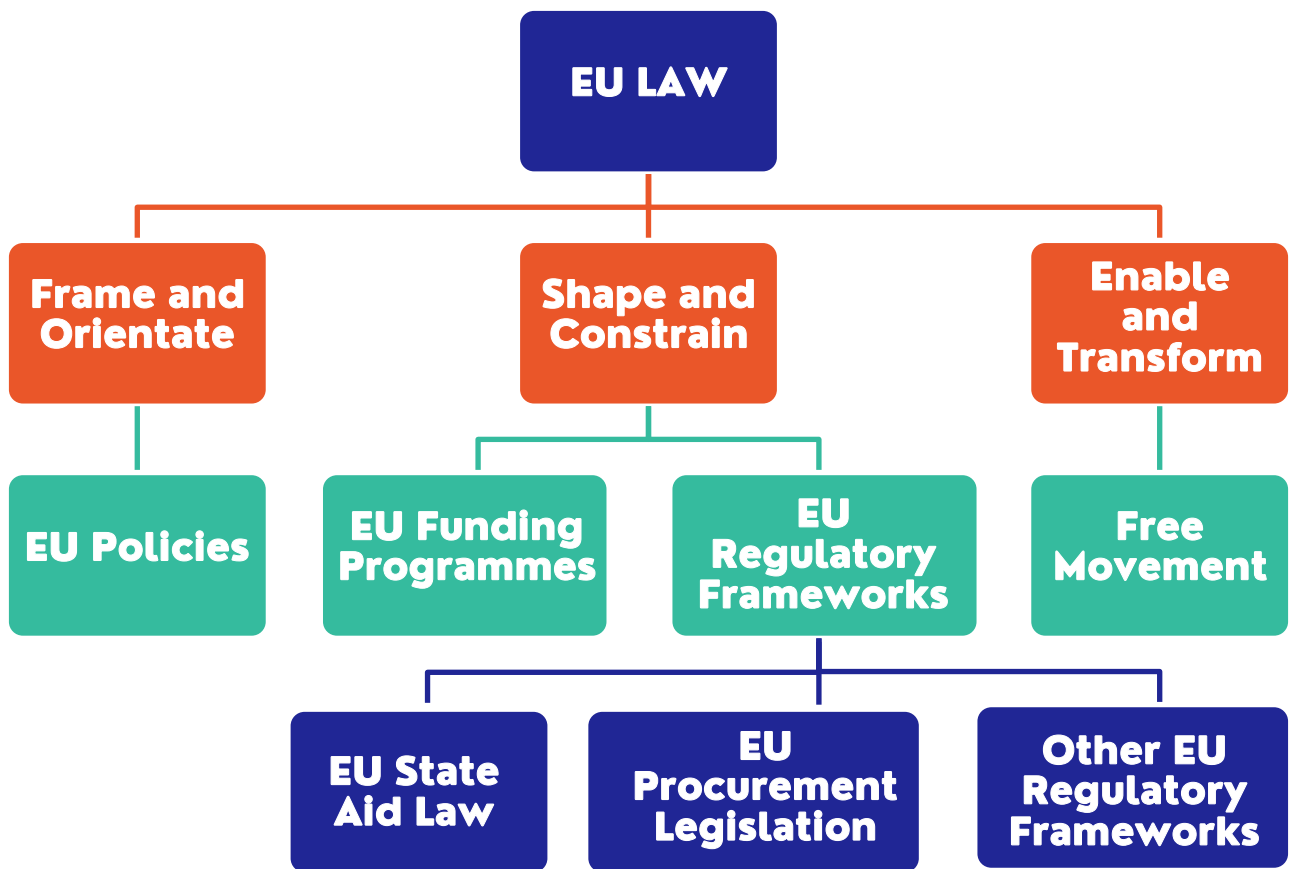
While building on a wealth of legal scholarship, D 2.2 endeavours to offer an original contribution by systematically mapping and doctrinally analysing fragmented strands of EU law that affect, frame, support, and constrain social services, which are often studied in isolation. It also adopts a broad notion of social services which will be explained below, and advances the state of knowledge by clarifying how legal concepts and principles across competition, State aid, and other strands of EU law shape social services provision. D 2.2 also contributes to the current state of the art by identifying inconsistencies and interpretative ambiguities which may hamper social investment, as well as identifying normative or liminal spaces for national government to support a greater provision of social services. In that regard, it highlights how Member States can leverage EU law to achieve social services that cater for a variety of needs and the emerging EU objectives of sustainability and people's well-being.

⁹ Among many others, L Senden, *Soft Law in European Community Law* (2004); E Korkea-Aho, 'EU Soft Law in Domestic Legal Systems: Flexibility and Diversity Guaranteed?' (2009) 16 *Maastricht Journal of European and Comparative Law* 271; O Ștefan, 'Helping Loose Ends Meet? The Judicial Acknowledgement of Soft Law as a Tool of Multi-Level Governance,' (2014) 21 *Maastricht Journal of European and Comparative Law* 359; P L Láncoş and L A Jiménez, 'Chapter 1: Introduction to The Legal Effects of EU Soft Law' in P L Láncoş, N Xanthoulis and L A Jiménez, *The Legal Effects of EU Soft Law* (Edward Elgar Publishing 2023).

¹⁰ On hybridity see D M Trubek, M P Cottrell and M Nance, "'Soft Law", "Hard Law", and European Integration: Toward a Theory of Hybridity' (2008) University of Wisconsin Legal Studies Research Paper No. 1002 <<https://doi.org/10.2139/ssrn.855447>> accessed 1 June 2026. See also D Ferri 'The role of soft law in advancing the rights of persons with disabilities in the EU: A 'hybridity' approach to EU disability law' (2022) 28 *European Law Journal* 134.

¹¹ See *infra* Section 2.

Figure 1 Mapping EU Law's Impact on Social Services



Consequently, D 2.2 introduces a novel normative lens to deepen our understanding of how EU law constitutes and potentially limits transformative investment in social services.



1.4. Concepts and Legal Definitions

Before engaging with the legal mapping exercise, this section briefly outlines the concepts that will be used in the remainder of the deliverable, such as the definition of services, social services and social protection within EU law. It will also establish, in a consolidated manner, the mechanism by which some of the key thematic areas of social services will be dealt with throughout the deliverable.

1.4.1. Services

Before defining ‘social services’, it is worth noting that, in EU law, a service is defined as ‘any self-employed economic activity, normally provided for remuneration, as referred to in [Article 57 TFEU]’.¹² The Treaty defines the concept of services as encompassing activities of an industrial or commercial character, including activities carried out by craftsmen or professionals in exchange for remuneration, and activities such as advertising including political advertising.¹³ The CJEU has interpreted such notion quite extensively to include, among others, sport,¹⁴ gaming,¹⁵ health services¹⁶ and educational ones.¹⁷ The **key factor that makes an activity a ‘service’ for the purpose of the TFEU is its economic character**. Importantly, this economic character does not depend on whether it is carried out for profit, nor does remuneration necessarily need to be provided directly by the recipient of the service.¹⁸ Instead, the CJEU has adopted a broad understanding of remuneration, such that an activity may fall within the scope of Article 57 TFEU where some form of economic consideration exists. The free movement of services (and the complementary right of establishment) will be examined in greater detail in Section 5 in particular.

1.4.2. Social Services

In EU law, as will be discussed later, **there is no single, general legislative definition of ‘social services’**. Instead, the concept is framed by an array of hard and soft law instruments.

As will be outlined in the subsequent section, Article 34(1) of the Charter of Fundamental Rights of the EU (CFR) states that ‘[t]he Union recognises and respects the entitlement to social security benefits *and social services* providing protection in cases such as maternity, illness, industrial accidents, dependency or old age, and in the case of loss of employment, in accordance with the rules laid down by Union law and national laws and practices’. Martin suggests that the reference to social services applies to situations where such services have been established to provide specific benefits, but it does not suggest that they are required to be created where they do not already exist.¹⁹ The remainder of that provision then refers to benefits and social advantages (Article 34(2) CFR) and mentions ‘social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources’ (Art 34(3) CFR). Article 35 CFR focuses on healthcare and states that ‘everyone has the right of access to preventive health care and the right to benefit from medical treatment

¹² Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market [2006] OJ L 376/36.

¹³ See eg Regulation (EU) 2024/900 of the European Parliament and of the Council of 13 March 2024 on the transparency and targeting of political advertising [2024] OJ L 2024/900.

¹⁴ Case C-519/04 P, *Meca-Medina and Majcen*, ECLI:EU:C:2006:492, paras 22 and 23.

¹⁵ Case C-6/01, *Anomar*, ECLI:EU:C:2003:446, paras 46 and 56.

¹⁶ Case C-157/99, *Smits and Peerbooms*, ECLI:EU:C:2001:404, paras 47–69.

¹⁷ Case C-76/05, *Schwarz*, ECLI:EU:C:2007:492, paras 35–47.

¹⁸ Case C-352/85, *Bond van Adverteerders*, ECLI:EU:C:1988:196, para 16.

¹⁹ D Martin, ‘Article 34 CFR’ in M Kellerbauer, M Klamert, and J Tomkin (eds), *The EU Treaties and the Charter of Fundamental Rights: A Commentary* (Oxford University Press 2019).

under the conditions established by national laws and practices'. Yet, the CFR does not provide a specific definition of social services. In essence, the CFR seems to **distinguish healthcare, social services (in-kind) and cash transfers that mostly go under social security or social assistance**. Such distinction also appears to emerge within the European Pillar of Social Rights (EPSR).²⁰

The distinction is less clear cut in the European Commission's (EC or 'the Commission') policies and other soft law documents. Indeed, the Commission defines social services as a type of services of general interest, which encompass 'services provided directly to the person, such as social assistance services, employment and training services, childcare, social housing or long-term care for the elderly and for people with disabilities'.²¹ In its 2011 Communication 'A Quality Framework for Services of General Interest in Europe', the Commission highlights that '[i]n areas such as health care, childcare or care for the elderly, assistance to disabled persons or social housing', services provide 'an essential safety net for citizens and help promote social cohesion'.²² The Commission also clarifies that Social Services of General Interest (SSGI) 'include social security schemes covering the main risks of life and a range of other essential services provided directly to the person that play a preventive and socially cohesive/inclusive role'.²³ It acknowledges that those services may be economic or non-economic in nature, depending on how they are regulated at the national level.²⁴

As will be discussed in the deliverable, only services that are economic in nature are relevant for the purpose of EU law as they fall within the scope of Services of General Economic Interest (SGEI), or in the remit of Social Services of General Economic Interest (SSGEI). Notably the recent Commission Decision (EU) 2025/2630 on the application of Article 106(2) of the Treaty on the Functioning of the EU (TFEU) to State aid in the form of public service compensation,²⁵ recognises that social services are defined at the national level but gives an important indication of the ambits in which they take place:

'...social services should be clearly defined and address **social needs as regards health and long-term care, childcare, access to and reintegration into the labour market and the care and social inclusion of vulnerable groups**. That includes services supporting the independent living and community inclusion of persons with disabilities, for example personal assistance, centres for independent living, assistive technology services, rehabilitation and habilitation services'.²⁶

This definition seems to encompass public employment services as defined by Article 3 of the EURES Regulation.²⁷ These services can be effected through 'organisations of the Member States, as part of relevant ministries, public bodies or corporations falling under public law, that are responsible for implementing active labour market policies and providing quality employment services in the public interest'. This definition also includes 'employment services', and all other services providing 'services for workers seeking employment and for employers wishing to recruit workers'.²⁸

On foot of these documents and to align with other deliverables, D 2.2 adopts a **broad definition of social services** that centres on services in kind, rather than allowances or cash benefits. In that regard, D 2.2

²⁰ Commission, 'European Pillar of Social Rights Action Plan' COM(2021) 102 final 3.

²¹ Commission, 'Implementing the Community Lisbon programme: Social services of general interest in the European Union' COM(2006) 177 final 4.

²² Commission, 'A Quality Framework for Services of General Interest in Europe' COM(2011) 900 final, 3-4.

²³ Ibid.

²⁴ Ibid.

²⁵ Commission Decision (EU) 2025/2630 of 16 December 2025 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest and repealing Decision 2012/21/EU [2025] OJ L 2630/1.

²⁶ Ibid. para 12 of the preamble.

²⁷ Regulation (EU) 2016/589 of the European Parliament and of the Council of 13 April 2016 on a European network of employment services (EURES), workers' access to mobility services and the further integration of labour markets, and amending Regulations (EU) No 492/2011 and (EU) No 1296/2013 [2016] OJ L 107/1.

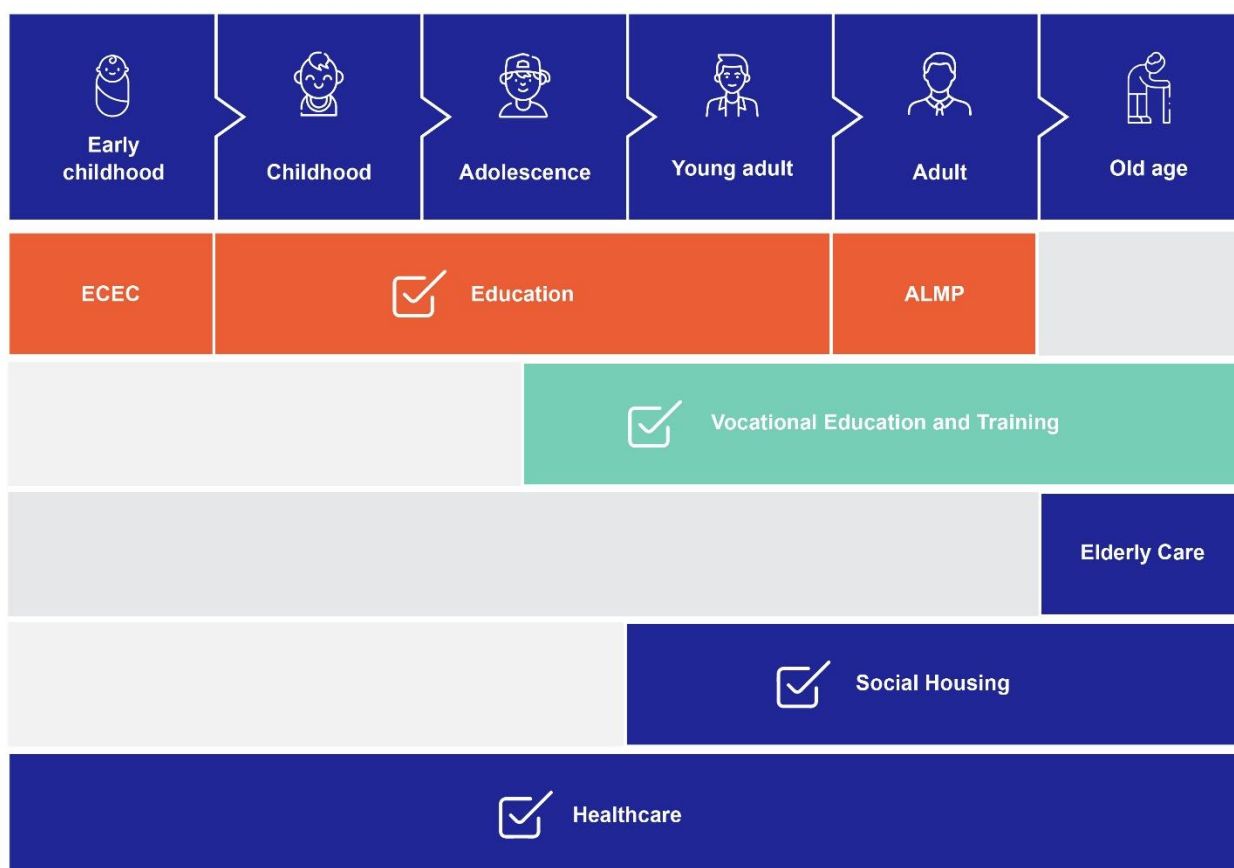
²⁸ Ibid.



addresses **publicly provided social services** and **social services provided by the so called ‘social economy’**, which will be defined below in section 1.4.3.

Across the various existing strands of social services, D 2.2 specifically highlights and engages in an in-depth examination of two thematic areas: Vocational Education and Training (VET) and Social Housing. Healthcare, long-term care and other social services are discussed throughout the deliverable, as they are impacted by a plurality of regulatory frameworks. In essence, care is treated as an **embedded case study**, meaning that it is integrated throughout D 2.2 via the examination of instruments such as the Work-Life Balance Directive²⁹ (Section 2.4.2) and the Patients’ Rights Directive³⁰ (Section 5.4). Notably, whilst EU law does not necessarily define ‘care’ *strictu sensu*, Directive 2019/1158 (Work-Life Balance Directive) does consider a carer to be ‘a worker providing personal care or support to a relative, or to a person who lives in the same household as the worker, and who is in need of significant care or support for a serious medical reason, as defined by each Member State’.³¹ Healthcare, by comparison, is defined as per Directive 2011/24 (Directive on Cross-border Healthcare) as encompassing ‘health services provided by health professionals to patients to assess, maintain or restore their state of health, including the prescription, dispensation and provision of medicinal products and medical devices’.³²

Figure 2 Social Services Across the Life Course³³



²⁹ Directive (EU) 2019/1158.

³⁰ Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients’ rights in cross-border healthcare [2011] OJ L 88/45.

³¹ Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU [2019] OJ L 188/79, Article 3(1)(d).

³² Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients’ rights in cross-border healthcare [2011] OJ L 88/45.

³³ The figure includes reference to Early Childhood Education and Care (ECEC) and Active Labour Market Policies (ALMP).

VET is generally defined as ‘education and training which aims to equip people with knowledge, know-how, skills and/or competences required in particular occupations or more broadly on the labour market’.³⁴ It is also defined as occurring ‘after initial education or training – or after entry into working life’ and ‘an essential part of lifelong learning. Its scope and content are largely related to non-formal and informal learning, undertaken to improve skills’.³⁵

There is no single, harmonised definition of social housing in EU law, as it varies by national regulation. Generally, it refers to residential rental accommodation provided at below-market prices to specific groups, allocated based on administrative rules rather than market mechanisms. Similarly, the current action by the Commission uses ‘affordable’ and ‘social housing’ symbiotically in their Affordable Housing Plan.³⁶ As will be discussed further in Section 4, social housing is instead distinguished from affordable housing in the SGEI Decision (Commission Decision (EU) 2025/2630 on SGEI).³⁷ The Annex to this Decision states that social housing ‘must be available to disadvantaged households or socially less advantaged groups, including people experiencing homelessness, who due to solvency constraints are unable to obtain housing at market conditions’, but may include ‘a limited share of non-disadvantaged households to avoid spatial concentration of poverty’. Affordable housing as an SGEI is available to those households that are not able, due to market outcomes and market failures, to access housing at affordable conditions, but is not specifically targeted to marginalised groups.

This choice to focus on these two different thematic areas of social services allows D 2.2 to capture different services across the life course, in line with the overarching goal of the SWINS project. In that regard, D 2.2 is similarly underpinned by the idea that people’s needs, experiences, rights, and interactions with institutions change over the course of their lives, from childhood to old age. Consequently, rather than concentrating on a specific point in time or a particular category of services, D 2.2 adopts an overarching perspective on social services, before exploring two strands of services associated with different life stages, VET and Social Housing.

The specific focus on VET and Social Housing reflects key priorities in current EU law. First, the Draghi Report identifies VET as a vital pillar for addressing EU skills gap, reducing persistent labour shortages, and driving sustainable economic competitiveness.³⁸ Secondly, it positions social housing as foundational economic infrastructure, in that the housing crisis dampens labour mobility and productivity.³⁹ The European Parliament (EP or Parliament) has formally pushed to address the housing crisis as a social priority and the European Commission has launched the first ever European Affordable Housing Plan. Thus, Social Housing is currently at the forefront of the EU social action. Taken together, VET and social housing illustrate how EU law operationalises the broader shift towards social investment: VET enhances human capital and labour market participation, while social housing ensures basic social stability and inclusion.

By including VET and Social Housing as **free-standing case studies** in Section 6, the deliverable also provides comparative insights on how these areas are dealt with among a cross-section of Member States.

³⁴ Cedefop, ‘Terminology of European education and training policy: a selection of 130 key terms’ (2014) Publications Office of the European Union, Cedefop reference series <<https://data.europa.eu/doi/10.2801/991753>> accessed 29 April 2026.

³⁵ Cedefop, ‘Terminology of European education and training policy - Continuing Vocational Education and Training, Glossary’ (Glossary) <<https://www.cedefop.europa.eu/en/tools/vet-glossary/glossary?letter=C#glossary-150010>> accessed 09 June 2026.

³⁶ European Commission, ‘The European Affordable Housing Plan’ (Directorate-General for Energy) <https://housing.ec.europa.eu/european-affordable-housing-plan_en> accessed 29 April 2026.

³⁷ Commission Decision (EU) 2025/2630 of 16 December 2025 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest and repealing Decision 2012/21/EU, C/2025/8820 [2025] OJ L 2025/2630,

³⁸ M Draghi, ‘The Draghi report: A competitiveness strategy for Europe (Part A)’ (2024) Publications Office of the European Union 5 <https://commission.europa.eu/topics/competitiveness/draghi-report_en> accessed 20 January 2026

³⁹ Ibid.



These case studies therefore elucidate upon the ways in which these key areas of EU policy focus are executed nationally.

1.4.3. Social Protection

Social protection is a fundamental component of national welfare states, with the overall aim of providing support to people who cannot earn an independent income or face additional needs that exceed their personal income. This can be the result of unemployment, parental responsibilities, sickness, disability or old age, for example. Social protection as an objective is generally executed via national social security systems, which will primarily administer cash benefits - two primary categories of which would constitute income-replacements or supplements.⁴⁰ It is typically delivered either through universal schemes covering all individuals and financed via general taxation (non-contributory), or through labour-market-based schemes, which are often funded through contributions linked to employment income (contributory).⁴¹ Entitlements may also be subject to a means-test or to an income or income limit in some cases. In essence, a social security system alleviates the 'extent to which an individual's welfare is reliant upon the [labour] market'.⁴²

The importance of social protection has been consistently reiterated at the EU level, with Council Recommendation 2019/C 387, for example, stating that 'social protection systems in their different forms are the cornerstone of the European Social Model (ESM) and of a well-functioning social-market economy and have for key function to protect people against the financial implications of social risks, such as illness, old age, accidents at work and job loss, to prevent and alleviate poverty and to uphold a decent standard of living'.⁴³ The recommendation also expresses that well-designed social protection regimes not only provide support but can also enhance participation in the labour market by promoting activation and facilitating individuals' return to work, as well as transitions within the labour market. This will then be complemented by benefits in kind primarily provided through other social services.

In the EU, cash benefits are provided by Member State authorities with some cases of employers or social partners also jointly providing benefits, such as occupational pensions. The EU ensures the protection of rights of people who move between Member States through social security coordination rather than providing a supranational system in its own right. Regulation (EC) No 883/2004,⁴⁴ along with Regulation 987/2009,⁴⁵ provide two examples of the 'modernised coordination' of social security systems within the EU, and applies to: sickness benefits; maternity and equivalent paternity benefits; invalidity benefits; old-age benefits; survivors' benefits; benefits in respect of accidents at work and occupational diseases; death grants; unemployment benefits; pre-retirement benefits; family benefits. On 13 December 2016, the Commission submitted a proposal to amend Regulations 883/2004 and 987/2009 on coordination of social security systems.⁴⁶ The revision aimed to clarify the circumstances in which Member States can limit access to social benefits claimed by economically inactive EU mobile citizens, establish a more coherent regime for coordinating long-term care benefits, but also amend rules in relation to the coordination of unemployment benefits in cross-border cases. The amended text of Regulation 883/2004 was recently agreed by the co-legislators.⁴⁷

⁴⁰ G Esping-Andersen, *Politics against Markets: The Social Democratic Road to Power* (Princeton University Press 1985).

⁴¹ Council Recommendation of 8 November 2019 on access to social protection for workers and the self-employed [2019] OJ C 387/1, Recital (9).

⁴² C Bamba, 'Decommodification and the worlds of welfare revisited' (2006) 16 *Journal of European Social Policy* 73.

⁴³ Ibid. Recital (8).

⁴⁴ Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems [2004] OJ L 166/1.

⁴⁵ Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems [2009] OJ L284/1.

⁴⁶ Commission 'Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 883/2004 on the coordination of social security systems and regulation (EC) No 987/2009 laying down the procedure for implementing Regulation (EC) No 883/2004' COM(2016) 0815 final.

⁴⁷ Council of the EU, 'Social security coordination: EU member states' representatives confirm provisional agreement' (European Council of the EU, 29 April 2026) <<https://www.consilium.europa.eu/en/press/press->

1.4.4. Social Economy

Social services are often delivered by entities other than public entities within the remit of the so-called ‘social economy’. The term ‘social economy’ reflects a complex and multifaceted landscape pursuing social objectives,⁴⁸ sometimes referred to as ‘the solidarity economy’ or ‘social and solidarity economy’. In general, **social economy entities providing goods and services can be cooperatives, mutual benefit societies, associations (including charities), or foundations. They are private entities, independent of public authorities and with specific legal requirements.**

D 2.2 embraces the definition of ‘social economy’ embedded in the Social Economy Action Plan, which identifies three core principles underpinning social economy entities: ‘(1) the primacy of people and social and/or environmental objectives over profit, (2) the reinvestment of the majority of profits and surpluses into activities serving members or users (‘collective interest’) or society more broadly (‘general interest’), and (3) democratic and/or participatory governance’.⁴⁹

Within the EU, the social economy has developed alongside the crisis of the welfare state and its thriving ‘resulted from the difficulties that market economies were encountering in regard to long-term unemployment, social exclusion’ among other issues.⁵⁰ According to 2025 OECD estimates, the social economy is an important driver of economic growth, social cohesion and community resilience across Europe’.⁵¹

1.4.5. Social Investment

In SWINS, the ‘social investment’ approach conceptualises social services both as a ‘right’ for the individual as well as a productive enterprise for society. The word ‘investment’, for the purpose of this deliverable and for tracing the influence of EU law on Member State behaviours, refers to the direct use of public expenditure to set up, deploy, deliver, or support the delivery by non-public entities of, social services as defined above. The growing consideration of social investments as encompassing ecological sustainability and sustainable human development is reflected in several principles of the EPSR,⁵² and in the European Green Deal (EGD).⁵³ These documents emphasise the importance of adopting a ‘just transition approach’, particularly through the

[releases/2026/04/29/social-security-coordination-eu-member-states-representatives-confirm-provisional-agreement/>](https://data.europa.eu/doi/10.2826/880860)
accessed 1 June 2026.

⁴⁸ There is however a tension between theoretical concepts of social economy and their translation into concrete national policy initiatives and legislation. A recent report contrasts different broader or narrower social economy definitions at the national level. See European Innovation Council and others, ‘Benchmarking the socio-economic performance of the EU social economy – Improving the socio-economic knowledge of the proximity and social economy ecosystem’ (2024) Publications Office of the European Union 11 <<https://data.europa.eu/doi/10.2826/880860>> accessed 20 January 2026.

⁴⁹ European Commission: Directorate-General for Employment, Social Affairs and Inclusion, ‘Building an economy that works for people – An action plan for the social economy’ (2021) Publications Office of the European Union, <<https://data.europa.eu/doi/10.2767/12083>> accessed 29 April 2026.

⁵⁰ C Shin, ‘A conceptual approach to the relationships between the social economy, social welfare, and social innovation’ (2016) 7 Journal of Science and Technology Policy Management 154.

⁵¹ OECD/European Union, ‘Social Economy in Europe: Contributing to Competitiveness and Prosperity, Local Economic and Employment Development (LEED)’ (2025) OECD Publishing, 3 <https://www.oecd.org/content/dam/oecd/en/publications/reports/2025/12/social-economy-in-europe_2599a910/3432de93-en.pdf> accessed 20 January 2026. See also M Draghi, ‘The Draghi report: A competitiveness strategy for Europe (Part A)’ (2024) Publications Office of the European Union 5 <https://commission.europa.eu/topics/competitiveness/draghi-report_en> accessed 20 January 2026.

⁵² S Baiocco and others, ‘Changing social investment strategies in the EU’ (2022) JRC Working Papers Series on Labour, Education and Technology, No. 2022/01 <<https://publications.jrc.ec.europa.eu/repository/handle/JRC127769>> accessed 29 April 2026.

⁵³ Commission, ‘The European Green Deal’ COM(2019) 640 final.



Just Transition Mechanism (JTM),⁵⁴ which highlights how social investment policies impact workers employability in the areas most concerned by the transition toward a sustainable wellbeing economy. The acknowledgement that social investment goals should extend beyond the Gross Domestic Product (GDP) is a fundamental aspect of the sustainable wellbeing framework offering more comprehensive and meaningful measurement of the returns on investments in social services.

1.5. Limitations of the Deliverable

As mentioned earlier, this deliverable is based primarily on desk-based legal research. As such, its findings are necessarily limited by the constraints inherent in secondary legal analysis, including the availability and scope of relevant legal and policy materials. Given the wide spectrum of EU law instruments covered by the deliverable, the research approach is intentionally selective, focusing on regulatory frameworks, policy instruments, and soft law measures that are assessed as most relevant and impactful to support SWINS overarching objectives recalled above. In particular, the analysis prioritises EU-level and related governance instruments that demonstrate significant normative or practical influence on social services, such as the EPSR. While this allows for the identification of key patterns and relationships across legal instruments, it also means that the deliverable does not provide an exhaustive coverage of all potentially relevant sources. Purposely, and in line with the focus chosen, D 2.2 does not engage with EU environmental policies, and only cursorily highlights the role of the EGD in orientating national policies in relation to social services in Section 3.

As indicated at the outset, D 2.2 does not address EU social security coordination instruments, such as those governing cross-border portability of social security benefits. Instead, it focuses specifically on social services and related regulatory and policy frameworks within the broader field of EU social policy. This delimitation is intended to maintain analytical coherence and ensure a targeted examination of how EU law impact on social service provision.

Throughout the deliverable, case law of the CJEU is addressed only in a limited and illustrative manner. Rather than conducting an extensive analysis, the deliverable refers selectively to relevant case law in a descriptive way, where this contributes to clarifying regulatory interpretation or contextualising legal principles. Accordingly, it does not seek to provide a systematic or in-depth analysis of the CJEU's jurisprudence.

Overall, the approach adopted is primarily reconstructive, synthesising dispersed legal and policy elements into a coherent legal mapping framework. However, the analysis also seeks to make an original interpretative contribution by examining how these elements interact within the broader governance of social investment. It further provides new insights through the thematic case studies on VET and social housing. As noted above, whilst not intended to represent the full breadth of EU policies in this field, these case studies have been selected due to their contemporary relevance to ongoing debates in EU social policy and social investment governance.

Finally, it is worth noting that, in accordance with its legal approach and remit, this deliverable includes references in footnotes. To enhance readability and ensure clarity of referencing, the OSCOLA citation style was used. A list of sources and a bibliography are included at the end of the deliverable. Notably the deliverable also provides a list of acronyms and list of figures at the beginning to support transparency and traceability of sources.

1.6 Structure of the Deliverable

Following this introduction, Section 2 will briefly detail the constitutional architecture of the EU for the purpose of the ensuing analysis. Section 3 will present policy frameworks that frame and orientate social services. Section 4 will discuss the role of EU funding mechanisms and regulatory frameworks in shaping (but also

⁵⁴ Regulation (EU) 2021/1056 of the European Parliament and of the Council of 24 June 2021 establishing the Just Transition Fund [2021] OJ L 231/1.

constraining) the deployment of social services, and finally Section 5 will focus on how EU law enables and transforms social services and investment within the Union through free movement law. All these sections include brief summaries with takeaway points to support readability of the interconnected content included. These summaries distil the core points and their relevance from the SWINS perspective. After these general sections, Section 6 will zoom in VET and social housing as free-standing comparative case studies. Finally, Section 7 will tie the various strands of the analysis together, by providing some concluding remarks.

The following analysis reflects the legal framework as of 30 May 2026 and will not account for subsequent regulatory changes.

2. The EU Constitutional Architecture and its Normative Reach

Before engaging with the three main ways in which EU law impacts upon national social services, this section provides the necessary context for the analysis.

While social services remain, at first sight, under national control, the EU has competence to regulate certain aspects of the organisation of such services, and to support the cross-border enjoyment of services. The EU has a portfolio of competences that are relevant in the context of social services, and have been used to adopt 'social' legislation (including non-discrimination legislation). Notably, Member States must also respect EU free movement principles in how they fund, structure and deliver their social services.

The Treaties, namely the TFEU and the Treaty on the European Union (TEU), represent the constitutional starting point for mapping the EU legal landscape governing social services and impinging onto national rules. They define the scope of the EU action and its limits, as well as the distribution of competences between the Union and the Member States, which will be examined in sections 2.1 until 2.4. They will also examine legislation adopted on the basis of these competences where relevant to ensure doctrinal and analytical coherence. Although not all such legislation directly regulates social services, it contributes to the broader legal and policy context within which national social services are designed and delivered. This section will also discuss how the CFR frames social rights (and *de relato* social services).

Ultimately, by identifying and critically organising the key concepts, principles, and legal provisions relevant to the subject matter in a selective manner, Section 2 will provide the conceptual and legal foundations necessary for the ensuing analysis.

2.1. The EU Values, Objectives, Principles and Competences

2.1.1 EU Values and Objectives

Article 2 TEU includes among EU values those of human dignity, freedom, democracy, equality, the rule of law, and respect for human rights. In defining values 'common' to Member States, Article 2 TEU frames them as integral to the Union's identity. This is further reflected in Article 7 TEU on enforcement mechanisms.⁵⁵ Recent CJEU decisions in cases such as *Hungary v Parliament & Council*⁵⁶ and *Poland v Parliament & Council*⁵⁷ underline the legitimacy and centrality of EU values, confirming that the EU may condition access to Union funds on respect for rule-of-law principles grounded in Article 2 TEU. More recently,⁵⁸ the CJEU found a Hungarian law which stigmatises and marginalises LGBTI+ persons to constitute an infringement of Article 2 TEU, endorsing the enforceability of this provision. The Court held that by targeting content which portrays

⁵⁵ M Klamert and D Kochenov, 'Article 2 TEU' in M Kellerbauer, M Klamert, and J Tomkin (eds), *The EU Treaties and the Charter of Fundamental Rights: A Commentary* (Oxford University Press 2019).

⁵⁶ Case C-156/21, *Hungary v Parliament & Council*, ECLI:EU:C:2022:97.

⁵⁷ Case C-157/21, *Poland v Parliament & Council*, ECLI:EU:C:2022:98.

⁵⁸ Case C-769/22, *Commission v Hungary*, ECLI:EU:C:2026:326, para 495.

or promotes deviation from the self-identity corresponding to the sex assigned at birth, gender reassignment, or homosexuality, the law constitutes a coordinated series of discriminatory measures which are in breach, in a way that is both manifest and particularly serious, of the rights of non-cisgender persons – including transgender persons – or non-heterosexual persons, as well as the values of respect for human dignity, equality and respect for human rights, including the rights of persons belonging to minorities. In doing so, the CJEU stated that a law that is contrary to the very identity of the Union as a common legal order in a society in which pluralism prevails cannot be justified by reliance on national identity.⁵⁹

Article 3 TEU embeds these values within concrete objectives, some of which are particularly relevant to this deliverable. In particular, **Article 3(3) TEU commits the EU to the realisation of a ‘social market economy’, aiming at full employment and social progress, feeding sustainable development.** The CJEU, in *AGET Iraklis*,⁶⁰ stated that the EU ‘has not only an economic but also a social purpose’⁶¹ and ‘is not only to establish an internal market but is also to work for the sustainable development of Europe, which is based, in particular, on a highly competitive social market economy aiming at full employment and social progress, and it is to promote, *inter alia*, social protection’.⁶² The EU also aims to promote the ‘well-being’ of its peoples (Article 3(1) TEU) and guarantee ‘an area of freedom, security and justice without internal frontiers, in which the free movement of persons is ensured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime’ (Article 3(2) TEU). Article 3(3) TEU also requires the Union to combat social exclusion and discrimination, promote social justice and protection, equality between women and men, solidarity between generations, and the protection of children’s rights. These objectives reinforce the idea that market integration should embed social considerations which tally with sustainable development across the Union.

Cumulatively, these values underpin the EU’s evolving conception of social solidarity, social inclusion, and the delivery of SGEI, and are particularly important in the field of social services, where economic freedoms and competition principles must be reconciled with the Union’s commitment to social cohesion and the protection of fundamental rights.

2.1.2. Foundational Principles

Article 5 TEU lays out the principles of conferral, subsidiarity and proportionality which are central to the functioning of the EU legal order.

The principle of conferral makes explicit that the EU only possesses the competences granted to it by its Member States through Treaties, with all remaining powers residing with the Member States. In that regard, any action taken by the EU must have a clear legal basis in the Treaties.

Subsidiarity requires that Union intervention occurs only where objectives cannot be sufficiently achieved by Member States and only to the extent necessary. It applies to areas of ‘shared competence’ listed in Article 4(2) of the TFEU, which is not exhaustive. Closely linked to subsidiarity is proportionality, which requires EU measures to be suitable and necessary to achieve the desired end.

⁵⁹ This decision has spurred a great deal of commentary. Among many others see the EU Law Live Symposium on the CJEU Judgement *Commission v. Hungary* (C-769/22) with for example P Craig, ‘Article 2, Values and Incremental Legal Reasoning’ (EU Law Live, 27 April 2026) at <<https://eulawlive.com/op-ed-article-2-values-and-incremental-legal-reasoning>> accessed 1 June 2026.

⁶⁰ Case C-201/15, *AGET Iraklis*, ECLI:EU:C:2016:972. See K A Polomarkakis, ‘A Tale of Two Approaches to Social Europe: The CJEU and the Advocate General drifting apart in Case C-201/15 *AGET Iraklis*’ (2017) 24 Maastricht Journal of European and Comparative Law, 424.

⁶¹ Case C-201/15, *AGET Iraklis*, para 77.

⁶² Ibid. para 76.



Together, these provisions reflect a deliberate balance between the EU powers and the preservation of national policies, and which is key on social matters. Compliance with the principle of subsidiarity may be reviewed by the CJEU.⁶³

Article 6 TEU establishes that the CFR has the same legal value as the Treaties. The CFR includes social rights, which will be expounded later in this section.

In conjunction with Articles 2 and 3 TEU, these principles collectively articulate not only what the Union stands for, but the boundaries within which it may act, whereas the positionality of the CFR — as will be detailed further in Section 2.6 — shapes the interpretation of EU measures within the EU legal order.

2.1.3. EU Competences

The competences of the EU are established in Article 2 TFEU, and detailed in Articles 3–6 TFEU. Unlike the articles from the TEU examined in the preceding two subsections, the competences of the Union establish **in what material fields the Union can act/legislate** in comparison to the Member States. These are subject to the principles contained in Article 5 TEU i.e. the Union cannot have a competence unless it is conferred upon it within the Treaties and must comply with the principles of subsidiarity and proportionality.

Competences are classified into three types. **Exclusive competences (Article 3 TFEU)** are areas where only the EU can act, such as competition. **Shared competences (Article 4 TFEU)** allow Member States to act only if the EU has not. Examples of these areas are as in transport, cohesion policy, energy, and the environment. **Supporting competences (Article 6 TFEU)** enable the EU to support or supplement Member States' actions, for example in VET, youth and sport, without adopting legally binding acts that require harmonisation of national laws. Notably, Article 5 TFEU states that 'Member States shall coordinate their economic policies within the Union' and empowers the Union to 'take measures to ensure coordination of the employment policies of the Member States, in particular by defining guidelines for these policies'.

An array of TFEU competences (and provisions) are relevant to social services even beyond the remit of EU social policy *strictu sensu*, which is governed under Title X. In fact, provisions across other policy domains, with no explicit social dimension, notably within internal market, free movement, competition, and State aid competences,⁶⁴ have a significant impact on social services and on the ways in which Member States can deploy and organise them. Because of their reach and flexibility, economic competences have also been used to advance social objectives alongside market integration.⁶⁵

The TFEU also shapes the role of Member States by framing social services as part of SGEI. Even beyond the boundaries of denominated competences, the EU has developed a broad range of policies and soft law that, as will be discussed later, orientate Member States policies more generally, as well as more specifically in relation to social services.

2.2. 'Social' Provisions in the TFEU

After briefly identifying the objectives and competences of the EU, this section traces the provisions which are of particular relevance for the ensuing analysis.

⁶³ F Fabbrini, 'The Principle of Subsidiarity' in R Schütze and T Tridimas (eds), *Oxford Principles of European Union Law: The European Union Legal Order: Volume I* (Oxford University Press 2018).

⁶⁴ V Salese, 'Unorthodox Competences and the Functional Architecture of EU Social Law' (2026) 11(1) *European Papers – A Journal on Law and Integration* 1.

⁶⁵ C Kilpatrick, 'The displacement of Social Europe: a productive lens of inquiry' (2018) 14 *European Constitutional Law Review* 62.

Article 9 TFEU, the so-called ‘horizontal social clause’, requires that the Union considers requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training, and protection of human health when defining and implementing all its policies and activities. This Article represents a cross-cutting obligation to mainstream social considerations across all areas of EU action, including economic governance and internal market regulation. Article 9 directly reflects the EU values stated in Article 2 TEU and the idea of an EU society where ‘pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail’. Furthermore, Article 9 TFEU also mirrors the objectives in Article 3(3) TEU and highlights the link between market objectives and social policy goals.⁶⁶ The Court has also cited Article 9 TFEU in conjunction with Article 35 CFR on the protection of human health.⁶⁷

Article 14 of the TFEU, in conjunction with Protocol 26 on services of general interests, highlights the fundamental role of such services in promoting social and territorial cohesion, while recognising the wide discretion of Member States and their competence. Article 14 TFEU also requires that both ‘the Union and the Member States, each within their respective powers and within the scope of application of the Treaties, shall take care that such services operate on the basis of principles and conditions, particularly economic and financial conditions, which enable them to fulfil their missions’. Similarly, Article 36 CFR states that the EU ‘recognises and respects access to services of general economic interest as provided for in national laws and practices, in accordance with the Treaties, in order to promote the social and territorial cohesion of the Union’.⁶⁸ It is reinforced by the EPSR - and particularly Principle 20 - which reiterates the importance of universal access to essential services and underlines the necessity to support people in need.⁶⁹ The academic scholarship in this area has argued that Article 14 TFEU is better understood as a constitutional and interpretative provision, rather than as an autonomous litigation tool.⁷⁰ The relevant case law therefore often operates primarily through Article 106 TFEU - which will be discussed later - and which provides the concrete balancing test between public service obligations and EU internal market or competition rules.⁷¹

Read together, these provisions attempt to provide a normative context for interpreting internal market, competition, and state aid rules in a manner that is consistent with the specific public service obligations and non-economic objectives inherent in social services.

2.2.1. Social Policy in the TFEU

With regard to measures concerned with social policy *stricto sensu*, Article 151 TFEU sets out that the Union and the Member States

‘shall have as their objectives the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion’.

⁶⁶ S De Vries and R De Jager, ‘Between Hope and Fear: The Creation of a More Inclusive EU Single Market Through Art. 9 TFEU’ (2022) 7 European Papers 1405.

⁶⁷ Case C452/20, *Agenzia delle dogane e dei monopoli and Ministero dell'Economia e delle Finanze*, ECLI:EU:C:2022:111, para 49.

⁶⁸ Fiedziuk suggests that the formulation of this Article should be regarded as the outcome of a political compromise, which does not legitimize a shift in approach to SGEI, nor obliges Member States to provide SGEI. See N Fiedziuk, *Services of general economic interest in EU law: The role of the ‘public service’ exception in the light of recent developments in EU law* (Wolf Legal Publishers 2013).

⁶⁹ European Commission: Directorate-General for Employment, Social Affairs and Inclusion, ‘Report on access to essential services in the EU – Commission staff working document’ (2024) Publications Office of the European Union <<https://data.europa.eu/doi/10.2767/447353>> accessed 29 April 2026.

⁷⁰ Tim Maxian Rusche, ‘Article 14 TFEU’ in Manuel Kellerbauer, Marcus Klamert and Jonathan Tomkin (eds), *The EU Treaties and the Charter of Fundamental Rights: A Commentary* (Oxford University Press 2019).

⁷¹ See for example Case T-784/22, *Zásilkovna v Commission*, ECLI:EU:T:2025:809.



It explicitly situates these objectives within a framework of shared responsibility between the EU and the Member States, while recognising the diversity of national practices and the need to maintain competitiveness.

Article 156 TFEU sets out the role of the Commission in promoting cooperation and coordination among Member States in the field of social policy, with the aim of achieving the objectives laid down in Article 151 TFEU. It specifies that the Commission is to encourage collaboration across a broad range of social policy areas, including employment, labour law and working conditions, vocational training, social security, occupational health and safety, occupational hygiene, and the rights of association and collective bargaining. To fulfil this role, the Commission is tasked with working closely with Member States through activities such as conducting studies, issuing opinions, and organising consultations on national and international social policy issues. This further includes the development of guidelines and indicators, the facilitation and exchange of best practices, and preparation of elements for regular monitoring and evaluation. The Article additionally requires that the European Parliament be kept fully informed and that the Economic and Social Committee be consulted before the Commission delivers its opinions. Article 156 TFEU sets out the basis for the Open Method of Coordination (OMC). Laid out in the European Employment Strategy,⁷² the OMC is a voluntary form of cooperation among Member States based on non-binding policy exchange, common indicators, and benchmarks. For example, the OMC recently contributed to the 2025 Social Protection Committee annual report,⁷³ monitoring the development of social protection in the EU and taking stock of the implementation of the 2019 Council Recommendation on access to social protection for workers and the self-employed.⁷⁴

Article 153 TFEU defines the scope and limits of the Union's role in the field of social policy, with the objective of supporting and complementing the actions of Member States in pursuit of the aims set out in Article 151. It identifies a wide range of areas in which the Union may act, including improvements to the working environment to protect workers' health and safety, working conditions, social security and social protection of workers, protection in cases of termination of employment, information and consultation of workers, representation and collective defence of the interests of workers and employers, conditions of employment for legally resident third-country nationals, labour market integration of excluded persons, equality between women and men in the labour market, the combating of social exclusion, and the modernisation of social protection systems.⁷⁵ Notably Article 153 TFEU has been the legal base of one of the most significant legislative intervention in the last few years: the Work Life Balance Directive,⁷⁶ which will be discussed later.

Articles 160 and 162-164 TFEU frame social action through coordination mechanisms and financial solidarity. Notably, for the purpose of this analysis, Articles 162 to 164 TFEU provide the financial and operational basis for EU social policy via the European Social Fund (ESF), which will be further discussed in Section 4. Article 162 TFEU establishes the ESF as a key instrument for improving employment opportunities, facilitating worker mobility, and nurturing adaptation to industrial change and evolving labour markets, whilst Articles 163 and 164 TFEU further regulate the implementation and coordination of funding, and emphasise cooperation between the Commission and Member States to ensure alignment between EU-level objectives and national social priorities.

Consequently, Articles 151, 153 and 156 TFEU collectively place social policy within the Union's objectives, by helping to delineate areas of supporting and coordinating competence, and in doing so underscore the EU's

⁷² European Commission, 'The European Employment Strategy – Working to improve employment in Europe' (2010) Publications Office of the European Union <<https://op.europa.eu/en/publication-detail/-/publication/214dd8b1-be8e-442f-ae94-28a34fd9846b/language-en>> accessed 1 June 2026.

⁷³ European Commission: Directorate-General for Employment, Social Affairs and Inclusion, 'Social Protection Committee annual report 2025 – Review of the Social Protection Performance Monitor (SPPM) and developments in social protection policies – Key social challenges and key messages' (2025) Publications Office of the European Union <<https://data.europa.eu/doi/10.2767/4818667>> accessed 29 April 2026.

⁷⁴ Council Recommendation of 8 November 2019 on access to social protection for workers and the self-employed [2019] OJ C387/1.

⁷⁵ In Case C-19/23, *Kingdom of Denmark v European Parliament and Council of the European Union*, ECLI:EU:C:2025:865, the Court examined the boundary between permissible regulation of working conditions under Article 153(1)(b) and the exclusion of competence over pay in Article 153(5).

⁷⁶ Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU [2019] OJ L 188/79.

role in facilitating cooperation between Member States in fields such as working conditions, social security, and social inclusion. Similarly, Articles 160 to 164 TFEU support these by providing the institutional and financial architecture for social policy intervention, in particular through the Social Protection Committee and the European Social Fund, which underpin EU-level support for employment and social cohesion objectives relevant to the delivery of social services.

2.2.2. Health in the TFEU

Article 168 TFEU is important to the regulation of social services at the Union level, as it frames public health as a core objective to be integrated across all Union policies, while preserving the primary responsibility for healthcare systems for the Member States. Similar to the lack of a supranational social protection system, and emphasis on coordination of social security among Member States, the Union competence under Article 168 TFEU is primarily supportive and coordinative, encompassing disease prevention, health promotion, and the monitoring of serious cross-border health threats, while explicitly excluding harmonisation of national health systems. This Article does, however, necessitate that health considerations be embedded horizontally across EU policymaking to ensure a high level of human health protection in the definition and implementation of all EU actions. It also frames health protection as a fundamental social value and a prerequisite for effective participation in social and economic life, without undermining national autonomy over healthcare organisation and delivery.⁷⁷

Whilst EU Member States retain competence 'for the definition of their health policy and for the organisation and delivery of health services and medical care' (Article 168 (7) TFEU), a broad EU health law *acquis* has come to light on foot of an array of regulatory tools based on other legal basis, as well as on free movement rules.⁷⁸ In fact, the competence or ability to legislate in the field of healthcare at an EU level goes far beyond Article 168 TFEU and is complex⁷⁹ and evolving.⁸⁰ Relevant measures would include those that regulate: medical product safety;⁸¹ standards for medical devices;⁸² diagnostic technologies;⁸³ clinical trials,⁸⁴ and the regulation of patient health data,⁸⁵ as well as the Patients Rights Directive,⁸⁶ which will be discussed in Section 5.

⁷⁷ M Guy and W Sauter, 'The History and Scope of EU Health Law and Policy' in T K Hervey, C A Young, and L E Bishop (eds) *Research Handbook on EU Health Law and Policy* (Edward Elgar Publishing 2017).

⁷⁸ M Frischhut, 'Who Is the Editor-in-Chief in EU Health Law, the Member States or the EU? Patients' Rights in Cross-Border Healthcare, EU Values and Ethics' (2025) 32 *European Journal of Health Law* 258.

⁷⁹ T K Hervey and J V McHale, *European Union Health Law: Themes and Implications* (Cambridge University Press, 2015), 69.

⁸⁰ M Guy and W Sauter, 'The History and Scope of EU Health Law and Policy' in T Hervey, C.A. Young and L E Bishop (eds), *Research Handbook on EU Health Law and Policy* (Edward Elgar Publishing, 2017).

⁸¹ Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use [2001] OJ L 311/67; Regulation (EC) No 726/2004 of the European Parliament and of the Council of 31 March 2004 laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European Medicines Agency [2004] OJ L 136/1.

⁸² Regulation (EU) 2017/745 of the European Parliament and of the Council of 5 April 2017 on medical devices, amending Directive 2001/83/EC, Regulation (EC) No 178/2002 and Regulation (EC) No 1223/2009 and repealing Council Directives 90/385/EEC and 93/42/EEC [2017] OJ L 117/1.

⁸³ Regulation (EU) 2017/746 of the European Parliament and of the Council of 5 April 2017 on in vitro diagnostic medical devices and repealing Directive 98/79/EC and Commission Decision 2010/227/EU [2017] OJ L 117/176.

⁸⁴ Regulation (EU) No 536/2014 of the European Parliament and of the Council of 16 April 2014 on clinical trials on medicinal products for human use, and repealing Directive 2001/20/EC [2014] OJ L 158/76.

⁸⁵ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) OJ L 119/1.

⁸⁶ Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border healthcare [2011] OJ L 88/45.



2.2.3. VET in the TFEU

Articles 165 and 166 TFEU can also be considered important social provisions in that they concern VET. Under Article 165 TFEU, the Union should contribute to the development of quality education by encouraging cooperation between Member States, supporting mobility, and promoting the European dimension in education. By enhancing skills, mobility, and social inclusion through education, EU action under Article 165 strengthens social measure that are also sustainable economic growth. Similarly, Article 166 TFEU links VET with social policy objectives more directly, emphasising labour market efficiency and competitiveness with the Union having a supportive role in facilitating adaptation to industrial change, improving initial and continuing vocational training, and enhancing employability and mobility of workers. It empowers the EU to 'implement a vocational training policy which shall support and supplement the action of the Member States, while fully respecting the responsibility of the Member States for the content and organisation of vocational training', excluding any harmonisation. Accordingly, the EU should *inter alia* 'facilitate adaptation to industrial changes' and 'improve initial and continuing vocational training' to advance re-integration into the labour market, as well as to 'facilitate access to vocational training and encourage mobility of instructors and trainees and particularly young people' and 'stimulate cooperation'.

2.3. EU Citizenship and Free Movement of Persons

Union citizenship and the free movement of persons are particularly relevant to the study of social services within EU law as they directly govern the conditions under which individuals may access social benefits and services across Member States. In particular, they structure the relationship between national social protection systems and social services, and includes EU guarantees of equal treatment, non-discrimination, and mobility - which can significantly affect both eligibility for and portability of social support within the Union.

Article 20 TFEU is a fundamental provision that acknowledges, from a constitutional standpoint, that any person who is a national of a Member State is also an EU citizen. Of course, EU citizenship, is additional to national citizenship and does not replace it. This provision links to Article 18 TFEU which prohibits discrimination on grounds of nationality within the scope of application of the Treaties, and to free movement provisions. Article 21(1) TFEU confers upon EU citizens 'the right to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down in the Treaties and by the measures adopted to give them effect'. Article 21 TFEU has a subsidiary character,⁸⁷ meaning that when the right of every citizen of the Union to move and reside freely within the EU finds specific expression in other TFEU provisions – such as Article 45 TFEU (workers), Article 49 TFEU (self-employed persons), and Article 56 TFEU (provision of services) – Article 21 TFEU is not applicable. The freedoms are given concrete expression via a suite of directives and regulations that endeavour to ensure that the substance of Union citizenship is protected and effective.

The free movement framework within the Treaties is in fact entrenched with the Union citizenship which the CJEU has defined as a **'fundamental status' of Member State nationals**.⁸⁸ Such characterisation of Union citizenship has led to the extension of the principle of equal treatment to mobile citizens in areas including access to social assistance.⁸⁹ This early case law reflects an emerging logic of transnational social solidarity. However, later cases affirmed some key caveats and limitations on the scope of this status, including that Member States may limit Union citizens in accessing social assistance, particularly for those whose right of residence in the territory of a host Member State arises solely out of the search for employment entitlement to certain 'special non-contributory cash benefits'. This is not considered to be consistent with the principle of equal treatment.⁹⁰ As such, free movement law does not establish a general right to social protection, but rather a conditional entitlement shaped by the balance between mobility and the need to ensure the integrity of national social protection systems. It is an approach that is often considered to be 'gradually integrationist', with the right to non-discrimination solidifying upon the acquisition of long-term residence status within the host Member State.⁹¹

Articles 45 to 48 TFEU concern the free movement of workers and the coordination of national social security systems. Article 45 TFEU guarantees the free movement of workers within the Union and prohibits discrimination based on nationality as regards employment, remuneration, and other conditions of work and employment. The notion of 'worker' is a fundamental notion in EU law and has been defined by the CJEU.⁹² The CJEU has stated that a worker is 'any person who, for a certain period of time, performs services for and

⁸⁷ D Martin, 'Article 21 TFEU' in M Kellerbauer, M Klamert, and J Tomkin (eds), *The EU Treaties and the Charter of Fundamental Rights: A Commentary* (Oxford University Press 2019) online edn <<https://doi-org.may.idm.oclc.org/10.1093/oso/9780198759393.003.94>> accessed 14 June 2026.

⁸⁸ Case C-184/99, *Grzelczyk*, ECLI:EU:C:2001:458.

⁸⁹ Case C-209/03, *Bidar*, ECLI:EU:C:2004:715 para 56. See also F Costamagna and S Giubboni 'EU citizenship and the welfare state' in D Kostakopoulou and D Thym (eds), *Research Handbook on European Union Citizenship Law and Policy* (Hart Publishing 2022).

⁹⁰ Case C-333/13, *Dano v Jobcenter Leipzig*, ECLI:EU:C:2014:2358 and Case C-67/14, *Jobcenter Berlin Neukölln v Nazifa Alimanovic and Others*, ECLI:EU:C:2015:597.

⁹¹ C Barnard, 'EU Citizenship and the Principle of Solidarity' in M Dougan and E Spaventa (eds), *Social Welfare and EU Law: Essays in European Law* (Hart Publishing, 2005) 165.

⁹² N Countouris, 'The Concept of 'Worker' in European Labour Law: Fragmentation, Autonomy and Scope' (2018) 47 *Industrial Law Journal* 192.



under the direction of someone else in return for remuneration. The amount of remuneration is immaterial, provided that the economic activity is genuine and effective'.⁹³ The national qualification of the person performing work is immaterial.⁹⁴ It is also irrelevant that the relationship is considered *sui generis* in national law. The definition of 'worker' is premised on the following requirements: (1) real and genuine activity (2) working under the direction of another person (subordination); (3) remuneration.

Article 48 TFEU addresses the social consequences of worker mobility by mandating the coordination, rather than harmonisation, of Member States' social security systems. It requires the adoption of measures ensuring aggregation of insurance periods and the payment of benefits to persons residing in different Member States. This provision is central to protecting mobile workers' social security rights while explicitly preserving national competence over the structure and financing of welfare systems. Adopting such measures in the field of social security is necessary to provide freedom of movement for workers. The *Hendrix* case,⁹⁵ for example, held that a Member State may restrict payment of special non-contributory disability benefits to residents, confirming that such benefits are not necessarily exportable under EU social security coordination adopted pursuant to Article 48 TFEU.

2.4. Freedom of Establishment and Freedom to Provide Services

Articles 49 to 56 TFEU set out the legal framework for the freedom of establishment and the freedom to provide services. Self-employed persons, professionals or legal persons legally operating in one Member State may carry out an economic activity in a stable and continuous way in another Member State (freedom of establishment) or offer and provide their services in other Member States on a temporary basis while remaining in their country of origin (freedom to provide services).

The notion of 'services' is an EU-level concept. As noted earlier, the **key factor that makes an activity a 'service' for the purpose of the TFEU is its economic character**. Notably such character is not dependent on the activity being profit-making, nor does it require remuneration from the actual recipient (i.e. the service does not have 'to be paid for by those for whom it is performed').⁹⁶ These provisions may apply to social activities insofar as they constitute economic activities under the Treaties.⁹⁷ For the purpose of this deliverable, it is worth recalling that the CJEU has recognised that healthcare may fall within the scope of Article 56 TFEU even when provided within public systems.⁹⁸

The Service Directive applies to services supplied by providers established in a Member State and adopts a broad concept of 'service'.⁹⁹ However, Article 2(2) excludes a series of activities from the scope of that directive, including non-economic services of general interest, activities which are connected with the exercise of official authority, and social services relating to childcare and support of families.

⁹³ Case 53/81, *Levin*, ECLI:EU:C:1982:105.

⁹⁴ Case 66/85, *Lawrie-Blum* ECLI:EU:C:1986:284.

⁹⁵ Case C-287/05, *Hendrix*, ECLI:EU:C:2007:494.

⁹⁶ Case C-352/85, *Bond van Adverteerders*, ECLI:EU:C:1988:196, para 16.

⁹⁷ See *supra* Section 1.4.1.

⁹⁸ See *infra* Section 5.4.

⁹⁹ Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market [2006] OJ L 376/36.

2.5. Non-Discrimination on Grounds other than Nationality

As mentioned above, equality is a foundational value of the EU, reflected in Article 2 TEU and elaborated through a complex web of constitutional and legislative provisions that address discrimination on a variety of grounds.

While Article 18 TFEU prohibits discrimination on grounds of nationality, Article 19 TFEU provides the legal basis for the EU to combat discrimination on several grounds beyond this by empowering the Council, acting unanimously and with the consent of the European Parliament, to take measures to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age, or sexual orientation. The CFR further strengthens the Treaty framework through Article 20 CFR which establishes the principle of equality before the law, while Article 21 contains a broad prohibition of discrimination on numerous grounds, including sex, race, colour, ethnic or social origin, language, religion or belief, political opinion, disability, age, sexual orientation, and nationality. Article 21(1) CFR ‘does not alter the extent of powers granted under Article 19 [TFEU] nor the interpretation given to that Article’.¹⁰⁰ In *Mangold*,¹⁰¹ and subsequently in *Kücükdeveci*,¹⁰² the CJEU ruled that the general EU principle prohibiting age discrimination has horizontal direct effect. In that same vein, the Court confirmed in *Dansk Industri*¹⁰³ that individuals may directly invoke the right to non-discrimination under Article 21(1) CFR, and that national courts must disapply any conflicting national law. This approach was reinforced in *Egenberger*,¹⁰⁴ where the Court again emphasised the direct effect of CFR rights and the duty of national courts to set aside incompatible domestic provisions.

As will be expanded upon below, however, the substantive implementation of the right to non-discrimination is largely achieved through legislation. These have also developed in a differentiated manner, with the scope of protection varying according to both the ground of discrimination and the social sphere in which discrimination occurs, as also do not provide identical protection across all grounds of discrimination.

2.5.1. Non-Discrimination Legislation

As noted above, the effective implementation of non-discrimination is often heavily indebted to EU-level legislation. The prohibition of direct and indirect sex discrimination, for example, stems from a system of legislative acts. First, Directive 2006/54/EC¹⁰⁵ on equal opportunities and equal treatment of women and men in employment and occupation systematises older directives and requires the implementation of the prohibition of direct and indirect sex discrimination, harassment and sexual harassment in pay, (access to) employment and in occupational social security schemes. Sex discrimination is then prohibited in relation to social security schemes¹⁰⁶ (Directive 79/7/EEC) and to self-employment¹⁰⁷ (Directive 2010/41/EU). It is also prohibited in

¹⁰⁰ Explanations relating to the Charter of Fundamental Rights [2007] OJ C 303/2.

¹⁰¹ Case C-144/04, *Mangold*, ECLI:EU:C:2005:709.

¹⁰² Case C-555/07, *Kücükdeveci*, ECLI:EU:C:2009:429.

¹⁰³ Case C-441/14, *Dansk Industri*, EU:C:2016:278, para 41.

¹⁰⁴ Case C-414/16, *Egenberger*, ECLI:EU:C:2018:257.

¹⁰⁵ Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) [2006] OJ L 204/23.

¹⁰⁶ Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security [1979] OJ L 6/24.

¹⁰⁷ Directive 2010/41/EU of the European Parliament and of the Council of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Council Directive 86/613/EEC [2010] OJ L 180/1.



access to and the supply of goods and services¹⁰⁸ (Directive 2004/113/EC), and the Pregnancy Directive¹⁰⁹ (92/85/EEC), which protects pregnant and breastfeeding women and women who have recently given birth.

Directive 2000/43/EC¹¹⁰ prohibits racial and ethnic discrimination in employment, education, social protection, and access to goods and services (Racial Equality Directive). Directive 2000/78/EC¹¹¹ prohibits discrimination on the grounds of religion or belief, disability, age, or sexual orientation in the employment field (the Employment Equality Directive). Being confined to employment, albeit broadly construed to encompass access to employment and self-employment, employment and working conditions, access to vocational training, and membership of, as well as involvement in, organisations of workers or employers or professional organisations, including the benefits provided by such bodies,¹¹² the Employment Equality Directive has a constrained material scope compared to the Racial Equality Directive. Across these different instruments, EU law recognises several forms of prohibited discrimination. Direct discrimination occurs when a person is treated less favourably because of a protected characteristic. Indirect discrimination arises where an apparently neutral rule or practice places members of a protected group at a particular disadvantage unless it can be objectively justified. The legislation also prohibits harassment and instructions to discriminate. In the field of disability, the Employment equality Directive goes further by imposing a duty of reasonable accommodation, requiring employers to take appropriate measures to enable persons with disabilities to participate in working life unless doing so would impose a disproportionate burden.

The interpretation and implementation of these directives have been significantly shaped by the case law of the CJEU. An important extension of the concept of discrimination that occurred through case law is the recognition (and prohibition under EU law) of discrimination by association. The CJEU, first in *Coleman*,¹¹³ in *CHEZ*,¹¹⁴ and most recently *Bervidi*¹¹⁵ recognised that a person may suffer less favourable treatment not because they themselves possess a protected characteristic, but because they are associated with someone who does.

For example, the CJEU deemed that in *European Commission v Slovak Republic*, Directive 2000/43/EC, the Slovak Republic has systematically and persistently infringed upon Article 2(1) of Directive 2000/43, read in conjunction with Article 2(2)(b) of that Directive by segregating Roma children in separate classes in mainstream schools or in separate schools.¹¹⁶ Case law on the Employment Equality Directive has contributed to shape a robust protection against discrimination on the grounds protected by the Directive in the workplace. In relation to disability discrimination, case law have reinforced employers' obligations to provide reasonable accommodation.¹¹⁷

¹⁰⁸ Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services [2004] OJ L 373/37.

¹⁰⁹ Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) [1992] OJ L 348/1.

¹¹⁰ Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin [2000] OJ L180/22.

¹¹¹ Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation [2000] OJ L303/16.

¹¹² *Ibid* Article 3(1).

¹¹³ Case C-303/06, *S. Coleman v Attridge Law and Steve Law*, ECLI:EU:C:2008:415.

¹¹⁴ Case C-83/14, *CHEZ Razpredelenie Bulgaria*, ECLI:EU:C:2015:480.

¹¹⁵ Case C-38/24, *G.L. v AB SpA*, ECLI:EU:C:2025:690.

¹¹⁶ Case C-799/23, *European Commission v Slovak Republic*, ECLI:EU:C:2025:621.

¹¹⁷ L Waddington and A Lawson, 'The Unfinished Story of EU Disability Non-Discrimination Law' in A Bogg, C Costello and ACL Davies (eds), *Research Handbook on EU Labour Law* (Edward Elgar Publishing 2016).

2.5.2. Gender Discrimination, Working Conditions and Care

Besides prohibiting gender discrimination, the EU has also enacted legislation that protect workers undertaking care roles (often women) and regulating work conditions. There are measures such as the Directives on Pregnant Workers,¹¹⁸ Predictable Working Conditions,¹¹⁹ Part-Time Work¹²⁰ and Fixed-Term Work¹²¹ for example that may work to help protect workers who seek to balance paid employment with their caring responsibilities.

As noted earlier, one of the most significant and contemporary pieces of legislation with direct relevance to SWINS, is the Work-Life Balance Directive.¹²² Adopted in 2019, and with a transposition window ending on 2 August 2022,¹²³ it replaced the Parental Leave Directive¹²⁴ in an attempt to modernise the area. The Directive also forms part of a broader EU care agenda that aims to

‘contribute to the achievement of gender equality by promoting the participation of women in the labour market, the equal sharing of caring responsibilities between men and women, and the closing of the gender gaps in earnings and pay. Such policies should take into account demographic changes including the effects of an ageing population’.¹²⁵

The Directive explicitly recognises that the reliance on informal care is likely to increase among the Member States,¹²⁶ and that structural issues with the economy - including longer working hours and less predictable work schedules - have a particularly negative impact when combined with caring responsibilities that predominantly fall upon women.¹²⁷ Incentivising male participation in caring duties on an equal basis is therefore a central focus of the Directive,¹²⁸ with Chieragato noting that the Directive is innovative in how ‘father-friendly’¹²⁹ it is. The Directive also stands ‘out for the acknowledgement of family diversity, as it encourages Member States to assess and take into account the specific needs of different family arrangements’.¹³⁰ In that vein, Recital 37, for example, includes that Member States should

‘assess if conditions of access and detailed arrangements of paternity and carers leave, and flexible working arrangements should also be adapted to special needs, such as those of single parents,

¹¹⁸ Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) [1992] OJ L 348/7.

¹¹⁹ Directive (EU) 2019/1152 of the European Parliament and of the Council of 20 June 2019 on transparent and predictable working conditions in the European Union [2019] OJ L 186/121.

¹²⁰ Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC - Annex : Framework agreement on part-time work [1998] OJ L 14/9.

¹²¹ Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP [1998] OJ L 175/43.

¹²² Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU [2019] OJ L 188/79.

¹²³ Ibid. Article 20(1). Although some parts were not required to be operationalised before 2024, see Article 20(2).

¹²⁴ Council Directive 2010/18/EU of 8 March 2010 implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC [2010] OJ L 68/13.

¹²⁵ Directive 2019/1158, Recital 6.

¹²⁶ Ibid. Recital 7.

¹²⁷ Ibid. Recital 10.

¹²⁸ Ibid. Recital 11.

¹²⁹ E Chieragato, ‘A Work–Life Balance for All? Assessing the Inclusiveness of EU Directive 2019/1158’ (2020) 36 International Journal of Comparative Labour Law and Industrial Relations 59.

¹³⁰ Ibid.



parents with a disability or parents of children with a disability or long-term illness, adoptive parents as well as to special situations, such as multiple births and premature births'.¹³¹

While this falls short of the more expansive recognition of unpaid care and social reproduction advocated within feminist and socialist scholarship,¹³² it nevertheless represents a significant shift in emphasis compared with its predecessor. The material and personal scope are similarly economically-focused, with Article 2 noting that it 'applies to all workers, men and women, who have an employment contract or employment relationship as defined by the law, collective agreements or practice in force in each Member State, taking into account the case-law of the Court of Justice'. It grants rights to paternity, parental, carer's leave,¹³³ as well as the innovation of allowing for flexible working arrangements for workers who are parents or carers.¹³⁴ Table 3 sets out the main rights and minimum mandated standards as per the Directive.

Figure 3 Work-Life Balance Directive Main Rights and Minimum Mandated Standards

RIGHT	MINIMUM EU STANDARD
Paternity leave	10 working days
Parental leave	4 months per parent
Non-transferable parental leave	2 months
Carers' leave	5 working days annually
Force majeure leave	Required, duration set nationally
Flexible working	Right to request
Protection from dismissal	✓
Right to return to work	✓

¹³¹ Directive 2019/1158, Recital 37.

¹³² H A Brown, *Marx on Gender and the Family: A Critical Study* (Haymarket Books 2012), and M Daly and K Rake, *Gender and the Welfare State* (Polity 2003).

¹³³ Directive 2019/1158, Article 1(a).

¹³⁴ Ibid. Article 1(b).

Article 9 of the Directive includes a strong extension of the right to request flexible working arrangements. Workers have a right to request: reduced working hours, flexible schedules, or remote working arrangements (where these are available nationally).¹³⁵ This is available to parents of young children and carers, and whilst 'the duration of such flexible working arrangements may be subject to a reasonable limitation', the Directive should apply to those with children who are below the age of 8 - which Member States can increase, but not reduce.¹³⁶ Employers must consider requests, do so within a reasonable period, and provide reasons for refusals or postponements where required by national law.¹³⁷ This is important, as the Directive creates a right to request and not an absolute right to obtain flexible working arrangements - a key limitation in its potential effectiveness.¹³⁸ Another practical limitation, is that 'Member States may make the right to request flexible working arrangements subject to a period of work qualification or to a length of service qualification, which shall not exceed six months'.¹³⁹

On the whole, whilst the Directive is in many ways very novel, the erosion of the original Commission proposal has meant that many of the eventual minimum standards are relatively modest in comparison, and the amount of unpaid or low-paid leave will likely reduce uptake of the same - driving up the potential that this burden will again become gendered. The degree of discretion given to the Member States to depart upwards, will also likely lead to significant divergences in terms of the level of protection afforded across the EU, undermining the potential for a consistent application.¹⁴⁰ The right to request but not to be granted flexible working arrangements, could similarly continue to feed into power imbalances between employer and employee, where employees may be unwilling or feel unable to challenge a refusal or even potential dismissal - which may also have a gendered dimension. Finally, the ability to set certain limits or time bars in accessing certain entitlements 'may exclude growing numbers of workers in non-standard employment from access to Work Life Balance measures'.¹⁴¹

2.6. Competition Law and State Aid

Competition law is considered to be 'a fundamental provision...essential for the accomplishment of the tasks entrusted to the [EU] and, in particular, for the functioning of the Internal Market'.¹⁴² As noted above, Article 3(1)(b) TFEU makes explicit that 'the Union shall have exclusive competence in... establishing... the competition rules necessary for the functioning of the internal market'. By way of definition, the regulation of competition can broadly be taken to mean 'a set of policies and laws which ensure that competition in the marketplace is not restricted in such a way as to reduce economic welfare',¹⁴³ or '...government measures that directly affect the behaviour of enterprises and the structure of industry'.¹⁴⁴

¹³⁵ See Ibid. Recital 34 for example.

¹³⁶ Ibid. Article 9(1).

¹³⁷ Ibid. Articles 9(2) and 9(3) in particular.

¹³⁸ L Waddington and M Bell, 'The right to request flexible working arrangements under the Work-life Balance Directive – A comparative perspective' (2021) 12 European Labour Law Journal 508.

¹³⁹ Directive 2019/1158, Article 9(4).

¹⁴⁰ See, for example, B De Micheli and A Smilari, 'Work-life balance: Policy developments' (2024) Eurofound <<https://www.eurofound.europa.eu/en/publications/all/work-life-balance-policy-developments>> accessed 1 June 2026.

¹⁴¹ E Chieragato, 'A Work-Life Balance for All? Assessing the Inclusiveness of EU Directive 2019/1158' (2020) 36 International Journal of Comparative Labour Law and Industrial Relations 59.

¹⁴² Case C-126/97, *Eco Swiss China Time Ltd*, ECLI:EU:C:1999:269, para 36.

¹⁴³ M Motta, *Competition Policy: Theory and Practice* (Cambridge University Press 2003).

¹⁴⁴ R S Khemani and M A Dutz, 'The Instruments of Competition Policy and their Relevance for Economic Policy' (1996) 26 PSD Occasional Paper 1.



The applicability of competition law (broadly conceived to cover both competition rules *stricto sensu* and State aid) to social services has featured in wider discussions of welfare state reforms.¹⁴⁵ In fact, social services may fall within the scope of EU competition law only when they are carried out by undertakings. Therefore, as noted recently in relation to healthcare by van den Groenden and Guy,¹⁴⁶ the starting point for an analysis is the meaning of ‘undertaking’ in EU competition law - which is of central importance to both EU competition/antitrust and state aid law.

The notion of an **undertaking** within the meaning of the *Höfner* jurisprudence¹⁴⁷ **encompasses every entity engaged in an economic activity, regardless of the national legal status of the entity and the way in which it is financed.**¹⁴⁸ It is settled case-law that any activity that consists of offering goods and services within a given market is regarded as an economic activity.¹⁴⁹ While activities which are connected with the exercise of powers of a public authority are not of an economic nature, insofar as a public entity carries on an economic activity which can be separated from the exercise of its public powers, that entity can be regarded as an undertaking.¹⁵⁰ Even a body which is integrated into the public administration may be classified as an undertaking.¹⁵¹ Such a wide notion of undertaking *de jure* covers the spectrum of cooperatives, mutual societies and associations with a social goal broadly conceived of insofar as they carry out an economic activity. The fact that the offer of goods and services is made on a not-for-profit basis does not prevent those operations from being considered economic activities.¹⁵² *Inter alia* in *Dôvera*, the General Court held that:

‘the fact that the offer of goods or services is made without profit motive does not prevent the entity which carries out those operations on the market from being considered an undertaking where that offer exists in competition with that of other operators which do seek to make a profit’.¹⁵³

2.6.1 Competition Law

For the purpose of the following analysis, it is worth recalling that Article 101 TFEU prohibits ‘cartel-like behaviour’ by prohibiting all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the internal market’. What constitutes an ‘agreement’ is kept intentionally broad so as to not unduly limit the effectiveness of the provision. It primarily involves ‘a concurrence of wills between at least two parties, the form in which it is manifested being unimportant so long as it constitutes the faithful expression of the parties’ intention’.¹⁵⁴ One ‘hard line’ in terms of its material scope is that it must be between more than one undertaking and cannot therefore be a unilateral

¹⁴⁵ E Szyszczak, ‘Modernising healthcare: Pilgrimage for the holy grail?’ in M Krajewski, U Neergaard, and JW Van De Gronden (eds), *The Changing Legal Framework for Services of General Interest in Europe – Between Competition and Solidarity* (TMC Asser Press 2009).

¹⁴⁶ JW Van De Gronden and M Guy, ‘The role of EU competition law in health care and the ‘undertaking’ concept’ (2021) 16 Health Economics, Policy and Law 76.

¹⁴⁷ Case C-41/90, *Klaus Höfner and Fritz Elser v Macrotron GmbH*, ECLI:EU:C:1991:161.

¹⁴⁸ Case C-222/04, *Ministero dell'Economia e delle Finanze v Cassa di Risparmio di Firenze SpA and Others*, ECLI:EU:C:2006:8, para 107.

¹⁴⁹ Commission, ‘Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union’ [2016] OJ L C 262/1.

¹⁵⁰ Case T-166/21, *Autorità di sistema portuale del Mar Ligure occidentale*, ECLI:EU:T:2023:862.

¹⁵¹ *Ibid.*

¹⁵² Case C-74/16, *Congregación de Escuelas Pías*, ECLI:EU:C:2017:496, para 46.

¹⁵³ Case T-216/15 *Dôvera zdravotná poisťovňa, a.s.*, ECLI:EU:T:2018:64, para 48. See also Joined Cases C-262/18 P and C-271/18 P, *European Commission and Slovak Republic v. Dôvera zdravotná poisťovňa, a.s.*, ECLI:EU:C:2020:450. For a comment J J Piernas López, ‘When Is a Company Not an Undertaking Under EU Competition Law? The Contribution of the Dôvera Judgment’ (2021) 58 Common Market Law Review 529.

¹⁵⁴ Case T-41/96 *Bayer AG v Commission of the European Communities*, ECLI:EU:T:2000:242, para 69.

act,¹⁵⁵ which would be potentially governed by Article 102 TFEU in relation to ‘abuse of dominant position’. Once it has been established that an agreement has as its object the restriction of competition, there is no need to take account of its concrete effects. Importantly, from a social investment perspective, and from the perspective of social services more broadly, ‘association of undertakings’ can be taken to capture trade unions and other forms of social organisation¹⁵⁶ or professional representative bodies.¹⁵⁷

2.6.2. State Aid

State aid control is a well-known aspect of EU competition law broadly conceived and is essential to the building and maintaining of the internal market. Indeed, it is a key element in relation to the scope of this deliverable, as EU State aid law has been fundamental in giving Member States some leeway to support social services and foster the ‘social economy’. With regard to the latter, it has become a key policy tool for enhancing novel practices that meet social needs while also contributing to competitiveness, as public financial support plays an important role in enabling the start-up and development of actors within the social economy.

Article 107 TFEU prohibits State aid to undertakings in the internal market:

Save as otherwise provided in this Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market’.

The concept of State aid is an objective one,¹⁵⁸ and the motivations underpinning the spending of public monies are irrelevant to the scope of Article 107(1) TFEU. Consequently, the social aim of a State measure cannot shield it from the application of EU State aid law.¹⁵⁹ The CJEU has consistently held that it is essential to establish first whether a given measure is State aid within the meaning of Article 107(1) TFEU, before examining its compatibility with the internal market within the limits of the Treaty derogations.¹⁶⁰ The Commission has similarly indicated that Member States must consider EU State aid law when designing public interventions in the social sphere.¹⁶¹ The Commission is conscious that ‘even though this may add additional steps in the design process...such preparatory work helps to eliminate potential problems that might arise after the implementation of measures’.¹⁶²

Aid can take many forms, such as a direct subsidy, a loan issued at a reduced rate of interest granted by a public body, or even a reduction in tax liability. In that regard, in *Adria-Wien*,¹⁶³ the Court underlined that an

¹⁵⁵ Joined Cases 25 and 26/84, *Ford - Werke AG and Ford of Europe Inc. v Commission of the European Communities*, ECLI:EU:C:1985:340.

¹⁵⁶ Case C-41/90, *Höfner and Elser v Macrotron GmbH*, ECLI:EU:C:1991:161.

¹⁵⁷ Case C-1/12, *Ordem dos Técnicos Oficiais de Contas v. Autoridade da Concorrência*, ECLI:EU:C:2013:127.

¹⁵⁸ *Inter alia* Case C-83/98 P, *French Republic v Ladbrooke Racing Ltd and Commission*, ECLI:EU:C:2000:248, para 25. On the concept of aid see J J Piernas López, *The Concept of State Aid Under EU Law: From Internal Market to Competition and Beyond* (Oxford University Press 2015).

¹⁵⁹ *Inter alia* Case 173/73, *Italian Republic v Commission*, ECLI:EU:C:1974:71, para 13.

¹⁶⁰ Case C-40/23 P, *European Commission v Kingdom of the Netherlands*, ECLI:EU:C:2024:492. See also M Merola and A Cogoni, ‘The European Commission Must Always Take a Final Position on the Classification as State Aid: Case T-469/20 *Netherlands v Commission*’ (2023) 14 *Journal of European Competition Law & Practice* 293.

¹⁶¹ P Nicolaidis, ‘The General Block Exemption Regulation, its content and application. Specific focus on access to finance for the social economy’ (2023) Directorate-General for Employment, Social Affairs and Inclusion Thematic Discussion Paper 1 <https://social-economy-gateway.ec.europa.eu/system/files/2023-07/WS2_Synthesis%20report.pdf> accessed 20 January 2026.

¹⁶² *Ibid.*

¹⁶³ Case C-143/99, *Adria-Wien Pipeline and Wietersdorfer & Peggauer Zementwerke*, ECLI:EU:C:2001:598



aid could encompass not only direct subsidies but also any measure that relieves undertakings of costs they would normally bear, including tax advantages.

In essence, there are **four cumulative criteria for a measure to be qualified as State aid**. First, there must be an intervention through **State resources and imputable to the State**; second, must confer a **selective advantage** on an undertaking, third, it must **distort or threaten to distort competition**, and fourth **it is likely to affect trade between Member States**.¹⁶⁴ Selectivity is a key element and entails that the measure does not apply equally to all economic actors, but instead benefits only certain undertakings. Identifying selectivity therefore requires comparative exercise: the situation of the aid beneficiary must be compared with that of other undertakings that do not benefit from the measure. In *Spain v Commission*,¹⁶⁵ the General Court recalled that, to assess whether a public measure is selective, it must be examined whether, within the relevant legal framework, the measure favours certain undertakings over others that are in a comparable factual and legal situation, having regard to the objective of the measure. In simple terms, the question is whether similar undertakings which are subject to the same rules are treated differently without an objective justification. If they are, the measure is selective.

The general prohibition under Article 107(1) TFEU is mitigated by the derogations set out in Article 107(2) and (3) TFEU, as well as in secondary instruments such as the General Block Exemption Regulation (GBER),¹⁶⁶ which allow Member States to pursue legitimate policy objectives, including social and regional development, under defined conditions. Article 107(2) TFEU specifies a number of cases in which national support measures are permissible. Article 107(3) TFEU provides that some forms of aid may be considered compatible with the internal market by the Commission. On the whole, derogations recognise that an economic intervention from the State may be needed in specific circumstances or to address well-defined market failures and to protect certain social values.

The TFEU also establishes a system of **ex ante supervisory control by which Member States must notify the Commission in advance of aid measures that they intend to implement**. Put simply, State aids are prohibited unless the Commission has been notified of the aid, has assessed and finally approved it. In essence, State aid should not be put into effect until after they have received a Commission decision on the same, meaning that the measure requires (1) notification, (2) assessment and (3) approval by the Commission. If these obligations are not fulfilled, the State aid measure is considered to be unlawful. Should, subsequent to a formal investigation conducted by the Commission, the aid measure be considered incompatible with the internal market, the Commission will issue a negative decision 'with recovery' requiring the Member State to take all necessary measures to recover the benefits of the aid from the recipient(s). This ultimately restores the *status quo ante* and ensures the effectiveness of the State aid regime, limiting the number of 'unlawful aids' granted by the Member States, and will encourage Member States to implement national systems regulating their aids to focus on clear and well-defined market failures.

To increase legal certainty within the EU State aid framework, to ensure the transparency of aid assessment, and to complement Treaty rules, a large body of guidelines and secondary legislation has also been developed. Over time, these measures have also been able to address new economic and political priorities within the EU. Broadly speaking, guidelines are considered to 'codify' the Commission's own practice with regard to the most common types of aid, and structure the way in which the Commission exercises the discretion conferred upon it by Article 107(3) TFEU. Among secondary legislation, the GBER permits Member States to intervene in their economy with no need to prior notification to the Commission. Besides the GBER, the *De Minimis* Regulation,¹⁶⁷ recast in 2023, applies to aid to all businesses, except those operating in fishery, aquaculture,

¹⁶⁴ *Inter alia* Case C-20/15 P, *Commission v World Duty Free Group SA and Others*, ECLI:EU:C:2016:981, para 53.

¹⁶⁵ Case T-489/21, *Spain v Commission*, ECLI:EU:T:2025:656.

¹⁶⁶ Commission Regulation (EU) 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty [2014] OJ L 187/1.

¹⁶⁷ Council Regulation (EU) No 2023/2831 of 13 December 2023 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid [2023] OJ L 2831/1.

agriculture, and export-related activities.¹⁶⁸ The *De Minimis* allows certain measures that fall within the threshold provided for in the regulation to escape notification.

2.6.3. Services of General Economic Interest (SGEI)

In the context of social services, the application of State aid rules is closely linked to the concept of SGEI. Public funding for such services may fall outside Article 107(1) TFEU where it constitutes compensation for the discharge of public service obligations.

Article 106(1) TFEU establishes that the conduct of public undertakings and of those undertakings entrusted with special or exclusive rights must respect other Treaty norms. Article 106(2) TFEU mitigates the latter prescription, and provides an exception to the application of the competition rules to SGEI, in order to ensure that they can carry out the tasks assigned to them. The CJEU held that

‘[i]n allowing derogations to be made from the general rules of the Treaty in certain circumstances, Article 106(2) TFEU seeks to reconcile the Member States’ interest in using certain undertakings, in particular in the public sector, as an instrument of economic or fiscal policy with the Union’s interest in ensuring compliance with the rules on competition and the preservation of the unity of the common market’.¹⁶⁹

In *Altmark Trans*,¹⁷⁰ the CJEU established that compensation for public services does not qualify as State aid where four cumulative conditions are met: (i) the recipient undertaking must actually have public service obligations to discharge, and the obligations must be clearly defined; (ii) the parameters of the compensation have been established beforehand in an objective and transparent manner; (iii) the compensation does not exceed what is necessary to cover all or part of the costs incurred in discharging the public service obligations, taking into account the relevant receipts and a reasonable profit for discharging those obligations; (iv) where the undertaking which is to discharge public service obligations is not chosen pursuant to a public procurement procedure, the level of compensation must be determined on the basis of an analysis of the costs that a typical undertaking, well-run and adequately provided with the relevant means, would have incurred.

Where these conditions are not fulfilled, the measure may still be compatible with the internal market under Article 106(2) TFEU, provided it is necessary for the performance of the public service task. This framework is central to the financing of social services, including healthcare, social housing and care services, as it allows Member States to support providers while remaining within the limits of EU law. This approach has been confirmed in sectors such as healthcare. In *BUPA v Commission*,¹⁷¹ the General Court recognised the wide discretion given to Member States in defining SGEI and accepted that solidarity-based health insurance systems may justify public compensation under EU State aid rules.

On the whole, the legal interpretation of the SGEI framework has evolved in light of the post-Lisbon constitutional context discussed earlier,¹⁷² and particularly taking into consideration Article 14 TFEU. In *ANODE*, for example, the CJEU emphasised that Article 106(2) TFEU must be interpreted in light of the new constitutional context following the entry into force of the Treaty of Lisbon, which includes Article 14 TFEU, Protocol 26 on services of general interest, and the CFR.¹⁷³ The practical consequence is that the Commission

¹⁶⁸ Ibid. Article 1.

¹⁶⁹ Case C-660/15 P, *Viasat Broadcasting v European Commission*, ECLI:EU:C:2017:178, para 31.

¹⁷⁰ Case C-280/00, *Altmark Trans GmbH*, ECLI:EU:C:2003:415.

¹⁷¹ Case T-289/03, *BUPA and Others v Commission*, ECLI:EU:T:2005:78.

¹⁷² See *supra* section 2.2.

¹⁷³ CJEU, Case C-121/15, *ANODE*, ECLI:EU:C:2016:637, para 41



must apply the proportionality condition in Article 106(2) TFEU with sensitivity to the constitutional weight carried by SGEI, and in particular by social services entrusted with the promotion of human well-being.¹⁷⁴

2.7. Social Rights in the EU Charter of Fundamental Rights

The CFR plays an important role in framing social services as key to the guarantee of social rights. While the CFR does not extend the field of application of EU law or establish any new power or task for the EU (Article 51(2) CFR), the Charter proclaims, alongside a suite of equality-based provisions mentioned earlier, a range of social rights. Besides, Article 20 CFR and Article 21 CFR, Article 24 CFR recognises children as independent rights-holders, requiring that their best interests be a primary consideration in all actions relating to them and affirming their right to protection and care necessary for their wellbeing, which directly informs child-related social and support services. Article 25 CFR acknowledges the rights of the elderly to lead a life of dignity and independence and to participate in social and cultural life, and frames ageing as a matter of social inclusion rather than dependency. Article 26 CFR recognises and respects the right of persons with disabilities to benefit from measures designed to ensure independence, social and occupational integration, and participation in community life, explicitly linking disability policy to supportive services. Title IV of the CFR (Articles 27 to 38) covers solidarity, which encompasses labour protection, social security, access to essential services, and collective wellbeing.

Articles 27 and 28 CFR recognise workers' rights to information and consultation within the undertaking and to collective bargaining and action, embedding social dialogue as a structural component of EU labour relations. Articles 29 and 30 CFR defend access to employment and job security by recognising the right of access to placement services and protection in the event of unjustified dismissal. Article 31 CFR guarantees fair working conditions, including limitations on working time and the right to paid annual leave, anchoring minimum standards of worker protection within EU law. Articles 32 and 33 CFR address the reconciliation of economic activity with social and family life. Article 32 prohibits child labour and protects young people at work, while Article 33 recognises the right to family and professional life, including protection against dismissal related to maternity and parental responsibilities. Articles 34 and 35 CFR extend solidarity beyond the workplace by recognising entitlements to social security, social assistance, and preventive health care, subject to the conditions laid down in EU law and national legislation.

Article 34 recognises the entitlement to social services 'providing protection in cases such as maternity, illness, industrial accidents, dependency or old age, and in the case of loss of employment' as well as the 'right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources' (Articles 34(1) and 34(3) CFR). Article 36 CFR acknowledges access to SGEI, reinforcing the social function of essential services within the internal market.

Finally, Articles 37 and 38 CFR integrate broader collective interests into the concept of solidarity by requiring a high level of environmental protection and consumer protection to be ensured in Union policies.

¹⁷⁴ J J Piernas López, 'Services of General Economic Interest and Social Considerations' in D Ferri and F Cortese (eds), *The EU Social Market Economy and the Law: Theoretical Perspectives and Practical Challenges for the EU* (Routledge 2018) 166.

2.7.1. Rights v Principles in the Charter of Fundamental Rights

Article 51(1) CFR states that the provisions of the Charter 'are addressed to the institutions, bodies, offices and agencies of the Union with due regard for the principle of subsidiarity and to the Member States only when they are implementing Union law'. This provision also states that the EU and Member States must 'respect the rights, observe the principles and promote the application thereof in accordance with their respective powers'. In doing so it imposes a distinction between subjective rights and principles, by stating that rights should be 'respected' whereas principles should be 'observed'. The difference between these two categories is that principles only have limited justiciability, whereas subjective rights can be claimed directly in the courts. However, access to social security within the meaning of Article 34 CFR, for example, has been described in official explanatory documents as a principle.¹⁷⁵ This limits its potential for direct judicial enforcement, with equality-based rights arguably being a more advantageous avenue for litigation. This similarly applies to Article 35 on healthcare.

2.7.2. The Scope of Application of the Charter of Fundamental Rights

Article 52 CFR aims to set the scope of the rights and principles of the Charter, and to lay down rules for their interpretation. It establishes the distinction regarding that rights confer justiciable entitlements on individuals, while principles function as policy objectives and interpretative tools. Article 52(5) CFR particularly states that 'principles may be implemented by legislative and executive acts taken by institutions, bodies, offices and agencies of the Union, and by acts of Member States when they are implementing Union law, in the exercise of their respective powers' and they 'shall be judicially cognisable only in the interpretation of such acts and in the ruling on their legality'. This means that while principles can shape and inspire legislation and administration, they mainly gain legal effect through their implementation.¹⁷⁶

The scope of application of the Charter is therefore crucial in any mapping exercise of this area, because it determines when and to what extent fundamental rights can be invoked in relation to social services within the EU legal order. Since the Charter binds Member States only when they are implementing EU law, this helps define the boundary between EU-level rights protection and purely national social policy choices.

¹⁷⁵ Explanations relating to the Charter of Fundamental Rights [2007] OJ C 303/2.

¹⁷⁶ Case C-356/12, *Glatzel*, ECLI:EU:C:2014:350.



2.8. Key Takeaways

The EU Treaties establish a constitutional framework that endeavours to strike an appropriate balance between EU legislative competences with Member State responsibility through the principles of conferral, subsidiarity, and proportionality.

EU social policy primarily operates through supporting and coordinating competences, particularly in employment, social inclusion, working conditions, and social protection.

Whilst social services remain primarily a national competence, their design, delivery and funding mechanisms are significantly influenced by EU law across multiple fields such as free movement law, competition, and State aid law which are stronger Union competences.

Article 9 TFEU (the horizontal social clause) requires social considerations to be integrated across all EU policies, including internal market measures, whilst Articles 14 TFEU and Protocol 26 recognise the special role of services of general economic interest (SGEI) and preserve Member States' discretion in organising them.

EU values provide an important normative foundation for the regulation of social services, and the Charter of Fundamental Rights reinforces the social dimension of EU law by recognising rights relating to equality, social security, healthcare, disability, children, older persons, workers, and access to essential services, although many social provisions operate as principles rather than directly enforceable rights.

Union citizenship and free movement create rights to equal treatment and cross-border access to certain social systems, while allowing Member States to impose conditions on access to these.

Non-discrimination legislation and CJEU case law have substantially expanded protection across employment, education, social protection, and access to goods and services. A key example of this, is the Work-Life Balance Directive, which (despite potentially uneven implementation across the Member States) reflects a stronger EU-level focus on gender equality, carers' rights, and work-life reconciliation.

Competition and State aid rules apply where social services constitute economic activities, requiring Member States to design funding mechanisms that comply with EU law. The Altmark criteria and Article 106(2) TFEU provide important legal pathways for financing SGEIs without breaching State aid rules.

3. Frame and Orientate: The Role of EU Policies

An array of EU policies frame and orientate the deployment of social services at the Member State level, indicating priorities and tools to be used. As noted in the introduction, we use the term **policies broadly to refer chiefly to soft law and quasi-legal instruments** (such as recommendations, communications of the Commission, guidelines, conclusions of the Council of the EU...), which do not have a legally binding force but nevertheless display legal effects. We also refer to instruments and mechanisms that exist at the intersection of economic governance and policy cooperation, such as the European Semester. The section, however, **connects soft law to EU legislation insofar as the latter is often mentioned or planned or monitored through these 'soft' instruments.**

Such policies represent one particular facet of the social dimension of EU law, and which is perhaps best epitomised by the EPSR. The EPSR is particularly relevant for D 2.2 as social services are central to the implementation of several Pillar principles. In fact, the EPSR recognises that social services seek 'to respond to the social needs of individuals, particularly those in vulnerable and complex situations that cannot be addressed without support ... while simultaneously promoting their active social and labour market inclusion'.¹⁷⁷ In that regard, **the EPSR is considered an important framing device for national policies and helps orientate both EU action and national action in that field.**

In addition to the EPSR, this section takes stock of a range of policies that have social elements or, either directly or indirectly, frame the deployment of social services in the Member States. As discussed in the introduction, the content of this section is selective, due to its emphasis on certain strands of soft law, and is not intended to be comprehensive. It has been tailored to support the subsequent analysis and address the specific scope and research questions underpinning D 2.2.

3.1. The Social Dimension of EU Law: A Critical Account

Before highlighting these policy frameworks that frame and orientate social services, it is helpful to situate them within the contested social dimension of EU law.

Social interests have been a prevalent consideration within the process of EU integration since the outset of the European project, although to varying - and often minimal - degrees. Particularly in the early phases of integration, an explicit EU social dimension remained ancillary to the primary economic ambitions of political actors, and linked to the construction of the internal market. They have, however, increasingly underpinned and reinforced internal market legislation since the early 1970s,¹⁷⁸ particularly on minimum standards for working conditions - including rules on working time, health and safety, parental leave, and protection for atypical workers. Back then, the EU adopted several directives still in force today such as the Council Directive 77/187/EEC on the safeguarding of employees' rights in the event of transfers of undertakings, businesses or

¹⁷⁷ European Commission: Directorate-General for Employment, Social Affairs and Inclusion, 'Study on social services with particular focus on personal targeted social services for people in vulnerable situations – Final report – Annexes' (2022) Publications Office of the European Union <<https://data.europa.eu/doi/10.2767/779379>> accessed 29 April 2026.

¹⁷⁸ V Salese, 'Unorthodox Competences and the Functional Architecture of EU Social Law' (2026) 11(1) European Papers – A Journal on Law and Integration 1.



parts of businesses¹⁷⁹ and Council Directive 75/129/EEC on collective redundancies.¹⁸⁰ Alongside the baseline of labour rights and legislation that combats disparities between workers across the EU, as mentioned earlier in Section 2, EU anti-discrimination legislation has prohibited unequal treatment based on grounds such as sex, race, ethnicity, religion, age, disability, and sexual orientation.

The evolving social policy dimension has been analysed by a range of scholars and in different fields.¹⁸¹ Legal scholars have often observed that EU rules that have a social slant primarily stem from the core EU competence on regulating its internal market, with a sort of 'displacement' of social Europe.¹⁸² It has become progressively evident how social issues have come to be addressed outside of EU social policy *stricto sensu*.¹⁸³ This has raised constant questions about whether social goals are the actual drivers of EU action or whether they remain conditional upon economic objectives. In fact, the social dimension(s) of EU law are among the most studied and the most contested topics of EU law.¹⁸⁴ The EU institutions have also highlighted that the concepts of 'social dimension' and 'social Europe' are interpreted in diverse ways across the EU.¹⁸⁵

Garben contends that, with regard to EU economic governance, an appropriate balance between 'the market' and 'the social' has yet to be achieved, and compromising the overall system of values in the EU polity.¹⁸⁶ Critics of the EU have also argued that the EU itself has been a cause of inequality and social injustice, and the very cause of the dismantling of national welfare systems at the face of a neoliberal political agenda.¹⁸⁷ In non-legal disciplines, scholars have often highlighted that there has been a progressive erosion of the ESM,¹⁸⁸ although such model is also contested in itself.¹⁸⁹

However, the prominence and the visibility of social goals in EU law has arguably increased - albeit to varying degrees in different fields - and giving rise to a rather uneven scenario, which makes taking stock of this issue fraught with complexities. With the EU growth strategy 'Europe 2020',¹⁹⁰ for example, growth had to be 'smart',

¹⁷⁹ Council Directive 77/187/EEC of 14 February 1977 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of businesses [1977] OJ L 61/26.

¹⁸⁰ Council Directive 75/129/EEC of 17 February 1975 on the approximation of the laws of the Member States relating to collective redundancies [1975] OJ L 48/29.

¹⁸¹ D Bokhorst, S Schreurs, and F Corti, 'The European Union and Social Investment: From Intellectual Diffusion to Institutional Consolidation' in A Hemerijck, and D Bokhorst (eds), *Governing the Welfare Commons: On Europe's Social Investment Turn* (Oxford University Press 2026).

¹⁸² C Kilpatrick, 'The displacement of Social Europe: a productive lens of inquiry' (2018) 14 *European Constitutional Law Review*, 62.

¹⁸³ E Muir, 'Drawing Positive Lessons from the Presence of 'The Social' Outside of EU Social Policy *Stricto Sensu*' (2018) 14 *European Constitutional Law Review* 75.

¹⁸⁴ Among many others see F W Scharpf, 'The Asymmetry of European Integration, or Why the EU Cannot Be a "Social Market Economy"' (2010) 8 *Socio-Economic Review* 211; G Dale and N El-Enany, 'The Limits of Social Europe: EU Law and the Ordoliberal Agenda' (2013) 14 *German Law Journal* 613; D Ashiagbor, 'On the "Slow Constitutionalisation" of Social Europe' in M Claes and E Vos (eds), *Making Sense of European Union Law* (Hart Publishing 2022) 73; J Ryszka, 'Protection of Social Rights as a Permanent Challenge for the European Union' (2021) 46 *Review of European and Comparative Law* 109; S Schreurs, 'Social Europe and its limits: hardening integration, softening constraints?' (2025) *Journal of European Public Policy* 2620.

¹⁸⁵ European Parliamentary Research Service, 'Briefing: Reflection paper on the social dimension' (2017) EU Parliament <[https://www.europarl.europa.eu/RegData/etudes/BRIE/2017/603970/EPRS_BRI\(2017\)603970_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2017/603970/EPRS_BRI(2017)603970_EN.pdf)> accessed 09 June 2026.

¹⁸⁶ S Garben, 'The Constitutional (Im)balance between "the Market" and "the Social" in the European Union' (2017) 13 *European Constitutional Law Review* 22.

¹⁸⁷ M Dani, 'Openness, Purposiveness, and the Realignment of the EU and the Democratic and Social Constitutional State' (2023) 24 *German Law Journal* 1099.

¹⁸⁸ Among many others J Bilbao-Ubillos, 'The Social Dimension of the European Union: A Means to lock out Social Competition?' (2023) 165 *Soc Indic Res* 267.

¹⁸⁹ *Ibid*.

¹⁹⁰ Commission, 'EUROPE 2020 A strategy for smart, sustainable and inclusive growth' COM(2010) 2020 final.

'sustainable', as well as 'inclusive',¹⁹¹ with the latter priority highlighting social policy¹⁹² through flagship initiatives like the 'Agenda for new skills and jobs'¹⁹³ and the 'European platform against poverty and for social inclusion'.¹⁹⁴

The most recent emphasis on 'competitiveness', fostered by the Draghi report,¹⁹⁵ while linked to 'economic dynamism', is also considered supportive of the ESM. As emphasised by McCaughey, the ESM is 'the essential and most distinguishing element that Europe possesses to deliver sustainable competitiveness and economic growth while maintaining social cohesion'.¹⁹⁶ The Communication 'A Competitiveness Compass for the EU' overtly links strategic autonomy, technological development and the ESM, by stating:

'Our freedom, security and autonomy will depend more than ever on our ability to innovate, compete and grow. These will be the keys to fund the EU's technological and energy transitions. They will ensure that our distinctive social model remains sustainable'.¹⁹⁷

The 2025 Strategic Foresight Report,¹⁹⁸ which is part of the EU Strategic Foresight exercise that the Commission commenced in 2020, introduces the 'notion of resilience 2.0'. This new definition of resilience, which builds on the idea that the EU must react to crisis, transform and move forward, in a sustainable, fair and democratic manner, is 'transformative, proactive and forward-looking'.¹⁹⁹ In that vein, one of the key objective is 'supporting sustainable and inclusive well-being', which is the focus of SWINS. The report refers to both the ESM and the need to continue strengthening the 'social market economy and a just transition to a clean economy'. This would entail 'a shift in taxation away from taxing labour towards taxing negative externalities, in a balanced manner that ensures sustainable tax revenues, as well as affordability and availability of sustainable products and services'.

The Commission Communication on the 2026 Work Programme²⁰⁰ reaffirms the importance of a social Europe to engender economic development. It confirms the EU commitment to supporting people and strengthening the ESM.

The search for a social EU that addresses the needs of all its citizens but also redress disadvantage of most marginalised communities is 'alive and kicking'. The call for the EU to be more than am market expressed in the Letta report²⁰¹ remains a beacon amidst a geopolitical situation characterised by polycrisis. The EU remains committed to a truly inclusive society, with the Von der Leyen Commission placing equality at the heart of its agenda. In that regard, the Commission has adopted a comprehensive set of equality strategies which include

¹⁹¹ K A Armstrong, 'EU Social Policy and the Governance Architecture of Europe 2020' (2012) 18 Transfer: European Review of Labour and Research 285.

¹⁹² Commission, 'Strengthening the Social Dimension of the Economic and Monetary Union' COM (2013) 690 final.

¹⁹³ Commission, 'EUROPE 2020 A strategy for smart, sustainable and inclusive growth' COM(2010)2020 final.

¹⁹⁴ Ibid.

¹⁹⁵ M Draghi, 'The Draghi report: A competitiveness strategy for Europe (Part A)' (2024) Publications Office of the European Union 5 <https://commission.europa.eu/topics/competitiveness/draghi-report_en> accessed 20 January 2026.

¹⁹⁶ M McCaughey, 'The European social model: Key to competitive growth?' (Eurofound 2025) <<https://www.eurofound.europa.eu/en/podcast-and-blog/all/the-european-social-model-key-to-competitive-growth>> accessed 1 June 2026.

¹⁹⁷ Commission, 'A Competitiveness Compass for the EU' COM(2025) 30 final.

¹⁹⁸ Commission, '2025 Strategic Foresight Report Resilience 2.0: Empowering the EU to thrive amid turbulence and uncertainty' COM(2025) 484 final.

¹⁹⁹ Ibid.

²⁰⁰ Commission, 'Commission Work Programme 2026 Europe's Independence Moment' COM(2025) 870 final.

²⁰¹ E Letta, 'Much More than a Market. Speed, Security, Solidarity: Empowering the Single Market to deliver a sustainable future and prosperity for all EU Citizens' (2024) <<https://www.consilium.europa.eu/media/ny3j24sm/much-more-than-a-market-report-by-enrico-letta.pdf>> accessed 1 June 2026.



- the LGBTIQ equality strategy 2026-2030²⁰² (which follows the previous Strategy)²⁰³
- the gender equality strategy 2026-2030²⁰⁴ (which ensues the previous one running from 2020-2025)²⁰⁵
- the strategy for the rights of persons with disabilities 2021-2030²⁰⁶ (which also follows the strategy running between 2010-2020)²⁰⁷
- the EU anti-racism strategy 2026-2030²⁰⁸ (following the previous Action Plan)²⁰⁹
- the EU Roma strategic framework for equality, inclusion, and participation 2020-2030²¹⁰

Other policy framework support and complement the Union of Equality. The European Care Strategy, adopted by the European Commission in September 2022,²¹¹ aims to ensure that high-quality, affordable, and accessible care services are available across the EU, and addresses both Early Childhood Education and Care (ECEC) and Long-Term Care (LTC) for older people and people with disabilities, while also improving the conditions of both professional and informal carers. In that regard, the Strategy leverages existing instruments such as the Work Life Balance Directive.

The strategy responds to growing challenges such as an ageing population, increasing demand for care services, labour shortages in the care sector, and the unequal distribution of unpaid care responsibilities, which are predominantly carried out by women. Its objectives and more broadly social considerations have also been included in the remit of economic governance.²¹² The 'European Semester', an institutional process providing Member States with *ex-ante* guidance to coordinate national policies, has been, according to scholars, subject to a progressive 'socialization'.²¹³ In particular, the European Semester brings together economic and financial steering via the Stability and Growth Pact (SGP) and the Macroeconomic Imbalances Procedure (MIP) and employment and social policy coordination, with the latter aspects being increasingly visible (yet according to many still ancillary to economy ones).²¹⁴

²⁰² Commission, 'Union of Equality: LGBTIQ+ Equality Strategy 2026-2030' COM(2025) 725 final.

²⁰³ Commission, 'Union of Equality: LGBTIQ Equality Strategy 2020-2025' COM(2020) 698 final.

²⁰⁴ Commission, 'Gender Equality Strategy 2026-2030' COM(2026) 113 final.

²⁰⁵ Commission, 'A Union of Equality: Gender Equality Strategy 2020-2025' COM(2020) 152 final.

²⁰⁶ Commission, 'Union of Equality: Strategy for the rights of persons with disabilities 2021-2030' COM(2021) 101 final.

²⁰⁷ Commission, 'European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe' COM(2010) 636 final.

²⁰⁸ Commission, 'Union of Equality: Anti-Racism Strategy 2026-2030' COM(2026) 12 final.

²⁰⁹ Commission, 'A Union of equality : EU anti-racism action plan 2020-2025' COM(2020) 565 final.

²¹⁰ Commission, 'A Union of Equality: EU Roma strategic framework for equality, inclusion and participation' COM(2020) 620 final.

²¹¹ Commission, 'European care strategy' COM(2022) 440 final.

²¹² E Caracciolo di Torella, 'Re-thinking care after the pandemic: a European Care Strategy for Caregivers and Care Receivers' (2023) 24 ERA Forum 58.

²¹³ J Zeitlin and B Vanhercke, 'Socializing the European Semester: EU social and economic policy co-ordination in crisis and beyond' (2018) 25 Journal of European Public Policy 149.

²¹⁴ Stevenson highlight that the scholarly debate about Semester has focused on the actual balance between the EU's economic and social objectives and how is transformed within and through the Semester (Stevenson, The European Semester: A literature review' (2019) <<https://www.epsu.org/sites/default/files/article/files/Literature%20review.pdf>> accessed 1 June 2026.

3.2 The European Pillar of Social Rights as Main Social Frame

As Plomien suggests, the EPSR 'represents the most encompassing attempt to raise the profile of social policy in two decades, since the inclusion of the employment chapter in the Amsterdam Treaty and the formulation of the European Employment Strategy'.²¹⁵ Since its proclamation, it has boosted the scholarly discussion on 'constitutionalizing' social rights within EU law and policy,²¹⁶ and on the social dimensions of the EU more broadly.²¹⁷ The following subsections briefly focus on the content and the implementation of the EPSR.

3.2.1. The European Pillar of Social Rights (EPSR)

Introduced in 2017, the EPSR aims to advance a social model that allows individuals to live with dignity and autonomy and can be considered as grounded in a social investment perspective.²¹⁸ The EPSR however, possesses an uncertain legal status,²¹⁹ which has attracted a lot of criticism as a result. Seiwert suggests that it 'has probably the character of a Commission recommendation and its 'solemn' proclamation by the Council and the European Parliament is not 'a form of action to which the TFEU attaches any binding force with regard to citizens'.²²⁰

The EPSR is composed of 20 principles aimed at creating a strong social Europe that is fair, inclusive and sowing seeds for opportunity, divided in 3 chapters. First, the chapter on equal opportunities and access to the labour market centres the principle of education, training and life-long learning, gender equality, equal opportunities, and active support to employment. The second chapter focuses on fair working conditions which is possible through the promotion of the principles of secure and adaptable employment, fair wages, information about employment conditions and protection in case of dismissals, social dialogue and involvement of workers, work-life balance, healthy, safe and well-adapted work environment, and data protection. A third focuses on social protection and inclusion, based on the principles of the right to childcare and support to children, social protection, unemployment benefits, minimum income, old age income and pensions, health care, inclusion of people with disabilities, long-term care, housing and assistance for the homeless, and access to essential services.

De Schutter argues that, for the most part, 'the EPSR develops existing rights, that are already part of the EU acquis, in order to further clarify their implications (and thus increase their relevance) in the current economic context, or in order to define as a 'principle' a guarantee already stipulated in secondary EU legislation'.²²¹ In

²¹⁵ A Plomien, 'EU Social and Gender Policy beyond Brexit: Towards the European Pillar of Social Rights' (2018) 17 Social Policy & Society 281.

²¹⁶ S Seiwert, 'The European Pillar of Social Rights: A Dangerous Distraction?' (2023) 39 International Journal of Comparative Labour Law and Industrial Relations 237.

²¹⁷ See A Aranguiz, 'Social Mainstreaming Through the European Pillar of Social Rights: Shielding 'the Social' from 'the Economic' in EU Policymaking' (2019) 20 European Journal of Social Security 341; P Vesan, and F Corti, 'New Tensions over Social Europe? The European Pillar of Social Rights and the Debate within the European Parliament' (2019) 57 Journal of Common Market Studies 977; F Hendrickx, 'The European Social Pillar: A first evaluation' (2018) 9 European Labour Law Journal 3.

²¹⁸ Commission, 'European Pillar of Social Rights Action Plan' (2021) COM(2021) 102 final 3.

²¹⁹ S Garben, 'The European Pillar of Social Rights: An Assessment of its Meaning and Significance' (2019) 21 Cambridge Yearbook of European Legal Studies 101; S Garben, 'The European Pillar of Social Rights: Effectively Addressing Displacement?' (2018) 14 European Constitutional Law Review 210.

²²⁰ S Seiwert, 'The European Pillar of Social Rights: A Dangerous Distraction?' (2023) 39 International Journal of Comparative Labour Law and Industrial Relations 237.

²²¹ O De Schutter, 'The European Pillar of Social Rights: Transforming Promises into Reality' (2022) UC Louvain, CRIDHO Working Paper 2022 3 <<https://research.dial.uclouvain.be/entities/publication/4b995c94-b44d-4f90-93e0-44b718a1fd4a>> accessed 29 April 2026.



fact, the proclamation of the EPSR can be viewed 'as a means of supporting, and not as a substitute for, the recognition of social rights'.²²²

The EPSR also supports and complements a series of policy initiatives, including the strategies adopted in the remit of the Union of Equality, and Anti-Poverty Strategy,²²³ and the European Care Strategy.²²⁴ The objectives of these policy frameworks are in turn essential to deliver on the EPSR itself as the Action Plan, discussed below, suggests.

For the purposes of this deliverable, it is important to note that the EPSR conceptualises social services as essential to the enjoyment of social rights and as underpinning an inclusive society. The Pillar both draws upon and is operationalised through a combination of soft and hard law instruments, which support - but also shape and, in some respects, limit - the scope of national intervention in this area. Nevertheless, it places clear expectations on Member States to ensure the provision of accessible and effective social services.

3.2.2. The European Pillar of Social Rights Action Plan

In the EPSR Action Plan,²²⁵ the Commission sets out three EU headline targets to be achieved by the end of the decade in the areas of employment, skills, and social protection. These targets align with the UN Sustainable Development Goals²²⁶ and aim to strengthen Social Europe by focusing policy efforts on measurable outcomes. They are intended to drive reform and investment in Member States by providing a clear framework for achieving sustained social impact. The EU targets express a shared ambition for 2030, to which this Action Plan makes a significant contribution:

- At least 78% of the population aged 20 to 64 should be in employment by 2030;
- At least 60% of all adults should participate in training every year. In the context of recovery and of the twin transitions, increasing adult participation in training to 60% is paramount to improve employability, boost innovation, ensure social fairness and close the digital skills gap, and
- The number of people at risk of poverty or social exclusion should be reduced by at least 15 million by 2030.

These ambitious headline targets are linked to concrete legislative initiatives and policy frameworks (such as the Union of Equality, or the European Care Strategy mentioned earlier), to which the EPSR aligns. These initiatives will be supported by EU funds such as European Social Fund Plus (ESF+), the European Regional Development Fund (ERDF), Creative Europe and Erasmus as well as the Citizens, Equality, Rights and Values Programme with an overall budget of €1.55 billion. The question of funds distribution across the EU is explored further in Section 4.

The implementation of the EPSR principles and the challenges identified in the country-specific recommendations adopted in the context of the European Semester will be the core ideas which Member States will work around to best prepare their funding programs. The Action Plan expects:

²²² Ibid.

²²³ Commission, 'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the European Union's Anti-Poverty Strategy: Addressing and Preventing Poverty from Childhood to Old Age' COM(2026) 538 final.

²²⁴ Commission, 'European care strategy' COM(2022) 440 final.

²²⁵ Commission, 'European Pillar of Social Rights Action Plan' (2021) COM(2021) 102 final 3.

²²⁶ UN General Assembly, *Transforming our world: the 2030 Agenda for Sustainable Development*, UNGA Res 70/1 (25 September 2015) UN Doc A/RES/70/1.

- At national level, at least 25% of ESF+ resources must be allocated to addressing poverty and social exclusion. Within this share, Member States most affected by child poverty are required to dedicate a minimum of 5% to tackling this issue, while others should assign sufficient resources to implement the upcoming Child Guarantee. Additionally, all Member States must allocate at least 3% of their ESF+ funding to combat material deprivation.
- In order to address youth unemployment, Member States where the proportion of young people not in employment, education or training (NEETs) exceeds the EU average must allocate at least 12.5% of their ESF+ resources to this group. Other Member States are expected to commit an appropriate level of funding to support the strengthened Youth Guarantee.
- Member States are also required to provide adequate funding for strengthening the capacity of social partners and civil society organisations. Where a country-specific recommendation exists in this area, at least 0.25% of ESF+ resources should be earmarked for this purpose.

Finally, in addition to ESF+,²²⁷ additional EU funds contribute to the implementation of the EPSR in practice. The ERDF²²⁸ supports infrastructure and equipment related to employment, education, training, and social services. The Just Transition Fund²²⁹ finances reskilling and upskilling initiatives in regions particularly affected by the socio-economic impacts of the green transition. Meanwhile, the Brexit Adjustment Reserve²³⁰ is intended to mitigate the economic and social consequences arising from Brexit.

3.2.3. The New European Pillar of Social Rights Action Plan: Challenges and Opportunities for Increasing Social Investment

In the political guidelines for 2024-2029,²³¹ the President of the Commission announced a new EPSR Action Plan to give new impetus to the EU social dimension. The new plan will build on its 2021 predecessor and sets out initiatives the Commission will develop during the current mandate to further deepen the implementation of the EPSR and support Member States, as well as respecting national welfare states. In June 2025, the Commission launched a public consultation and a call for evidence on this new Action Plan to implement the EPSR, which ended on 10 September 2025, in order to gather views from stakeholders, including both individuals and organisations on the impact of the first Pillar Action Plan, as well as on the desired objectives and content of the new Action Plan.

Without engaging in a systematic review or comprehensive thematic analysis of the 143 responses collected from trade unions, academic institutions, businesses, EU citizens, public authority bodies and Non-Governmental Organisations (NGOs)²³² in the call for evidence - and without overplaying their importance and influence - such responses point to the limitations and inconsistencies in the current Action Plan. They also highlight the need to equip the Pillar with adequate budget and finance, including tailored funding instruments

²²⁷ Regulation (EU) 2021/1057 of the European Parliament and of the Council of 24 June 2021 establishing the European Social Fund Plus (ESF+) and repealing Regulation (EU) No 1296/2013 [2021] OJ L 231/21.

²²⁸ Regulation (EU) 2021/1058 of the European Parliament and of the Council of 24 June 2021 on the European Regional Development Fund and on the Cohesion Fund [2021] OJ L 231/60.

²²⁹ Regulation (EU) 2021/1056 of the European Parliament and of the Council of 24 June 2021 establishing the Just Transition Fund [2021] OJ L 231/1.

²³⁰ Regulation (EU) 2021/1755 of the European Parliament and of the Council of 6 October 2021 establishing the Brexit Adjustment Reserve [2021] OJ L 357/1.

²³¹ U von der Leyen, 'Europe's Choice: Political Guidelines for the Next European Commission 2024-2029' (2024) <https://commission.europa.eu/document/e6cd4328-673c-4e7a-8683-f63ffb2cf648_en> accessed 1 June 2026.

²³² European Commission, 'Feedbacks and statistics: call for Evidence' (The new Action Plan on the implementation, 2025) <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14736-The-new-Action-Plan-on-the-implementation/feedback_en?p_id=19846> accessed 29 April 2026.



help Member States prioritise social policy. In that vein, some respondents emphasised the importance of the social economy. For example, ENSIE, the European Network of Social Integration, in alignment with Social Economy Europe, states that the EPSR Action Plan should be revised and brought into close alignment with the Social Economy Action Plan, to set clear targets, adequate financing, and a legal framework enabling the social economy to flourish.²³³

Several respondents also highlighted the contemporary relevance of social housing and the need for EU-level action, which speaks to the chosen selective focus of this deliverable. Some of the recommendations from Eurocities²³⁴ put into perspective some of the weaknesses of the current indicators contained within the European Semester and Social Scoreboard, and argues for more place-sensitive indicators which could help with understanding housing cost overburden and (child) poverty levels through new indicators on eviction rates which would better reflect local dynamics and European trends to support evidence-based policymaking at all levels. The focus on a pan-EU approach to the right to housing should be reinforced in the EPSR Action Plan by closely linking with the upcoming Affordable Housing Plan and ensuring systematic involvement of cities throughout all phases of its design and implementation. More specific recommendations were also given, including by the European Student Union which brought up that housing should be explicitly recognised as a social right for students and the Action Plan must introduce clear commitments and funding streams for affordable student housing.²³⁵ Several respondents also highlighted the importance of VET, and the role of EU funding, such as the Recovery and Resilience Facility (RRF) and the ESF+, to support investment in VET, lifelong learning, active labour market policies, and targeted upskilling and reskilling.²³⁶

On the whole, the call for evidence on the Commission's commitment behind the future Action Plan reveal that such plan should be boosted to better enable the EU to support Member States and to better cater for diverse social needs. Housing, VET but also the social economy appear to be priority areas that the future Action Plan should act upon to delivering more efficient, inclusive and resilient social services and to making social rights a reality. The Action Plan will frame and orientate - also by relying on a plethora of legislative, funding and soft law tools - Member States action in these areas.

²³³ Submission to CfE with Reference No. F3711623 <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14736-The-new-Action-Plan-on-the-implementation/F3711623_en> accessed 29 April 2026.

²³⁴ Submission to CfE with Reference No. F3716135 <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14736-The-new-Action-Plan-on-the-implementation/F3716135_en> accessed 29 April 2026.

²³⁵ Submission to CfE with Reference No. F3714919 <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14736-The-new-Action-Plan-on-the-implementation/F3714919_en> accessed 18 June 2026.

²³⁶ Ibid.

3.3. The Policy Framework on the ‘Social Economy’

In the context of social services, the social economy is gaining importance in parallel with the crisis of the welfare state - the latter of which includes cuts to public services as well as growing social inequalities.²³⁷ As noted earlier, the term ‘social economy’ refers to entities providing goods and services, and which can be cooperatives, mutual benefit societies, associations (including charities), or foundations.²³⁸

In December 2021, the Commission adopted a bespoke Action Plan on the social economy, in which it put forward concrete measures to help mobilise its full potential.²³⁹ Notably, this plan, which followed the 2011 Social Business Initiative,²⁴⁰ reiterates that the social economy is vital to realise the ambitions of the EPSR, but also contends that the social economy is a cornerstone of the implementation of the EGD,²⁴¹ the Circular Economy Action Plan,²⁴² the New European Bauhaus,²⁴³ and the Digital Strategy.²⁴⁴ The 2020 Small and Medium Enterprises (SME) Strategy for a sustainable and digital Europe,²⁴⁵ which is part of the so-called industry package highlights how SME comprise social enterprises rooted in local contexts and their essential role in local economies.

The Action Plan for the Social Economy is structured around three pillars - creating the right framework conditions for the social economy to thrive, opening up opportunities and support to capacity building, enhancing recognition of the social economy and its potential - and comprises 63 actions, which have been recently reviewed through the mid-term review of the Action Plan on the social economy, released in March 2026.²⁴⁶ For the purpose of this deliverable, it is worth noting that in relation to the first pillar, a Council recommendation on developing social economy framework conditions, released in 2023,²⁴⁷ has provided a common framework for Member States to integrate the social economy into their policies and fund them. The mid-term review notes that ‘between 2021 and the end of 2025, 21 Member States had either adopted or were preparing national or regional strategies for the social economy, while 12 Member States had adopted or reformed social economy laws. This is a key example of how EU policy frameworks, that are formally soft (ie non-binding) can orientate and coordinate national policies.’²⁴⁸ A key point that the Action Plan made was that of supporting access to finance for social economy organisations, which has been facilitated by EU funding instruments and by the use of State aid, which will be examined later.

²³⁷ C Shin, ‘A conceptual approach to the relationships between the social economy, social welfare, and social innovation’ (2016) 7 Journal of Science and Technology Policy Management 154.

²³⁸ See above Section 1. See also D Ferri, ‘State aid and the Social Economy’ in J J Piernas Lopez, *State aid in times of global competitiveness* (Edward Elgar Publishing forthcoming).

²³⁹ Commission, ‘European Pillar of Social Rights Action Plan’ COM(2021) 102 final 3.

²⁴⁰ Commission, ‘Social Business Initiative. Creating a favourable ecosystem for social enterprises, key stakeholders in the social economy and innovation’ COM(2011) 682 final.

²⁴¹ Commission, ‘The European Green Deal’ COM(2019) 640 final.

²⁴² Commission, ‘Closing the loop - An EU action plan for the Circular Economy’ COM (2015) 614 final.

²⁴³ Commission, ‘New European Bauhaus Beautiful, Sustainable, Together’ COM(2021) 573 final.

²⁴⁴ Commission, ‘Data Union Strategy Unlocking Data For AI’ COM(2025) 835 final.

²⁴⁵ Commission, ‘An SME Strategy for a sustainable and digital Europe’ COM(2020) 103 final 1.

²⁴⁶ Commission, ‘Mid-term review of the action plan for the social economy: main achievements and way forward’ COM(2026) 138 final.

²⁴⁷ Council Recommendation of 27 November 2023 on developing social economy framework conditions [2023] OJ C/2023/1344.

²⁴⁸ Commission, ‘Mid-term review of the action plan for the social economy: main achievements and way forward’ COM(2026) 138 final.



For the future, the Commission intends to orientate the action of Member States in enhancing their recognition and support of the social economy, and aims, at the EU level, to ensure continued funding for social economy actor, also through the revision of the State aid framework and the GBER.

3.4. The Social Slant of Environmental Policies

This deliverable does not focus on environmental or sustainability policies and does not substantively engage with EU legislation in the field in its own right. Yet, it recognises that these policies currently contribute to how the national deployment of social services is framed.

EU-level environmental policies have developed in multifaceted ways since the early 1970s,²⁴⁹ and in ways that can be considered to have a 'social slant'. For example, environmental considerations can, of course, be considered 'social' because their impacts will often directly affect core social conditions such as health, housing, employment, and quality of life. Similarly, measures addressing climate change and access to clean resources may often aim to protect vulnerable groups and reduce inequality. Importantly, and particularly so for the current policy context, is also true that a 'Green Transition' towards carbon-neutral industries will require that not just economic but also social policies are adapted to allow for this.

The EGD,²⁵⁰ adopted in 2019, expressly recognises that the transition to a climate-neutral economy must be fair and inclusive and consequently embodies this 'social slant'. It expressly emphasises the need to ensure that the green transition considers social fairness and inclusion as a key component of the Union's climate agenda. In addition to setting ambitious environmental and climate objectives, the EGD also ties environmental sustainability with broader social goals, such as for example employment, skills development, health, and housing. In this respect, the EDG epitomises 'eco-social nexus' described by ample literature.²⁵¹

Aside from orientating Member States toward the achievement of certain goals, some of which trickle down in binding legislation, the EDG connects to funding instruments that actually shape the way in which Member States govern the transition and make it a socially just one. To support a socially just transition, the EU established the Just Transition Mechanism,²⁵² including the Just Transition Fund,²⁵³ which mitigates the socio-economic consequences of the transition towards climate neutrality in the regions and sectors most affected by decarbonisation policies. The funding supports measures such as reskilling, job creation, social infrastructure and access to essential services, thereby embedding social objectives within the implementation of environmental policy. The EGD through the framework of the European Union Solidarity Fund (EUSF) supports EU Member States and candidate countries by offering financial support after severe natural disasters and, since 2020, major health emergencies.

The European Climate Pact, an initiative launched by the Commission as part of the EGD, supports the EU's goal to become climate-neutral by 2050 and has an important social and participatory slant. It brings individuals, communities, and organisations together to fight climate change and adapt to its consequences.

²⁴⁹ See Parliament, 'Environmental policy: general principles and policy framework' (Fact Sheets on the European Union) <<https://www.europarl.europa.eu/factsheets/en/sheet/71/environmental-policy-general-principles-and-policy-framework>> accessed 1 June 2026.

²⁵⁰ Commission, 'The European Green Deal' COM(2019) 640 final 2.

²⁵¹ F Adloff, S Neckel, 'Futures of sustainability as modernization, transformation, and control: A conceptual framework' (2019) 14 Sustainability Science 1015.

²⁵² Commission, 'The Just Transition Mechanism: Making Sure No One Is Left Behind' COM(2020) 22 final.

²⁵³ Regulation (EU) 2021/1056 of the European Parliament and of the Council of 24 June 2021 establishing the Just Transition Fund [2021] OJ L231/1.

The EGD and European Climate Pact are therefore not strictly limited to environmental protection and endeavour to address the social consequences of a 'green transition' - e.g. via the incorporation of measures such as reskilling, just transition support, energy affordability initiatives, and funding instruments such as the Just Transition Fund.

3.5. Key Takeaways

Despite lacking explicit binding legal force, EU soft law plays a significant in framing and orientating Member State approaches to the design, delivery and funding of social services through EU-level recommendations, communications, action plans, funding priorities and the European Semester.

EU social policy increasingly seeks to balance economic competitiveness with social or non-economic objectives, reflecting a growing recognition that sustainable economic growth depends on strong social investment and inclusive social services.

The social dimension of EU law does, however, remains contested, with continuing debate over whether social objectives genuinely shape EU policymaking or remain subordinate to internal market and economic priorities.

The social economy has become a strategic EU policy priority, recognised as an important contributor to resilient, inclusive growth and the delivery of social services, with increasing policy support, dedicated funding and improved national frameworks.

The European Pillar of Social Rights (EPSR) is the EU's principal social policy framework, providing the overarching vision for promoting social inclusion, equal opportunities, fair working conditions and access to quality social services.

The EPSR Action Plan translates social principles into measurable policy objectives, including targets on employment, lifelong learning and poverty reduction, supported by substantial EU funding instruments such as ESF+.

Future implementation of the EPSR is expected to strengthen support for Member States, with stakeholder consultations highlighting social economy, affordable housing and vocational education and training (VET) as priority areas for future action.

Environmental and climate policies increasingly incorporate a social dimension, recognising that the green transition must be accompanied by measures supporting employment, skills development, social infrastructure and protection for vulnerable communities.

Across these policy frameworks, the EU increasingly adopts a 'social investment' approach, promoting preventative, inclusive and long-term investment in people, skills and social services as essential components of sustainable development and resilience.



4. Shape and Constrain: EU Funding Mechanisms and Regulatory Frameworks

As discussed above, EU law not only frames and orientates the provision of social services through range of overlapping EU policies frameworks. It also **shapes and somewhat constrains the delivery of social services through funding mechanisms and regulatory frameworks which directly impact upon Member States' abilities to fund and implement social services**. This section places a particular emphasis on EU funding tools available to Member States, as well as selected regulatory frameworks that are deemed particularly relevant to the scope and objectives of SWINS.

4.1. The Role of EU Funding Tools in Supporting and Shaping Social Services

The EU operates on a seven-year long-term budget (Multiannual Financial Framework - MFF) and an agreed-upon annual budget. While the MFF sets the maximum annual amounts and spending priorities, the annual budget specifies spending commitments and payment limits for programmes. Notably, unlike the Member States, the EU is not legally permitted to run a budget deficit and is required to maintain a balanced budget - i.e. that expenditure can never exceed revenue. As noted by Kilpatrick and Scott,²⁵⁴ the EU budget, its composition and its most recent development call into question the relationship between the EU and its member states. This is because it has *inter alia* fundamentally reshaped the terrain of substantive EU law and policy, and by extension, shaped national policies.

Within the budget framework, specific funding tools and programmes support the EU policy priorities by financing projects that aim to support Member States in several areas, including the implementation of social services. An array of **EU funding instruments support job creation and funds initiatives that enhance health, education, transport and energy infrastructure, while also advancing digital transformation, and climate action.**²⁵⁵ In that way, these funding instruments **shape social services in the Member States and support their deployment**.

²⁵⁴ C Kilpatrick and J Scott (eds), *New frontiers of EU funding: law, policy, politics* (Oxford University Press 2024).

²⁵⁵ European Commission, 'The EU budget in motion' <https://commission.europa.eu/strategy-and-policy/eu-budget/motion_en> accessed 29 April 2026.

4.1.1. The EU Budget

The EU budget is governed primarily by Articles 310–325 TFEU. As noted earlier, one of the fundamental legal principles is budgetary balance. The budget is financed through 'own resources', which includes customs duties, contributions based on Member States' gross national income, and other revenue sources approved by the Member States.

The annual budget is adopted through a special legislative procedure involving both the European Parliament and the Council of the European Union. The implementation of the budget is primarily the responsibility of the European Commission, which must comply with the requirement of sound financial management, and which comprises the principles of: economy, efficiency, and effectiveness. Judicial oversight by the CJEU can include review of budget-related acts and resolving disputes about the interpretation of EU financial law.

The EU's long-term budget for 2021–2027, topped up with the NextGenerationEU (NGEU) recovery instrument (€806.9 billion (€750 billion in 2018 prices) represented a total of €2.018 trillion in current prices (€1.8 trillion in 2018 prices) and aimed to help Europe recover from the COVID-19 crisis as well as supporting the EU in becoming greener, and more digital and socially just. The NGEU complements national efforts by promoting a fair socio-economic recovery and supporting the urgent investments needed to build more resilient economies across the EU. It also addresses investment gaps created by the crisis, the structural weaknesses revealed by the pandemic such as including over-reliance on external supply chains, and the additional resources required to meet the green transition and digital transformation objectives.²⁵⁶

Furthermore, in July 2025, the Commission presented its proposal for an ambitious and dynamic MFF amounting to almost €2 trillion (or 1.26% of the EU's gross national income on average between 2028 and 2034).²⁵⁷ This framework will provide the EU with long-term investment over the coming decade. The budget pledges to be 'tailored to local needs' with National and Regional Partnership Plans for investments and reforms, for targeted impact where it matters most and ensuring a faster and more flexible support for more economic, social and territorial cohesion across our Union. As noted by Famà *et al*,²⁵⁸ the proposals for the post-2027 MFF exhibit several distinctive features that largely reflect the Commission's ambition to adapt the EU budget to address the challenges posed by a changing geopolitical landscape, while also incorporating elements of the recommendations set out in the Draghi Report. In that regard, the MFF 'should translate into tangible change for social services across Europe'.²⁵⁹

4.1.2. Cohesion Policy Funds as Key Funding Tools from a Social Services Perspective

EU Cohesion Policy aims to support Member States and regions in advancing socio-economic development by notably reducing territorial disparities across the EU. The Policy is firmly place-based, meaning that the programmes are tailored to the needs of a region. Under the EU budget's 2014–2020 MFF, the Cohesion

²⁵⁶ European Parliament, 'Next Generation EU A European instrument to counter the impact of the coronavirus pandemic' (2020) Briefing 2021–2027 MFF EPRS <[https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/652000/EPRS_BRI\(2020\)652000_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/652000/EPRS_BRI(2020)652000_EN.pdf)> accessed 1 June 2026.

²⁵⁷ European Commission, 'The 2028–2034 EU budget for a stronger Europe' <https://commission.europa.eu/strategy-and-policy/eu-budget/long-term-eu-budget/eu-budget-2028-2034_en> accessed 1 June 2026.

²⁵⁸ R Famà, M Fisicaro and E Spaventa, 'EU Funding in Times of Geopolitical Turbulence: A Constitutional Laboratory' (2026) 33 Maastricht Journal of European and Comparative Law 113.

²⁵⁹ A Lara-Montero 'Future EU budget, what does it mean for social services?' (European Social Network, 28 July 2025) <<https://www.esn-eu.org/news/future-eu-budget-what-does-it-mean-social-services>> accessed 1 June 2026.



Policy was the EU's main means of funding investment in economic and social development across the EU²⁶⁰. The support came from three funds: the ERDF, the Cohesion Fund and the ESF, supplemented by the Youth Employment Initiative.

The 2021-2027 EU funds allocated to the Cohesion Policy amount to €392 billion.²⁶¹ Over the period 2021-2027, the EU's financing - including the Policy fund - derived from two sources: the 'classic' MFF, which outlines the EU's annual expenditure limits, and the NGEU recovery plan. With national co-financing, approximately half a trillion euros has been made available to finance programmes in EU regions and countries more broadly. Regulation (EU) 2021/1060, known as the common provisions regulation, sets out the common financial rules applying to the funds delivered by the Cohesion Policy.²⁶²

The ERDF,²⁶³ which amounts to €226.05 billion, aims to invest in the social and economic development of EU regions and cities by redressing the main regional imbalances in the EU and opens the dialogue on conversion around declining industrial regions.²⁶⁴ In 2021-2027, the fund will support investment in particular of SMEs and will address economic, environmental and social problems in urban areas, with the objective of more competitive and smarter sustainable urban development. The fund also endeavours to promote greater social advancement by supporting employment, education, skills, social inclusion and equal access to healthcare, as well as by enhancing the role of culture and sustainable tourism.²⁶⁵ The funding goes to both regional public and private entities and particularly disadvantaged regions and areas, such as rural areas and areas suffering from natural or demographic obstacles and outermost regions; and, indirectly, EU citizens, public or private organisations, and businesses. The fund is delivered through shared management with the Commission adopting the operational programmes and cooperates with Member States' administrations on the implementation. Funding is disbursed in the form of grants, procurements and financial instruments.

The **ESF+²⁶⁶ of €142.7 billion²⁶⁷ is one of the main instruments to support jobs and create a fair and socially inclusive society across Europe and aiming to prevent and combat unemployment, develop human resources and foster social integration in the labour market.** It finances initiatives that promote a high level of employment, equal opportunities for men and women, sustainable development and economic and social cohesion. The funding notably supports investments in young people to help them further their education, training and lifelong learning and investments in capacity building and transnational/cross-border cooperation to strengthen fair working conditions, enhance labour mobility and opportunities. ESF+ actually brings together four funding instruments which used to be distinct in the 2014-2020 programming period: the ESF, the Fund for European Aid to the most Deprived (FEAD), the Youth Employment Initiative and the European Programme for Employment and Social Innovation (EaSI). Funding distribution is mainly managed by Member States, with the Commission playing a supervisory role. Funding therefore happens through shared

²⁶⁰ European Commission, 'Ninth report on economic, social and territorial cohesion' (2024) Publications Office of the European Union <https://ec.europa.eu/regional_policy/sources/reports/cohesion9/9CR_Report_FINAL.pdf> accessed 1 June 2026.

²⁶¹ European Commission, 'Available budget of Cohesion Policy 2021-2027' <https://ec.europa.eu/regional_policy/funding/available-budget_en> accessed 1 June 2026.

²⁶² Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy [2021] OJ L 231/159.

²⁶³ Regulation (EU) 2021/1058 of the European Parliament and of the Council of 24 June 2021 on the European Regional Development Fund and on the Cohesion Fund [2021] OJ L 231/ 60.

²⁶⁴ European Parliament, 'European Regional Development Fund (ERDF)' (Factsheets on the European Union, 2025) <<https://www.europarl.europa.eu/factsheets/en/sheet/95/european-regional-development-fund-erdf-?>> accessed 1 June 2026.

²⁶⁵ European Commission, 'European Regional Development Fund' <https://ec.europa.eu/regional_policy/funding/erdf_en> accessed 1 June 2026.

²⁶⁶ Regulation (EU) 2021/1057 of the European Parliament and of the Council of 24 June 2021 establishing the European Social Fund Plus (ESF+) and repealing Regulation (EU) No 1296/2013 [2021] OJ L 231/21.

²⁶⁷ European Commission, 'The European Social Fund Plus' <<https://european-social-fund-plus.ec.europa.eu/en>> accessed 1 June 2026.

management strands, which means that the responsibility for managing the ESF+ lies with both the European Commission and the Member State concerned. This means that at the beginning of each seven-year programming period, the Commission and Member States agree on key priorities for ESF+ investments, which are set out in national or regional programmes. Although Member States have some flexibility to use the fund in the way that best suits their needs, there are certain rules that must be respected. For example, Member States are obliged to spend at least 25% of the funding on social inclusion, and the fund should be used in a way that promotes the transition from institutional to community-based care.

The Cohesion Fund,²⁶⁸ with a budget of €48.03 billion for the 2021–2027²⁶⁹ period aims to strengthen the Union's economic, social and territorial cohesion and promote sustainable development by supporting Member States and financing capital-intensive investments in the fields of environmental protection and trans-European transport networks including major infrastructure projects such as railway connections and sustainable transport systems. Its beneficiaries are principally public and regional authorities in eligible Member States, although its effects extend indirectly to citizens, public organisations and businesses. The Fund is implemented under a system of shared management, whereby the EU legislature establishes the legal framework and financial allocations, while the European Commission adopts operational programmes and cooperates with national authorities in their implementation. Funding is mainly provided through grants, public procurement mechanisms and financial instruments.

On the whole, the main cohesion funding instruments, particularly the ESF+ and the ERDF, provide support for projects that enhance the capacity and quality of social services. Through these funds, Member States can (and have thus far) invested in childcare facilities, disability support services, community care centres, social housing, long-term care facilities, and other forms of social infrastructures. Such investments are particularly important in less developed regions where resources for social services may be more limited. Beyond infrastructure, cohesion funding supports programmes aimed at combating poverty, promoting social inclusion, improving access to employment, and assisting marginalised groups, including persons with disabilities, older persons, and migrants. The funds are also used to train social services workforces and support their professional development - which is, for example, key in enhancing modern community services and reducing institutionalisation. In this way, the cohesion policy contributes not only to the enhanced deployment of services, but also to the shaping of their quality and effectiveness.

²⁶⁸ Regulation (EU) 2021/1058 of the European Parliament and of the Council of 24 June 2021 on the European Regional Development Fund and on the Cohesion Fund [2021] OJ L231/60.

²⁶⁹ Commission, 'The EU's 2021-2027 long-term Budget and NextGeneration EU FACTS AND FIGURES' (2021) Publications Office of the European Union <https://www.ewi-vlaanderen.be/sites/default/files/downloads/bestanden/facts_and_figures.pdf> accessed 1 June 2026.



4.1.3. The Recovery and Resilience Facility (RRF)

The RRF, defined in Regulation (EU) 2021/241,²⁷⁰ is a temporary instrument and **the centrepiece of NGEU**. Through the RRF, the Commission has raised funds by borrowing on the capital markets and making them available to Member States. This is done in order to address the crisis engendered by the COVID-19 pandemic and implement ambitious capable of making their economies and societies more sustainable, resilient and prepared for the green and digital transitions.²⁷¹ The objectives of the RRF are laid down in Article 4 of the relevant Regulation. Given that the RRF was set up, in the context of the COVID-19 crisis, these objectives reflect that particular contingency and the need to enhance EU resilience. In particular among these objectives, Article 4 lists the promotion of the EU's economic, social and territorial cohesion through the improvement of resilience, crisis preparedness, adjustment capacity and growth potential of the Member States. The RRF further sought to mitigate the social and economic impact of that crisis. Notably, the RRF was also conceived of as an instrument capable of supporting the green transition, by contributing to the achievement of the Union's 2030 climate targets set out in Regulation (EU) 2018/1999 on the Governance of the Energy Union and Climate Action.²⁷² By providing grants and loans, the RRF has supported reforms and investments in the EU Member States. By the close of 2023, nearly €291 billion of this amount had already been committed following Member State requests.

Funding is delivered according to national Recovery and Resilience Plans (RRPs), which define how Member States will advance EU priorities and address both long-standing and emerging post-pandemic challenges. To benefit from the RRF, Member States submitted national recovery and resilience plans setting out the reforms and investments to be implemented by end-2026, with clear milestones and targets. Each plan had to allocate at least 37% of its budget to green measures and 20% to digital measures.²⁷³ All projects must align with the six pillars of the RRF, laid out in Article 3 of Regulation 2021/241:

- Green Transition
- Digital Transformation
- Smart, sustainable and inclusive growth:
- Social and Territorial Cohesion
- Health, economic, social and institutional resilience
- Policies for the Next Generation

As a performance-based instrument, the RRF disburses funds only once Member States have achieved the agreed milestones and targets. Overall, according to Fabbrini,²⁷⁴ the RRF implementation can be broken down into 5 different phases. First, the EU identifies the objectives to be achieved through the programme, with the Commission, the European Parliament and the Council all involved in this initial stage of priority-setting. Second, the Member States design multi-annual national plans, setting out country-specific paths to meet these objectives through defined milestones and targets. Third, the Commission assesses these national plans, and the Council approves them, or, where they do not align with EU priorities, requests that Member States revise them. Fourth, the Member States implement their plans, working to achieve the agreed

²⁷⁰ Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility [2021] OJ L 57/17.

²⁷¹ Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis [2020] OJ L 433/23.

²⁷² Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council [2018] OJ L 328/1.

²⁷³ European Commission, 'The Recovery and Resilience Facility' <https://reforms-investments.ec.europa.eu/recovery-and-resilience-facility-1_en?> accessed 1 June 2026.

²⁷⁴ F Fabbrini, 'The recovery and resilience facility as a new legal technology of European governance' (2025) 47 Journal of European Integration 85.

milestones and targets. And finally, the Commission monitors implementation every six months and assesses progress towards the milestones and targets, determining the continued disbursement of financial support, with the possibility of emergency involvement by the European Council in exceptional cases.²⁷⁵

With regard to the RRF's implementation impact across the EU, earlier this year, the European Commission published a communication titled 'NextGenerationEU - The road to 2026' which takes stock of the impact and progress of the RRF as well as what to expect in the final year of the programme.²⁷⁶ According to the communication, the RRF enabled the maintaining of public investment following the COVID-19 pandemic and contributing to an increasing GDP in a long-lasting way. Some model simulations suggest that NGEU investments alone could increase EU GDP by 1.4 per cent in 2026.²⁷⁷ The Commission notes that concrete results, in the shape of tangible reforms and investments have stemmed from the RRF, from education and healthcare to energy, transport infrastructure, business environment, digital public services, employment policies, rule of law or research and innovation. It also notes that the integration of the RRF in one sector actually benefits other sectors and other Member States.²⁷⁸ The Commission showcases the overall distribution of reforms by key policy areas, with for example, 30% of the RRF dedicated to the Green transition, 13% to Skills and Labour, 15% to Health and Social, 25% in Institutions, and 17% in Business. Corti *et al.* found that the RRF, in certain countries, has indeed fasted-forward the implementation of investments in social infrastructure.²⁷⁹ Overall, the RRF is also considered to have enhanced government accountability for fulfilling policy commitments; provides a more direct link between reforms and investments and improves coordination in policymaking and monitoring implementation.²⁸⁰

4.1.4. Other Bespoke Funding Instruments

Other EU funds can support Member States in advancing and developing their social services, with the **Erasmus+** being a key instrument in the field of education and VET, and **EU4Health** being the largest program that supports crisis preparedness, disease prevention, health systems and cross-border threats, which are examined below.

Erasmus+

The Erasmus+ fund, the EU main funding stream to support education, training, youth and sport has an estimated budget of €26.2 billion for 2021-2027, and provides millions for individuals to study, train, and volunteer abroad. More specifically, the 2021-2027 programme places a strong focus on social inclusion, the green and digital transitions, and promoting young people's participation in democratic life. The initiative, in addition to offering grants also supports teaching, research, networking and policy debate on EU topics. Erasmus+ was found to be mainly effective in creating positive impacts across the EU particularly in regards

²⁷⁵ Ibid. Progress on Member States's implementation of the RRP and overall evolution of the RFF can be monitored through the Recovery and Resilience Scoreboard. European Commission, 'Recovery and Resilience Scoreboard' <https://ec.europa.eu/economy_finance/recovery-and-resilience-scoreboard/index.html> accessed 1 June 2026.

²⁷⁶ Commission, 'NextGenerationEU – The Road to 2026' COM(2025) 310 final/2.

²⁷⁷ European Commission: Directorate-General for Economic and Financial Affairs, 'Mid-term evaluation of the recovery & resilience facility: Strengthening our Union through ambitious reforms & investments' (2024) Publications Office of the European Union <<https://data.europa.eu/doi/10.2765/895571>> accessed 1 June 2026.

²⁷⁸ European Commission, Directorate-General for Economic and Financial Affairs, 'Economic impacts of the Recovery and Resilience Facility: New insights at sectoral level and the case of Germany' (2025) Publications Office of the European Union <https://economy-finance.ec.europa.eu/document/download/8b42b93b-288a-498c-bb2f-3a00c837541c_en?filename=dp221_en_2.pdf> accessed 1 June 2026.

²⁷⁹ F Corti, A Liscai and T Ruiz, 'The Recovery and Resilience Facility: Boosting Investment in Social Infrastructure in Europe?' (2022) 15 Italian Labour Law E-Journal 15.

²⁸⁰ J Zeitlin, D Bokhorst and E Eihmanis, 'Rethinking the governance and delivery of the Cohesion Policy funds: Is the Recovery and Resilience Facility (RRF) a model?' (2023) Final report, Group of high-level specialists on the future of Cohesion Policy <<https://cadmus.eui.eu/server/api/core/bitstreams/be765a59-5f60-56ed-8b49-1b0309693881/content>> accessed 1 June 2026.



to higher education, and VET and significantly developing upskilling and employability.²⁸¹ The recipients most concerned with this funding are students, researchers and academics, as well as universities and organisations working in the field of higher education both in the EU, and also non-EU partner countries. The funding is implemented through direct management and indirect management with the support of the Erasmus+ EU national agencies and then disbursed in the form of grants, prizes and procurement.

EU4Health

EU4Health - with an initial €5.3 billion budget for the 2021-27 period, before being reduced to €4.4 billion following the revision of the 2021-2027 MFF - is the EU's largest health funding programme to date and was established as a response to the challenges highlighted by the COVID-19 pandemic in an effort to support long-term improvements in public health. The programme pursues several broad objectives, including promoting and improving health across the EU, enhancing protections against serious cross-border health threats, increasing the availability and accessibility of medicines, medical devices and other crisis-related products, and reinforcing the resilience of healthcare systems. As such, EU4Health supports initiatives aimed at disease prevention, health promotion, international cooperation, preparedness for future health emergencies, and coordinated responses to cross-border threats. It also contributes to the development of strategic reserves of essential medical supplies and healthcare personnel, advances the digital transformation of healthcare, promotes equitable access to health services, and encourages evidence-based policymaking. EU4Health will be implemented by direct management and indirect management. The programme is implemented by the European Health and Digital Executive Agency. Funding takes the form of grants, prizes and procurements. Direct grants may be signed with international organisations active in the area of health.

²⁸¹ European Commission: Directorate-General for Education, Youth, Sport and Culture, 'Support study for the Erasmus+ 2021-2027 interim evaluation and the Erasmus+ 2014-2020 final evaluation – Synthesis of national reports on the implementation and impact of Erasmus+' (2025) Publications Office of the European Union <<https://data.europa.eu/doi/10.2766/7139089>> accessed 1 June 2026.

4.2. The EU Regulatory Framework on Digital Accessibility and its Role in Shaping Social Services

The progressive digitisation of social services, and the growing importance of digital tools in the deployment of these services, have brought an array of challenges for users of these services, particularly those who come from marginalised communities.²⁸² Ranchordas has highlighted that digital inequality 'is entrenched in structural inequalities' and 'as digital technology becomes increasingly interwoven in a number of settings (education, employment, payment systems, personal life), individuals that were at disadvantage because of their lack of access to technology will be increasingly excluded'.²⁸³ Persons with disabilities that are often those most in need of social services face relevant barriers in accessing them because of inaccessibility and digital barriers.

The EU regulatory framework has supported the digitalisation agenda in an overarching sense, as well as of national social services more specifically.²⁸⁴ It has also addressed an important aspect of digital inequality: that of inaccessibility. The EU has adopted an important legal framework that mandates or supports digital accessibility. While not specifically addressing social services, such a framework impacts them directly. The Directive on the Accessibility of the Websites and Mobile Applications of Public Sector Bodies²⁸⁵ (WAD) and the Directive on the accessibility requirements for products and services, better known as European Accessibility Act²⁸⁶ (EAA) are for the purpose of this analysis the most relevant pieces of legislation. They align with accessibility provisions included in other pieces of legislation, which will not, however, be discussed in this deliverable.

Notably, bespoke accessibility legislation falls within the burgeoning field of EU disability law, as a strand of EU law that addresses disability issues,²⁸⁷ and arose chiefly as a result of the ratification by the EU,²⁸⁸ alongside its Member States, of the United Nations (UN) Convention on the Rights of Persons with Disabilities

²⁸² Among others see S Ranchordás, 'Connected but Still Excluded?: Digital Exclusion beyond Internet Access' in M Lenca, O Pollicino, L Liguori, E Stefanini and R Andorno (eds) *The Cambridge Handbook of Information Technology, Life Sciences and Human Rights* (Cambridge University Press 2022); L Lolich and V Timonen, 'Digitalisation of Public Services as a Challenge to Social Justice' in M A Yerkes and M Bal (eds) *Solidarity and Social Justice in Contemporary Societies* (Palgrave Macmillan 2022).

²⁸³ S Ranchordás, 'Connected but Still Excluded?: Digital Exclusion beyond Internet Access' (2022).

²⁸⁴ The 2010 Digital Agenda (Commission, 'A Digital Agenda for Europe' COM(2010) 245 final) and the 2015 Digital Single Market programme (Commission, 'A Digital Single Market Strategy for Europe' COM(2015) 192 final) expanded access to digital goods and services and created better conditions for networks and platforms. In 2020, the Strategy for shaping Europe's digital future (Commission, 'Shaping Europe's digital future' COM(2020) 67 final) focused on technology that serves people, strengthens competitiveness and supports an open, democratic society. The 2030 Digital Compass (Commission, '2030 Digital Compass: the European way for the Digital Decade' COM(2021) 118 final) set targets, to be achieved by 2030, for skills, digital public services, business transformation and resilient infrastructure. The Declaration on Digital Rights and Principles has anchored EU values across all initiatives (European Declaration on Digital Rights and Principles for the Digital Decade [2023] OJ C 23/1).

²⁸⁵ Directive (EU) 2016/2102 on the accessibility of the websites and mobile applications of public sector bodies (Web Accessibility Directive) [2016] OJ L 327/1.

²⁸⁶ Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services (European Accessibility Act – EAA) [2019] OJ L 151/70.

²⁸⁷ D Ferri and A Broderick, 'Introduction' in D Ferri and A Broderick (eds), *Research Handbook on EU Disability Law* (Edward Elgar Publishing 2020).

²⁸⁸ Council Decision 2010/48/EC of 26 November 2009 concerning the conclusion, by the European Community, of the United Nations Convention on the Rights of Persons with Disabilities [2010] OJ L 23/35.



(CRPD).²⁸⁹ In that regard, both the WAD and the EAA can be considered CRPD implementing legislation and builds on the extensive obligations included in that Convention.²⁹⁰

4.2.1. The Web Accessibility Directive

The WAD sets the obligation for all public sector bodies in the EU to ensure that their online websites and mobile apps are accessible. This means that Member States 'shall ensure that public sector bodies take the necessary measures to make their websites and mobile applications more accessible by making them perceivable, operable, understandable and robust',²⁹¹ as set in the standards EN 301 549.²⁹² For the purpose of the Directive 'public sector body' means the State, regional or local authorities, bodies governed by public law, 'or associations formed by one or more such authorities or one or more such bodies governed by public law, if those associations are established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character'.²⁹³ The WAD therefore concerns social services as they are broadly defined in this deliverable, although Member States can 'exclude from the application of this Directive websites and mobile applications of schools, kindergartens or nurseries, except for the content thereof relating to essential online administrative functions'.²⁹⁴

The WAD is a minimum harmonisation Directive, meaning that Member States may maintain or introduce measures that go beyond the minimum requirements for accessibility of websites and mobile applications established by this Directive.

The Directive also sets a series of exceptions to the scope of application of the accessibility obligations by excluding *inter alia* the following content of websites and mobile applications: office file formats published before 23 September 2018, unless such content is needed for active administrative processes relating to the tasks performed by the public sector body concerned; pre-recorded time-based media published before 23 September 2020; live time-based media; online maps and mapping services, as long as essential information is provided in an accessible digital manner for maps intended for navigational use; third-party content that is neither funded nor developed by, nor under the control of, the public sector body concerned; content of extranets and intranets; archives (i.e. inactive content that is neither needed for active administrative processes nor updated or edited after 23 September 2019).²⁹⁵

The Directive also sets limitations to the duty to make public websites accessible. For example, Member States must ensure that public sector bodies apply accessibility requirements to the extent that those requirements do not impose a disproportionate burden on the public sector bodies. In order to assess whether the burden is disproportionate, Member States look at the size, resources and nature of the public sector body, and 'the estimated costs and benefits for the public sector body concerned in relation to the estimated benefits for persons with disabilities, taking into account the frequency and duration of use of the specific website or mobile application'.²⁹⁶

²⁸⁹ UN Convention on the Rights of Persons with Disabilities, 13 December 2006, in force 03 May 2008, UN Doc A/RES/61/106.

²⁹⁰ S Charitakis, 'Accessibility of goods and services' in D Ferri and A Broderick (eds), *Research Handbook on EU Disability Law* (Edward Elgar Publishing 2020).

²⁹¹ Web Accessibility Directive (WAD), Article 4.

²⁹² EN 301 549 heavily integrates the World Wide Web Consortium's WCAG 2.1 (Web Content Accessibility Guidelines) directly into its requirements, adhering to WCAG 2.1 AA (and parts of 2.2).

²⁹³ WAD, Article 3(1).

²⁹⁴ WAD, Article 2(5).

²⁹⁵ WAD, Article 1(4).

²⁹⁶ WAD, Article 5.

Administratively, the WAD also presents new compliance duties for national social service agencies such as monitoring accessibility,²⁹⁷ publishing '**detailed, comprehensive and clear accessibility statement on the compliance of their websites and mobile applications**',²⁹⁸ maintaining feedback mechanisms for users who encounter barriers, and ensuring that complaints can be addressed. In October 2018, the Commission adopted two implementing decisions ensuring uniform conditions for the implementation of the Directive that regard: Commission Implementing Decision (EU) 2018/1523 establishing a model accessibility statement²⁹⁹ and Commission Implementing Decision (EU) 2018/1524 establishing a monitoring methodology and the arrangements for reporting by Member States.³⁰⁰

The WAD also requires Member States to monitor the compliance of websites and mobile applications of public sector bodies with the accessibility requirements and, every three years Member States publish and submit to the Commission a report on the outcome of the monitoring and use of enforcement. After a first set of reports released in 2021, the new set of Member States monitoring reports covered the period 2022-2024.³⁰¹

In practice, many core social services are now primarily accessed online. The WAD consequently ensures that these digital channels are accessible to users with a wide range of disabilities, including those relying on screen readers, keyboard navigation, captions, or simplified layouts. As a result, social service providers have had to redesign websites, online forms, and mobile platforms so that they are usable by all citizens on an equal basis. Notably, compliance with the WAD is also essential to support future co-design of social services with persons with disabilities, and more broadly encourage co-production and a person-centred approach in the development, implementation and evaluation of social services.³⁰²

The Study supporting the review of the application of the Web Accessibility Directive (WAD), published in 2021,³⁰³ highlights that despite a slight improvement in the accessibility of public websites and mobile applications following the transposition of the Directive, obstacles to its implementation remain. These obstacles include the lack of basic competence on web accessibility and limited enforcement.³⁰⁴ In spite of these obstacles, the WAD has shifted national social services toward a more inclusive digital model built on legally enforceable accessibility standards rather than discretionary design choices.

²⁹⁷ WAD, Article 8.

²⁹⁸ WAD, Article 7.

²⁹⁹ Commission Implementing Decision (EU) 2018/1523 of 11 October 2018 establishing a model accessibility statement in accordance with Directive (EU) 2016/2102 of the European Parliament and of the Council on the accessibility of the websites and mobile applications of public sector bodies [2018] OJ L 256/103.

³⁰⁰ Commission Implementing Decision (EU) 2018/1524 of 11 October 2018 establishing a monitoring methodology and the arrangements for reporting by Member States in accordance with Directive (EU) 2016/2102 of the European Parliament and of the Council on the accessibility of the websites and mobile applications of public sector bodies (2018) OJ L 256/108.

³⁰¹ Commission, 'Web Accessibility Directive - Monitoring reports 2022-2024' (Shaping Europe's digital future, 2025) <<https://digital-strategy.ec.europa.eu/en/news/web-accessibility-directive-monitoring-reports-2022-2024>> accessed 1 June 2025.

³⁰² European Commission: Directorate-General for Employment, Social Affairs and Inclusion, ICF and European Centre for Social Welfare Policy and Research, 'Peer review on 'Participation of persons with disabilities in the development of social services at local level' (2024) Publications Office of the European Union <<https://data.europa.eu/doi/10.2767/105237>> accessed 1 June 2026.

³⁰³ European Commission: Directorate-General for Communications Networks and others, 'Study supporting the review of the application of the Web Accessibility Directive (WAD)' (2022) Publications Office of the European Union <<https://data.europa.eu/doi/10.2759/818130>> accessed 1 June 2026.

³⁰⁴ Ibid. See also Commission, 'Review of the application of Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies' SWD(2022) 0410 final.



4.2.2. The European Accessibility Act

The EAA is to date the most comprehensive standalone piece of EU legislation on accessibility for persons with disabilities and sets common EU-wide accessibility requirements for key products and services such as digital devices, banking, transport, and e-commerce to ensure persons with disabilities can access and use them on an equal basis across the internal market. The EAA complements the WAD and, while is not directly applicable to publicly deployed social services, it may apply to services of social nature. It also extends accessibility requirements to the broader ecosystem of digital products and services that people use to access welfare, healthcare, employment, and other essential supports. In fact, the EAA covers key private market services including certain digital services used to access or interact with social services run publicly or used by private service providers.

The EAA further applies to the answering emergency communications via the single European emergency number '112'. At its core, 112 is the EU-wide emergency number used to access police, fire, and medical emergency services. Importantly, modern emergency communication systems increasingly act as gateways into broader social support systems. When someone calls 112, the immediate response is usually emergency rescue or medical intervention, but call handlers and dispatch systems are often trained to identify underlying social needs as well, such as domestic violence, homelessness, mental health crises, substance abuse, or child protection concerns. For this reason, accessibility of the emergency number has a relevance in relation to social services.

The Directive contains exemptions for micro-enterprises providing services (which may include social services). For example, an undertaking with fewer than ten employees and an annual turnover or balance sheet total not exceeding €2 million is exempt from the accessibility requirements applicable to services. However, micro-enterprises are encouraged to comply voluntarily and may receive guidance and support from Member States. By contrast, micro-enterprises manufacturing products are not fully exempt from the substantive accessibility requirements applicable to products.

The EAA also includes general derogations. The most important derogation is in respect of 'disproportionate burdens', and economic operators are not required to comply with accessibility requirements where doing so would impose the same. Similar to the WAD, the assessment must take into account factors such as the size and resources of the operator, the estimated costs and benefits of compliance, and the nature of the product or service. Importantly, businesses cannot simply claim that compliance is expensive; they must carry out and document an assessment demonstrating why the burden would be disproportionate. The exemption is subject to review and cannot be relied upon indefinitely. The EAA also provides an exemption where compliance would require a fundamental alteration of the product or service. This applies where making the product or service accessible would change its essential nature to such an extent that it would no longer be the same product or service. This derogation is generally understood to apply only in limited circumstances.

On the whole, the EAA supports the interaction with social services by making a range of digital goods and services accessible and is applicable to services that may have a social nature although deployed by private entities.

4.2.3. AccessibleEU

As one of the flagship initiatives proposed by the Strategy for the Rights of Persons with Disabilities 2021-2030, the Commission established a resource centre on accessibility named AccessibleEU to support the implementation of EU accessibility legislation. Launched in 2023, it functions as a European-wide resource hub that brings together public authorities, disability organisations, accessibility experts, researchers, and businesses to promote the consistent application of accessibility obligations and standards across Member States. AccessibleEU also monitors actions carried out and progress made by the Member States in

implementing accessibility legislation and standards by using indicators on Article 9 CRPD, developed by the Office of the United Nations High Commissioner for Human Rights.³⁰⁵

AccessibleEU does not itself enforce the WAD or EAA, and instead supports implementation by building knowledge, sharing expertise, and facilitating cooperation among stakeholders. It does so by developing guidance materials, organising training activities, disseminating good practices, and creating forums for exchange between national authorities and experts. This helps improve the capacity of public administrations responsible for ensuring that public-sector websites and mobile applications comply with accessibility requirements, and of private stakeholders that must comply with the EAA.

A particularly important aspect of AccessibleEU's work is the dissemination of technical knowledge. Many public bodies, including those responsible for social services, as well as social economy stakeholders entrusted with service delivery, lack specialised accessibility expertise. AccessibleEU therefore provides resources, workshops, and networking opportunities that help social services providers understand how accessibility requirements can be incorporated into website design, procurement processes, monitoring systems, and service delivery.

4.3. The Role of State Aid in Shaping and Constraining Social Services

State aid law is, as previously discussed, an important regulatory framework when it comes to social services, because it necessarily constrains the ways in which Member States can fund or financially support social services. Notably, social services often operate in areas where market provision is insufficient, uneven, or entirely absent and where there are market failures.³⁰⁶ Services for vulnerable populations may not be commercially viable, yet they are essential for social inclusion, social protection, and the exercise of social rights. Thus, public funding is necessary and permitted under EU law, but it needs to respect State aid rules. Those rules, taken as a whole, allow public funding, either because such funding is not qualified as aid (i.e. it does not fulfil the criteria for the definition of aid as expounded in Section 2.5.2), is compensation within the scope of Article 106 TFEU, or while being State aid, is not prohibited as it falls into one of the allowed derogations (either a Treaty derogation or one of the derogations that exempts the aid from notification requirements to the Commission).

These three instances are examined below. In essence, it is essential to note that Member States must always consider EU State aid law when designing public interventions and social investment broadly conceived of. They must first assess whether a measure is aid, and whether it is compensation for SGEI or not. In that regard, they should evaluate whether a social service could be considered as a SGEI, verify whether the support can fall within the scope of Article 106 TFEU as public compensation having regard to *Altmark* criteria and the relevant SGEI rules, and avoid any overcompensation. If social investment falls outside the scope of Article 106 TFEU, yet State aid law leaves room for manoeuvre to support social services.

On the whole, while State aid law is often considered an important constraint on public spending in the social sphere, it does allow Member States to pursue social objectives and has been seen in itself as a tool to redirect Member States towards EU priorities, including broadly 'social priorities'. The latest State aid Scoreboard,

³⁰⁵ United Nations, 'Article 9: Illustrative Indicators' (2020) <<https://www.ohchr.org/sites/default/files/article-9-indicators-en.pdf>> accessed June 1 2026.

³⁰⁶ In the case of healthcare, Member States intervene in the hospital market to ensure equity of access and efficiency in health care provision because of a 'large number of market failures related to (asymmetric) information problems, externalities, public goods and market power (see European Commission: Directorate-General for Competition and others, 'Study on the financing models for public services in the EU and their impact on competition – Final report' (2016) Publications Office of the European Union 81).



published in 2025,³⁰⁷ indicates that, in 2024, EU27 Member States spent €168.23 billion, corresponding to 0.94% of their 2024 GDP, on State aid. Around 90% of this amount was dedicated to supporting EU priorities, including environmental protection and energy, regional development and digital growth, which have a social slant. Given the particular context and polycrisis, in 2024, crisis aid still amounted to €16.33 billion (although there was a reduction of 67% with respect to the previous year) and the allocation continued to favour measures responding to the consequences provoked by the Russian invasion of Ukraine.³⁰⁸

While acknowledging the complexity of the State aid toolbox and the array of the Commission's soft law and regulatory instruments, this section only discusses those instruments deemed most relevant in the context of this project and provides limited examples of the Commission's practice. In line with the scope and focus on the deliverable, the section deliberately discusses the *status quo* as it is as of May 2026. Yet, it is worth acknowledging that the State aid regime is developing, both in terms of content and in terms of procedures and institutional design, particularly in response to the current multiple crisis.³⁰⁹

4.3.1. Funding that is not 'Aid'

As noted in Section 2.5.2 of this deliverable, State aid rules apply only when the recipient of public funding is an undertaking, which encompasses all entities engaged in an economic activity, and regardless of the national legal status of the entity and its method of funding.³¹⁰ There might be cases where the recipient is not an undertaking for the purpose of EU law. Admittedly, as discussed in Section 2, the Commission and CJEU have carved out some space for healthcare and education endeavors to escape the scope of Article 107(1) TFEU in relation to activities that are non-economic in nature. With regard to healthcare, for example, the Commission found that the 'ecclesiastical, non-for-profit body' *Provincia Italiana della Congregazione dei Figli dell'Immacolata Concezione in Amministrazione Straordinaria- PICFIC* was engaged in both economic and non-economic activities,³¹¹ but only with regard to the former it could be regarded as an undertaking.

Yet, the notion of undertaking is purportedly broad. For example, the Commission, when examining the Lower Saxony funding law to charity organisations, accepted that the activities of these organisations are of both economic and non-economic nature,³¹² but contended that economic activities included long-term care, nurseries, addicts' counselling, support for elderly people and people with disabilities, whereas non-economic activities encompassed night-shelters for homeless people and support for migrants.³¹³

Even if the notion of undertaking is purportedly broad, leaving Member States a limited leeway to exclude *a priori* the application of EU State aid law, there might be instances in which public support escapes the notion of aid by not meeting all four conditions. Given that the financial support to social service providers is easily

³⁰⁷ European Commission, 'State aid Scoreboard 2025' (2026) <https://competition-policy.ec.europa.eu/document/download/cc9cdf4e-97e9-4f8e-ac7d-5f094a9fd12d_en?filename=state_aid_scoreboard_note_2025.pdf> accessed 1 June 2026.

³⁰⁸ Ibid.

³⁰⁹ For example, on 29 April 2026 the Commission adopted a new State aid framework to enable Member States to support the EU economy in the context of the Middle East crisis (Commission, 'Middle East Crisis Temporary State Aid Framework' [2026] OJ C 2026/2947).

³¹⁰ Case C-222/04, *Ministero dell'Economia e delle Finanze v Cassa di Risparmio di Firenze SpA and Others*, ECLI:EU:C:2006:8, para 107.

³¹¹ Commission Decision of 10 December 2014, State aid SA.39426 (2014/N) – Italy Rescue aid to PICFIC in A.S., health care services operator in the Region of Lazio, C(2014) 9255 final.

³¹² Commission Decision of 23 November 2017, case State aid SA.42268 (2017/E) - State aid for the promotion of public welfare services, OJ C 2018/061. See also Commission Decision of 23 November 2017, case State aid SA.42877 (2017/E) - CarePool Hannover GmbH, C(2017) 7686 final.

³¹³ Ibid.

imputable to the State, the criteria that might allow some room for manoeuvre to escape the scope of State aid law are: (a) Selective Advantage; (b) Effect on Intra-EU Trade and Distortion of Competition.³¹⁴

With regard to the first, settled case-law has established that any measure, regardless of its form, which is likely to directly or indirectly benefit undertakings or must be regarded as an economic advantage which the recipient undertaking would not have obtained under normal market conditions are considered as State aid.³¹⁵ The Market Economy Operator Principle (MEOP) determines if state interventions (loans, investments) confer an illegal economic advantage. To ascertain selectivity necessitates determining whether the national measure in question is likely to favour 'certain undertakings or certain products' over others which, in view of the objective pursued by that framework, are in a comparable factual and legal situation and yet suffer from differential treatment.³¹⁶ Selectivity might be in principle escaped in case of tax measures for certain types of social enterprises. In *Paint Graphos*, the CJEU considered whether the entitlement to total or partial exemption from various taxes made available under Italian law only to cooperative societies because of their specific social objective constituted State aid.³¹⁷ While the CJEU ultimately left the national court to determine whether the measure was selective, it did accept that producers' and workers' cooperative societies cannot, in principle, be regarded as being in a comparable factual and legal situation to that of commercial companies.³¹⁸ This approach has now been consolidated by the Commission in its own Notice, which recalls that:

'...genuine cooperative societies conform to operating principles which distinguish them from other economic operators. In particular, they are subject to specific membership requirements and their activities are conducted for the mutual benefit of their members, not in the interest of outside investors. In addition, reserves and assets are non-distributable and must be dedicated to the common interest of the members. Finally, cooperatives generally have limited access to equity markets and generate low profit margins'.³¹⁹

When preferential tax measures, however, benefit a broader range of operators including cooperatives or are designed in a way that single out a group of undertakings, selectivity might still occur.

With regard to the requirement that there been an effect on intra-EU trade and distortion of competition, the Commission has consistently held that the definition of State aid does not require that they are significant or material, and the fact that the amount of aid is low or the recipient undertaking is small will not in itself rule out a distortion of competition or the threat thereof, unless the likelihood of such a distortion is merely hypothetical.³²⁰ The Commission has also accepted that public support can be considered capable of having an effect on trade between Member States even when the recipient is not directly involved in cross-border trade.³²¹ Yet, in several decisions broadly concerning support to social services, the Commission has recognised that certain activities, due to their specific features, have a purely local impact and do not display such effect on trade.³²²

³¹⁴ While these are nominally separate criteria, often the Commission examines actual or potential distortion of competition together with the effect on trade between Member States.

³¹⁵ Among others, Case C-212/19, *Compagnie des pêches de Saint-Malo*, ECLI:EU:C:2020:726, para 39 and the case-law cited.

³¹⁶ Commission, 'Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union' [2016] OJ L C 262/1.

³¹⁷ Joined Cases C-78/08 to C-80/08 *Ministero dell'Economia e delle Finanze and Agenzia delle Entrate v Paint Graphos Soc. coop. arl (C-78/08), Adige Carni Soc. coop. arl, in liquidation v Agenzia delle Entrate and Ministero dell'Economia e delle Finanze (C-79/08) and Ministero delle Finanze v Michele Franchetto (C-80/08)* EU:C:2011:550.

³¹⁸ Case C-78/08, *Paint Graphos* para 61.

³¹⁹ Commission, 'Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union' [2016] OJ L C 262/1.

³²⁰ Ibid.

³²¹ Ibid.

³²² Commission Decision of 7 November 2012, case State aid SA.34576 (2012/N) – Jean Piaget / Northeast Medium and Long-Term Continuing Care; Commission Decision of 12 January 2001, case State aid N 258/2000 – Leisure Pool Dorsten; Commission Decision of 29 October 2003, case State aid C(2003) 3890 – Non-profits harbours for recreational crafts.



4.3.2. Public Support to Social Services as Aid

Public funding to social services that in principle meets the criteria laid out in Article 107(1) TFEU (and does not qualify as public compensation) may escape the prohibition and notification when it is of limited amount and falls within the so called *De Minimis* aid, or falls within the scope of the GBER. If the public support measure does not fall into *De Minimis* or the GBER, Member States must avail of other flexibilities offered by the Treaty derogations.

De Minimis

The current *De Minimis* Aid Regulation,³²³ recast in 2023, applies to aid to all businesses, except those operating in fishery, aquaculture and agriculture, export-related activities.³²⁴ It also exempts from notification aid granted to a single undertaking that does not exceed €300.000 over a period of 3 years.³²⁵ The ceiling laid down in the current iteration of the Regulation is higher than that provided in its predecessor and has the potential to allow for broader social investment. The ceiling applies irrespective of the form of the *De Minimis* aid and regardless of whether the aid granted by the Member State is financed entirely or partly by resources of EU origin, through EU funding.³²⁶

Data shows that the *De Minimis* Regulation is vital in supporting the social sector as it allows public authorities to give small amounts of aid to undertakings that are carrying out social services.³²⁷ The rise of the ceiling might even reinforce the use of the *De Minimis* Regulation and enhance public funding in a straightforward way.

The GBER

The GBER exempts specified categories of State aid from the notification requirement under Article 108(3) TFEU where they satisfy predetermined compatibility conditions. It therefore enables Member States to implement a range of aid measures without prior approval from the European Commission. Adopted in 2014,³²⁸ its duration and content have been amended several times, with most recent modifications being adopted in 2023.³²⁹ Currently, the GBER is being reformed.³³⁰ Recent amendments to the GBER have already raised the notification thresholds, which allow Member States to increase support of social enterprises particularly when they employ or train people from disadvantaged communities. Without discussing in detail the provisions of the GBER, it suffices to recall that the GBER applies to several types of aid that have a social slant, including training aid; recruitment and employment aid for disadvantaged workers and workers with disabilities; aid for culture and heritage conservation; aid for sport and multifunctional recreational infrastructures; and aid for local infrastructures. Notably, the current GBER exempts from notification training aid below €3 million. The threshold for aid for the recruitment of disadvantaged workers is €5.5 million per undertaking, per year, and

³²³ Commission Regulation (EU) 2023/2831 of 13 December 2023 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid [2023] OJ L 2023/2831.

³²⁴ *De Minimis* Regulation, Article 1.

³²⁵ *De Minimis* Regulation, Article 3.

³²⁶ *Ibid.*

³²⁷ Commission, 'Action plan for the social economy' (2021).

³²⁸ Commission Regulation (EU) 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (General Block Exemption Regulation – GBER) [2014] OJ L 187/1.

³²⁹ Commission Regulation (EU) 2023/1315 of 23 June 2023 amending Regulation (EU) No 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty and Regulation (EU) 2022/2473 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty [2023] OJ L 167/1.

³³⁰ European Commission, 'State aid Regulations' <https://competition-policy.ec.europa.eu/state-aid/legislation/regulations_en> accessed 1 June 2026.

for aid for the employment of workers with disabilities in the form of wage subsidies and for aid for compensating the additional costs of employing workers with disabilities is €11 million per undertaking, per year. Aid for compensating the costs of assistance provided to disadvantaged workers is exempted from notification up until €5.5 million per undertaking, per year.

The upcoming reform of the GBER will likely to increase notification thresholds and enhance social investment further. In that regard, the Commission has also committed itself to simplifying and streamlining the GBER, in order to allow small public entities or local authorities to deploy aid in a more straightforward manner, particularly for social purposes.³³¹

Treaty Derogations

With regard to Treaty derogations, Article 107(3) TFEU affirms that some forms of aid may be considered compatible with the internal market. Among them, it lists aid to promote the economic development of areas where the standard of living is abnormally low or where there is underemployment (lett. a), aid to promote the execution of a project of common European interest or to remedy a serious disturbance in the economy of a Member State (lett. b), aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest (lett. c), aid to promote culture and heritage conservation (lett. d). While well-established case law has repeatedly stated that Article 107(3) TFEU must be interpreted strictly,³³² the Commission, when comparing and balancing the positive effects of the aid against its distortion of competition, enjoys considerable discretion in carrying out an assessment and can take into account economic, social and policy considerations.

Although all of the Treaty derogations have had (and might have in the future) a role to play in the public funding of social sector,³³³ Article 107(3)(c) TFEU has been one of the most significant. When the Commission assesses a measure under Article 107(3)(c) TFEU, it looks at whether the measure is appropriate with respect to the aim it desires to achieve, whether the measure is necessary and whether it is proportionate. This balancing exercise allows the Commission to verify whether the positive social effects offset the negative effects of the aid on competition. Over time, under this provision, the Commission has permitted a range of measures aimed at social inclusion of vulnerable groups and approved a number of schemes that enable access to training or employment to reintegrate socially and economically excluded communities. Examples of measures approved include the Polish State aid scheme N 519/2007 for operators employing persons held in detention, and its renewed version in 2017.

4.3.3. Funding to Social Services as Compensation: The Services of General Economic Interest (SGEI) Framework

Public funding can be considered compensation for the discharge of social services, when such services are qualified as SGEI (and are SSGEI)³³⁴ within the scope of Article 106 TFEU. As noted earlier in this deliverable, Article 106(2) TFEU provides an exception to the application of competition rules in order to ensure that they can carry out the tasks assigned to them. In that vein, Article 106(3) TFEU empowers the Commission to adopt provisions in order to ensure the application of that Article, and in 2012 the Commission has adopted a 'SGEI

³³¹ See Draft GBER Explanatory Memorandum at <https://competition-policy.ec.europa.eu/document/download/75eccdf3-2811-4207-8577-12fdc06a0bd9_en?filename=2026_draft_GBER_explanatory_memorandum_en.pdf> accessed 1 June 2026.

³³² Case T30/79, *Philip Morris Holland BV v Commission of the European Communities*, ECLI:EU:C:1980:209.

³³³ Studies also confirm that, for example, cooperatives have a multi-sectoral character, with agriculture and food, housing, retail trade and health and social services being the most important sectors. Mutual benefit societies are popular in the insurance industry, with some entities registered in other industries, probably in relation to the type of users (as in agri-food) or the type of services (as in the case of social and health services). See European Innovation Council and others, 'Benchmarking the socio-economic performance of the EU social economy – Improving the socio-economic knowledge of the proximity and social economy ecosystem' (2024).

³³⁴ See above Section 1.4.2.



Package' to clarify the scope and application of Article 106 TFEU. The SGEI package consisted of an SGEI Communication; an SGEI Decision; an SGEI Framework; and an SGEI *De Minimis* Regulation.³³⁵

The Commission revised the SGEI *De Minimis* regulation on 13 December 2023,³³⁶ and the SGEI Decision on 19 December 2025.³³⁷

For the purpose of this deliverable, the SGEI *De Minimis* Regulation and the SGEI Decision are particularly relevant as they are the main channel for the public support of social services.

Public Compensation that Falls into the SGEI De Minimis

Public service compensations for specific social needs, such as healthcare, childcare, social housing, access to the labour market, and care for vulnerable groups can bypass notification entirely under threshold exemptions. Public support to SSGEI does not constitute State aid if the compensation does not exceed €750.000 over any three fiscal year period, satisfying the requirements contained in the SGEI *De Minimis* Regulation. This threshold has been raised in the latest recast of the Regulation, as suggested by several participants in the 2019 consultation.³³⁸ The ceiling for *De Minimis* aid applies irrespective of the form of the aid or the objective pursued by it and irrespective of whether the aid granted by the Member State is financed entirely or partly by resources of EU origin (i.e. by EU funding). According to the Regulation, Member States shall ensure that, from 1 January 2026, information on *De Minimis* aid granted for SGEI is registered in a central register at national or Union level, to ensure transparency.

Other Public Compensation

If the funding of social services cannot be included within the scope of the SGEI *De Minimis* Regulation, it may still fulfil the *Altmark* conditions and not be aid for the purpose of the TFEU.³³⁹ While the application of these conditions is not always straightforward, the previous framework allowed public funding to a range of social services such as social housing and hospitals, long-term care and childcare services and services for persons with disabilities run by social economy operators. The revised SGEI Decision, which replaces the SGEI Decision of 2011,³⁴⁰ should further facilitate Member States in enhancing social services.³⁴¹ The novel SGEI Decision exempts from prior notification to the Commission public service compensation upon compliance with certain compatibility conditions providing for increased notification thresholds and administrative modifications. The exemption from the requirement of notification applies *inter alia* to State aid in the form of public service compensation not exceeding an annual amount of €20 million for the provision of SGEI in all areas other than transport and transport infrastructure, including social services; compensation for the provision of SGEI by

³³⁵ See at European Commission, 'Services of General Economic Interest (SGEI)' <https://competition-policy.ec.europa.eu/state-aid/legislation/sgei_en> accessed 1 June 2026.

³³⁶ Commission Regulation (EU) 2023/2832 of 13 December 2023 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to undertakings providing services of general economic interest [2023] OJ L 2023/2832.

³³⁷ Commission Decision (EU) 2025/2630 of 16 December 2025 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest and repealing Decision 2012/21/EU, C/2025/8820 [2025] OJ L 2025/2630.

³³⁸ D Ferri, 'Social services and State aid: New steps towards a more 'Social Europe'?' in L Hancher and J J Piernas López (eds) *Research Handbook on European State Aid Law* (Edward Elgar Publishing 2021) 206.

³³⁹ Case C-280/00, *Altmark*, ECLI:EU:C:2003:415. See Section 2.

³⁴⁰ Commission Decision on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest [2012] OJ L 7/3.

³⁴¹ Commission Decision (EU) 2025/2630 of 16 December 2025 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest and repealing Decision 2012/21/EU (SGEI Decision) [2025] OJ L 2630/1.

hospitals providing medical care, including, where applicable, emergency services; compensation for the provision of SGEI meeting social needs as regards health and long-term care, childcare, access to and reintegration into the labour market, and the care and social inclusion of vulnerable groups including accessibility and assistive technology services for persons with disabilities; compensation for the provision of social housing and affordable housing as defined by the Annex to the Decision.³⁴² The latter is an important novelty that brings explicitly social and affordable housing within the remit of SGEI.

The Decision requires that the operation of the SGEI shall be entrusted to the undertaking concerned by way of one or more acts, the form of which may be determined by each Member State, but whose content includes the following information: the content and duration of the public service obligations; the undertaking and, where applicable, the territory concerned; the nature of any exclusive or special rights assigned to the undertaking by the granting authority; a description of the compensation mechanism and the parameters for calculating, controlling and reviewing the compensation; the arrangements for avoiding and recovering any overcompensation.³⁴³

On the whole, the SGEI Decision confirms and strengthens the special treatment traditionally afforded to social services under EU State aid law, but also simplifies the legal framework through which Member States can finance them.

³⁴² SGEI Decision, Article 2.

³⁴³ SGEI Decision, Article 4.



4.4. The Role of EU Public Procurement Legislation

Public procurement law at the EU level regulates how public authorities (both within the EU and at the Member State level) spend public money. In theory, this differs in terms of objective from social investment, which is focused primarily on social inclusion, and non-economic goals. However, EU public procurement law is increasingly focused on how such contracts can integrate non-economic objectives, and facilitate social investment - so long as these comply with EU internal market principles such as transparency, proportionality, and equal treatment. In this way it has increasingly moved away from 'lowest economic cost' as the primary determining factor, to spending in a strategic and long-term manner, which can generate social value. As will be discussed below, the Commission has announced a Public Procurement Act to be released in 2026,³⁴⁴ and the goal of this fundamental restructuring of EU public procurement, is to streamline and simplify in accordance for the simplification and competitiveness goals from the Draghi report.³⁴⁵ Yet, the new Act should also lead to better sustainability and more robust social outcomes.

Public procurement, is an area of EU law and policy that is of high material relevance to the SWINS project, and one of increasing academic study and discussion.³⁴⁶ This can be broadly defined as 'a strategic instrument in each Member State's economic policy toolbox'³⁴⁷ and concerns the acquisition of goods, services or other works by public authorities from private undertakings.³⁴⁸

In the areas of social services, public procurement represents one way in which the actual service can be deployed,³⁴⁹ meaning that the social and care services are procured through competitive tendering in line with EU rules (complemented by national laws). The European Association of Service Providers for Persons with Disabilities (EASPD) notes that the 'outsourcing of publicly funded care services to for-profit and non-profit providers through competitive tenders has led to a decrease of the share of direct 'in-house' provision by local authorities and this tendency has given for-profit organisations a stronger position'.³⁵⁰

Thus, public procurement is considered to be of key importance with regard to social services. Indeed, the 2013 Communication on the 'Social Investment Package' emphasised that a key tool from a Union perspective would be 'clarifying to public authorities and service providers how EU rules on... public procurement apply to social services'.³⁵¹ The Commission has also highlighted that it is

³⁴⁴ European Parliament, 'Legislative Train Schedule - Public Procurement Act' <<https://www.europarl.europa.eu/legislative-train/theme-a-new-plan-for-europe-s-sustainable-prosperity-and-competitiveness/file-public-procurement-act>> accessed 17 June 2026.

³⁴⁵ M Draghi, 'The Draghi report: A competitiveness strategy for Europe (Part A)' (2024) European Commission Publications Office of the European Union 5 <https://commission.europa.eu/topics/competitiveness/draghi-report_en> accessed 20 January 2026.

³⁴⁶ See E McEvoy, 'Small and Medium-Sized Enterprise (SME) Participation in Public Procurement' (PhD thesis, National University of Ireland Maynooth, 2020), and D Halloran, 'Evaluating Social Value in Social Clauses: Tensions in Public Procurement Regulation and Horizontal Considerations' (PhD thesis, National University of Ireland Galway, 2020), for example.

³⁴⁷ Commission, 'Making Public Procurement work in and for Europe' COM(2017) 0572 final.

³⁴⁸ European Commission, 'Public procurement' <https://single-market-economy.ec.europa.eu/single-market/public-procurement_en> accessed 1 June 2026.

³⁴⁹ European Commission, 'Social Procurement' <https://commission.europa.eu/funding-and-tenders/tools-public-buyers/social-procurement_en> accessed 17 June 2026 which notes that '[t]his makes socially-responsible public procurement a strategic tool to drive social and labour policies forward in an effective manner.'

³⁵⁰ EASPD, 'Alternatives to Public Procurement in Social Care' (2019) <https://easpd.eu/fileadmin/user_upload/Publications/alternatives_to_public_procurement_in_social_care_final.pdf> accessed 27 May 2026.

³⁵¹ Commission, 'Towards Social Investment for Growth and Cohesion – including implementing the European Social Fund 2014-2020' COM(2013) 083 final.

‘one of the market-based instruments to be used to achieve smart, sustainable and inclusive growth while ensuring the most efficient use of public funds’ and ‘to enable procurers to make better use of public procurement in support of common societal goals’.³⁵²

In that vein, ‘by purchasing wisely, public buyers can promote employment opportunities, up and reskilling of the workforce, decent work, social inclusion, gender equality and non-discrimination, accessibility, design for all, ethical trade, and seek to achieve wider compliance with social standards’.³⁵³ Procurement is also something that is considered to be beneficial from an efficiency standpoint, as ‘better managed procurement can lead to significant savings in public budgets and to more investment’.³⁵⁴ This also represents one of the key tensions in this area: the extent to which social objectives or economic efficiencies should be prioritised in the granting of public contracts. Indeed, it has been argued that prioritising economic efficiency or the lowest price in public procurement procedures can have detrimental consequences for working conditions. The resulting pressure on wages may also reduce the sector's capacity to recruit and retain staff, thereby limiting its ability to respond to increasing demand for social services. EASPD among others has highlighted that social services are ‘person-intensive’ and interaction between staff and service users is a key element of the job, so the quality of the staff would clearly affect the level of performance of the contract.

Tendering procedures can take a socially responsible approach to contracting social services, and, in spite of constraints, EU law leaves Member States enough room for manoeuvre to leverage on social goals.³⁵⁵

A recent study underlines the increasing volume and value of socially responsible public procurement in the EU,³⁵⁶ while the Single Market Scoreboard conversely highlights the use of the lowest price or cost instead of the most economically advantageous tender (MEAT), in public procurement procedures equal to or above the EU thresholds, was still widespread in the EU.³⁵⁷ According to this study, this implies that the use of quality criteria, including social, environmental and innovation considerations alongside price or cost as award criteria is still very limited in the EU.

4.4.1 The Regulatory Framework

Although the Treaties themselves do not refer directly to the concept of public procurement, the granting of public contracts must be compliant with internal market rules - including the free movements.³⁵⁸ In this way, public procurement is deemed to be a competence of the Union to legislate on. Importantly, as noted above in Section 2 of this deliverable, Article 3(3) TEU includes that the internal market shall be ‘a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and

³⁵² Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC [2014] OJ L 94/65, Recital 2.

³⁵³ Commission, ‘Commission Notice: Buying Social - a guide to taking account of social considerations in public procurement (2nd edition)’ C(2021) 3573 final, 6.

³⁵⁴ Commission, ‘Making Public Procurement work in and for Europe’ COM(2017) 0572 final, also citing Eurostat, ‘Government expenditure by function for the European Union, 2024 (% of GDP)’ (2024) <<https://ec.europa.eu/eurostat/cache/visualisations/economy/government-expenditure/>> accessed 1 June 2026.

³⁵⁵ European Commission: Executive Agency for Small and Medium-sized Enterprises, ‘Buying for Social Impact’ (2020) Publications Office of the European Union <<https://data.europa.eu/doi/10.2826/694344>> accessed 27 May 2026.

³⁵⁶ V Caimi and S Sansonetti, ‘The Social Impact of Public Procurement - Can the EU Do More?’ (2023) Committee on Employment and Social affairs, Policy Department for Economic, Scientific and Quality of Life Policies, European Parliament <<https://carloscoelho.eu/ed/files/study-public-procurement.pdf>> accessed 27 May 2026.

³⁵⁷ Ibid. Also see, Commission, ‘The Single Market and Competitiveness Scoreboard’ <[The Single Market and Competitiveness Scoreboard | Single Market and Competitiveness Scoreboard](#)> accessed May 27 2026.

³⁵⁸ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC [2014] OJ L 94/65 Recital 1.



improvement of the quality of the environment' signalling a clear normative shift away from a potential free-market approach in this area.³⁵⁹

- The first concrete measures adopted in this area at an EU level, date back to the 1970s and focused on the public contracts for goods³⁶⁰ and has since been subject to period of consolidation³⁶¹ and expansion.³⁶² All public procurement procedures in the EU are carried out on the basis of national rules. For higher value contracts, these rules are based on the general EU public procurement legislative framework, which includes three core directives:
- Directive 2014/24/EU which 'establishes rules on the procedures for procurement by contracting authorities with respect to public contracts as well as design contests' over a certain threshold;³⁶³
- Directive 2014/25/EU which 'maintain(s) rules on procurement by entities operating in the water, energy, transport and postal services sectors, since national authorities continue to be able to influence the behaviour of those entities, including participation in their capital and representation in the entities' administrative, managerial or supervisory bodies',³⁶⁴ and
- Directive 2014/23/EU on the 'the award of concession contracts'.³⁶⁵

The value limits (thresholds) that demarcate the application of EU rules depend on the subject of the purchase, and who is making the purchase. These thresholds are revised regularly and the amounts adjusted slightly. These are included in the Delegated Regulation³⁶⁶ and reflected in Figure 4 below.

³⁵⁹ D Ferri and F Cortese, *The EU Social Market Economy and the Law: Theoretical Perspectives and Practical Challenges for the EU* (Routledge 2018) 129.

³⁶⁰ Commission Directive 70/32/EEC of 17 December 1969 on provision of goods to the State, to local authorities and other official bodies [1970] OJ L 13/1.

³⁶¹ J A Winter, 'Public Procurement in the EEC' (1991) 28 Common Market Law Review 741; J F Riga, 'Recent Council Directives and Commission Proposals Affecting Public Procurement in the European Communities' (1989) 12 Boston College International and Comparative Law Review 387. See also, Directive 93/36/EEC [1993] OJ L 199/1 Covering Supplies Contracts, Directive 93/37/EEC [1993] OJ L 199/54 Covering Works Contracts, Directive 93/38/EEC [1993] OJ L 199/84 Covering Utilities Contracts.

³⁶² See, for example, Article 26 of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts [2004] OJ L 134/114 with 'the conditions governing the performance of a contract may, in particular, concern social and environmental considerations'.

³⁶³ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC [2014] OJ L 94/65, Article 1(1).

³⁶⁴ Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC [2014] OJ L 94/243, Recital 1.

³⁶⁵ Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts [2014] OJ L 94/1.

³⁶⁶ Commission Delegated Regulation (EU) 2025/2152 of 22 October 2025 amending Directive 2014/24/EU of the European Parliament and of the Council in respect of the thresholds for public supply, service and works contracts, and design contests for the years 2026-2027 [2025] OJ L 2025/2152; Commission Delegated Regulation (EU) 2025/2151 of 22 October 2025 amending Directive 2014/23/EU of the European Parliament and of the Council in respect of the thresholds for concessions for the years 2026-2027 [2025] OJ L 2025/2151.

Figure 4 Directives Contract Types and Thresholds

Directive / Sector	Contract Type	Threshold (€)
Defence Directive 2009/81/EC	Works contracts	5,404,000
	Supplies and services contracts	432,000
Concessions Directive 2014/23/EU	Works or services concessions	5,404,000
Directive 2014/24/EU – Central Government	Works contracts and subsidised works contracts	5,404,000
	Social and other specific services (Annex XIV)	750,000
	Subsidised services	216,000
	Other service contracts and design contests	140,000
	Supplies contracts (non-defence authorities)	140,000
Directive 2014/24/EU – Defence Authorities	Supplies contracts for Annex III products	140,000
	Supplies contracts for other products	216,000
Directive 2014/24/EU – Sub-central Authorities	Works contracts and subsidised works contracts	5,404,000
	Social and other specific services (Annex XIV)	750,000
	Other service contracts, design contests, subsidised services, and supplies contracts	216,000
Utilities Directive 2014/25/EU	Works contracts	5,404,000
	Social and other specific services (Annex XVII)	1,000,000
	Other service contracts, design contests, and supplies contracts	432,000

The following subsections will endeavour to explain how a contract is constructed, before another deals with how social and non-economic considerations can be incorporated in their own right. Importantly, this deliverable focuses on the EU level dimension of this issue, and does not engage in a deeper analysis of national frameworks and implementation.



4.4.2. Social Consideration in Deciding Contract Structure

An important first step for any public contract is determine the shape or structure of the contract via the design of the project itself, and how it will be carried out. A key mechanism from the perspective of social investment and SWINS overall, is the ability - and default encouragement - within EU public procurement law to divide a contract into lots, as included in Article 46(1) of Directive 2014/24/EU. This essentially means that a larger contract can be distilled down into a series of separate work packages or elements, that will help with the achievement of the overall subject matter of the contract itself.

Public authorities cannot, of course, split contracts to try to avoid the financial thresholds at which these contracts become subject to EU procurement rules, or to attempt to circumvent procurements rules more broadly. This is outlined in Article 18(1) of Directive 2014/24/EU which states that

'the design of the procurement shall not be made with the intention of excluding it from the scope of this Directive or of artificially narrowing competition. Competition shall be considered to be artificially narrowed where the design of the procurement is made with the intention of unduly favouring or disadvantaging certain economic operators'.

If the contract is divided into lots in a manner that artificially divides a single project, and/or with the potential to disguise a single economic purpose, then it can be treated as a single contract for threshold purposes. Authorities must also ensure that transparent rules for bidding per lot are established, that the principle of non-discrimination is complied with in designing the lots, and that there will be a clear evaluation framework for the award of each.

The use of lots is justified on the basis of firstly encouraging SMEs participation,³⁶⁷ which will increase the potential for smaller social enterprises to engage with the process and potentially win bids, and therefore allow for a greater incorporation of non-economic objectives to be embedded within public contracts.³⁶⁸ Indeed, Recital 78 of the same Directive explicitly states that contracts should be divided into lots to facilitate SME access.³⁶⁹ It also includes that public authorities should 'make use' of the 'European Code of Best Practices Facilitating Access by SMEs to Public Procurement Contracts' in designing their contracts/tendering process to ensure that this goal is operationalised. Article 46(4) further requires, where public authorities do not split the tender into lots, to justify this: a 'comply or explain' requirement, albeit not a strictly enforceable/judicable obligation.³⁷⁰

A component to ensuring a balancing with fair competition, is that parties should be able to apply for any or all lots within a tender.³⁷¹ It is possible for the public authority to limit the number of lots that can be won by a single undertaking, but this must only be adopted where it is carried out in a transparent manner, and arguably, objectively justifiable based on the market itself.³⁷²

Importantly, as will also be described below, certain contracts or lots *may* also be reserved for the potential achievement of a non-economic objective where all other conditions are still met. In essence, Member States retain a degree of latitude in implementing the reservation of contracts/lots, so long as the 'main aim is the social and professional integration of disabled or disadvantaged persons or may provide for such contracts to be performed in the context of sheltered employment programmes, provided that at least 30% of the

³⁶⁷ D Pickernell, A Kay, G Packham and C Miller, 'Competing Agendas in Public Procurement: an Empirical Analysis of Opportunities and Limits in the UK for SME' (2011) 29 Environment and Planning C: Government and Policy 641.

³⁶⁸ G Albano and M Sparro, 'Flexible Strategies for Centralized Public Procurement' (2010) 1(2) Review of Economics and Institutions 1.

³⁶⁹ Although Trybus has challenged how effective the current Directive is on this: M Trybus, 'The Division of Public Contracts into Lots Under Directive 2014/24: Minimum Harmonisation and Impact on SMEs in Public Procurement?' (2018) 43 European Law Review 313.

³⁷⁰ A Sanchez-Graells, *Public Procurement and the EU Competition Rules* (2nd Edition, Bloomsbury 2015) 347.

³⁷¹ Directive 2014/24/EU, Recital 38 and Article 46(2).

³⁷² Ibid. Article 46(2).

employees of those workshops, economic operators or programmes are disabled or disadvantaged workers,' and fundamental principles such as equal treatment, proportionality are also complied with.³⁷³

This is particularly true when the sector in which the contract is being granted warrants the same. Article 10 of Directive 2014/24/EU, for example, sets out specific exclusions including 'civil defence, civil protection, and danger prevention services that are provided by non-profit organisations or associations'.³⁷⁴ An Italian decision in Joined cases C-213/21 and C-214/21 to retain emergency ambulance contracts for voluntary organisations without opening these up to broader competition was subsequently held by the CJEU to be permissible.³⁷⁵

Strategic use of lots can therefore be beneficial to engaging smaller businesses, and particularly with a social purpose whilst ensuring that the quality of the service, etc is not adversely affected.³⁷⁶ However, others have argued that if not done correctly, can mean that the social impact will be limited.³⁷⁷

4.4.3 Social Considerations in the Evaluation Structure

Directive 2014/24/EU integrates the 'Most Economically Advantageous Tender' (MEAT) criteria as the core award principle within modern EU public procurement law, to help contracting authorities determine which bid can win the relevant public tender/contract.³⁷⁸ Importantly, this

'may include the best price-quality ratio, which shall be assessed on the basis of criteria, including qualitative, environmental and/or social aspects, linked to the subject-matter of the public contract in question'.³⁷⁹

Previously, the predominant factor in procurement was 'value for money' and ensuring that the quality of the public good or service was maintained, but at the lowest comparable cost to the public.³⁸⁰ In this way, the current legislative framework can be considered a move towards explicitly including non-economic or social considerations in the granting of public contracts within primary legislation.³⁸¹

Additional parameters on the exercise of this function, are again that the contract - and its integration of a social consideration - cannot violate any of the fundamental freedoms (goods, services, capital, or persons), constitute a violation of competition or State aid law, or principles of EU constitutional law: non-discrimination, equal treatment, proportionality, transparency or mutual recognition. This is formally integrated into Article 18 of Directive 2014/24/EU, where Article 18(2) further requires that all 'applicable obligations in the fields of environmental, social and labour law established by Union law, national law, collective agreements or by the international environmental, social and labour law provisions listed in Annex X'. It is also arguably the case

³⁷³ Case C-598/19, *Confederación Nacional de Centros Especiales de Empleo (Conacee) v Diputación Foral de Guipúzcoa and Federación Empresarial Española de Asociaciones de Centros Especiales de Empleo (Feacem)*, ECLI:EU:C:2021:810, paras 24, 26 and 27 for example.

³⁷⁴ Directive 2014/24/EU, Article 10(h).

³⁷⁵ Joined Cases C-213/21 and C-214/21, *Italy Emergenza Cooperativa Sociale v Azienda Sanitaria Locale Barletta-Andria-Trani and Azienda Sanitaria Provinciale di Cosenza*, ECLI:EU:C:2022:532.

³⁷⁶ V Grimm, R Pacini, G Spagnolo and M Zanza, 'Division in Lots and Competition in Procurement' in N Dimitri, G Piga, and G Spagnolo (eds), *Handbook of Procurement* (Cambridge University Press 2006).

³⁷⁷ A Sánchez-Graells, 'Truly competitive public procurement as a Europe 2020 lever: what role for the principle of competition in moderating horizontal policies?' (2016) 22 *European Public Law* 377.

³⁷⁸ Directive 2014/24/EU, Article 67(1).

³⁷⁹ *Ibid.* Article 67(2).

³⁸⁰ A Erridge, and J McIlroy, 'Public Procurement and Supply Management Strategies' (2002) 17 *Public Policy and Administration* 52; N Dimitri, 'Best Value for Money' in Procurement.' (2013) 13 *Journal of Public Procurement* 149.

³⁸¹ C Barnard, 'To Boldly Go: Social Clauses in Public Procurement' (2017) 46 *Industrial Law Journal* 208.



that broader principles such as the rule of law must also be complied with in this area.³⁸² This includes, for example, compliance with the rules governing posted workers - although the degree to which this actively avoids social dumping remains open to debate.³⁸³

Grave violations of applicable laws under this heading may lead to being removed/excluded from the competition but must be proportionate and relevant to the contract in question³⁸⁴ - if these are very small, etc then that is not exclusionary.³⁸⁵ Similarly, outstanding tax or social security liabilities do not necessarily require exclusion where the economic operator has entered into a binding arrangement to remedy the breach.³⁸⁶ A further exception allows Member States to provide for derogations from mandatory exclusion where applying such exclusion would be disproportionate having regard to overriding public interests - including public health or environmental protection considerations.³⁸⁷

Another key limitation in the construction of public contracts, is that they must be linked to the subject matter of the contract.³⁸⁸ This can be within the 'works, supplies or services to be provided under that contract in any respect' and, perhaps most importantly,

'at any stage of their life cycle, including factors involved in (a) the specific process of production, provision or trading of these works, supplies or services; or (b) a specific process for another stage of their life cycle, even where such factors do not form part of their material substance'.³⁸⁹

The notion of being linked to the subject matter of a contract does therefore provide a liminal space within which to operate, whilst also ensuring that public authorities are prevented from creating procurement contracts as either an independent social policy instrument, or to create a distortive measure.

A practical example provided in the 'Buying Social' guidance, is that

'if you are just buying apples, you cannot require bidders to also produce oranges. You can however ask about the conditions under which they produce the apples, including factors that may not be obvious by looking at the final product (e.g. labour conditions)'.³⁹⁰

In a recent Italian case involving labour intensive services,³⁹¹ for example, the CJEU reaffirmed that Member States can include non-economic considerations once it is linked to the subject-matter of the contract (the labour intensity). Contrastingly, a Dutch contract for coffee machines and associated products (coffee, tea, milk, etc) that also required these products to carry a Fairtrade logo to certify their compliance with 'green'

³⁸² Case C-156/21 *Hungary v European Parliament and Council of the European Union* ECLI:EU:C:2021:974 and Case C-157/21 *Republic of Poland v European Parliament and Council of the European Union* ECLI:EU:C:2021:978.

³⁸³ C Thörnqvist and C Woolfson, 'When tender turns tough: posted workers and the tendering regime in the Swedish construction industry' (2012) 30 *Construction Management and Economics* 525. This is further supported by Recital 98 of Directive 2014/24/EU, for example which reiterates the need for compliance with mandatory labour and social requirements for posted workers, etc.

³⁸⁴ Case C-171/15, *Connexion Taxi Services BV v Staat der Nederlanden, Transvision BV and others*, ECLI:EU:C:2016:948, para 44.

³⁸⁵ Directive 2014/24/EU, Article 57(2) and (3).

³⁸⁶ *Ibid.* Article 57(2).

³⁸⁷ *Ibid.* Article 57(3).

³⁸⁸ *Ibid.* Article 67(3).

³⁸⁹ *Ibid.*

³⁹⁰ Commission, 'Commission Notice: Buying Social - a guide to taking account of social considerations in public procurement (2nd edition)' C(2021) 3573 final, 4.

³⁹¹ Case C-769/23, *Mara Soc. coop. arl v Ministero della Difesa, Gruppo Samir Global Service Srl*, ECLI:EU:C:2025:984.

supply chains or similar was not justifiable³⁹² - as this arguably becomes more about 'general corporate policy'.³⁹³

This Dutch case, also leads into another relevant consideration/limitation: the degree to which these non-economic requirements form 'special conditions relating to the performance of a contract'. Article 70 of Directive 2014/24/EU allows for this so long as they are again, linked to the subject matter of the contract, disclosed within the tender itself, and comply with any additional legal requirements.

Several Recitals within the Directive expand on this further, by outlining that the Directive expressly states that Contract Performance Conditions (CPC) may promote

'equality of women and men at work, the increased participation of women in the labour market and the reconciliation of work and private life, the protection of the environment or animal welfare and, to comply in substance with fundamental International Labour Organisation (ILO) Conventions, and to recruit more disadvantaged persons than are required under national legislation'.³⁹⁴

One practical example of this, is the city of Ghent, which utilised non-discrimination in public contracts that required parties to take

'active measures to prevent discrimination. If, during the performance of the public contract, the City nevertheless finds evidence of discrimination, it may require the successful tenderer to take additional measures. If necessary, it may impose a fine or even terminate the contract'.³⁹⁵

CPCs can also include the health and wellbeing of the workers involved in the tender performance, and the

'favouring of social integration of disadvantaged persons or members of vulnerable groups amongst the persons assigned to performing the contract or training in the skills needed for the contract in question can also be the subject of award criteria or contract performance conditions provided that they relate to the works, supplies or services to be provided under the contract'.³⁹⁶

In comparison to awarding conditions, which determine who wins the tender, these focus on how the tender will be performed. In this way, CPC can also be an effective mechanism throughout the life-cycle of a contract to monitor performance.³⁹⁷ A recent study of Spanish Universities found that CPCs are often a smaller category of requirements compared to technical requirements linked to the good or service itself.³⁹⁸ This may, in part, be because of the way that performance clauses can be integrated into the technical classification of the good or service, such as 'in technical specifications contracting authorities can provide such social requirements which directly characterise the product or service in question, such as accessibility for persons with disabilities or design for all users'.³⁹⁹ This may also provide a strong inoculation against the idea that it is not sufficiently integrated into the subject matter of the contract.

³⁹² Case C-368/10 *European Commission v Kingdom of the Netherlands*, ECLI:EU:C:2012:284.

³⁹³ Directive 2014/24/EU, Recital 104.

³⁹⁴ Directive 2014/24/EU, Recital 98.

³⁹⁵ V Caimi and S Sansonetti, 'The Social Impact of Public Procurement - Can the EU Do More?' (2023) Committee on Employment and Social affairs, Policy Department for Economic, Scientific and Quality of Life Policies, European Parliament <<https://carloscoelho.eu/ed/files/study-public-procurement.pdf>> accessed 27 May 2026.

³⁹⁶ Directive 2014/24/EU, Recital 99.

³⁹⁷ E Uysal, 'Sustainability Clauses in "Public" Contracts' (2024) 20 *European Review of Contract Law* 105.

³⁹⁸ K Valls-Val, V Ibáñez-Forés and M D Bovea, 'Evaluation of Sustainable Public Procurement in Spanish Universities: A Focus on Canteen Services' (2025) 112 *Environmental Impact Assessment Review* 1.

³⁹⁹ Directive 2014/24/EU, Recital 99.



4.4.4 Social Aspects when Determining the Cost Assessment Model

As outlined above, the MEAT criteria means that the assessment of a contract and potential awarding of the same can go beyond what is the stated lowest price, and engage in a more holistic assessment, provided that all remaining other legal requirements are met. For example, in Case C-19/00, Ireland awarded the contracted based on the 'ultimate cost' as well as other qualitative assessments rather than simple lowest price, and this was permissible because, even from a cost perspective, 'in the professional opinion of an expert, [it] is likely to be the lowest'.⁴⁰⁰

However, any assessment of cost must not be unduly severe. In Joined cases C-285/99 and C-286/99 it was similarly held that an Italian decision to exclude abnormally low tenders without due consideration is also unjustified and disproportionate.⁴⁰¹ This was more recently dealt with in another Italian case, where to exclude such low tenders and treat them as potentially suspicious (where there is a potential overlap in applications) is similarly disproportionate.⁴⁰²

Although not without its issues,⁴⁰³ the integration of a 'life-cycle' costing approach is also in line with the objectives and ethos of SWINS,⁴⁰⁴ and offers perhaps one of the broadest opportunities for environmental considerations in particular to be included in the creation of a public contract. That is because it allows for acquisition and operating costs, maintenance and disposal costs, as well as other environmental externalities to be considered in the costing of a contract. As noted above, Case C-19/00 would allow for environmental and sustainability 'costs' to be integrated in the 'ultimate cost' of a project. Further guidance is provided in the 'Buying Green' handbook from the Commission,⁴⁰⁵ and would, for example, allow for a contract to potentially be granted on the basis of reduced emissions of an electric bus fleet, even if the initial cost would appear higher.⁴⁰⁶

Similarly, the construction of a tender/contract cannot confer an

'unrestricted freedom of choice on the contracting authority. They shall ensure the possibility of effective competition and shall be accompanied by specifications that allow the information provided by the tenderers to be effectively verified in order to assess how well the tenders meet the award criteria'.⁴⁰⁷

The procurement documents must also specify the relative weighting of the award criteria against which tenders will be evaluated,⁴⁰⁸ thereby ensuring transparency and the equal treatment of economic operators. In Case C-226/09, Ireland was found to have violated the latter requirement of transparent weighting by altering the same after the tenders had been submitted.⁴⁰⁹ Another case involving Italy, highlights that tendering

⁴⁰⁰ Case C-19/00, *SIAC Construction Ltd v County Council of the County of Mayo*, ECLI:EU:C:2001:553.

⁴⁰¹ Joined Cases C-285/99 and C-286/99, *Impresa Lombardini SpA - Impresa Generale di Costruzioni v ANAS - Ente nazionale per le strade and Società Italiana per Condotte d'Acqua SpA (C-285/99) and Impresa Ing. Mantovani SpA v ANAS - Ente nazionale per le strade and Ditta Paolo Bregoli (C-286/99)*, ECLI:EU:C:2001:640.

⁴⁰² Case C-376/08, *Serrantoni Srl and Consorzio stabile edili Srl v Comune di Milano*, ECLI:EU:C:2009:808.

⁴⁰³ S Arrowsmith, *The Law Of Public And Utilities Procurement* (Sweet & Maxwell 2018) 752, and A Semple, 'The Link To The Subject-Matter: A Glass Ceiling For Sustainable Public Contracts?' in B Sjäffell and A Wiesbrock (eds), *Sustainable Public Procurement under EU Law: New Perspectives on the State as Stakeholder* (Cambridge: University Press 2015) 50.

⁴⁰⁴ D Dragos and B Neamtu, 'Sustainable Public Procurement: Life-Cycle Costing in the New EU Directive Proposal' (2013) 8 *European Procurement & Public Private Partnership Law Review* 19.

⁴⁰⁵ Commission, 'Buying Green! A Handbook on Green Public Procurement' (2016) Publications Office of the European Union <<https://data.europa.eu/doi/10.2779/837689>> accessed 1 June 2026.

⁴⁰⁶ *Ibid.* 56.

⁴⁰⁷ Directive 2014/24/EU, Article 67(4).

⁴⁰⁸ Directive 2014/24/EU, Article 67(5).

⁴⁰⁹ Case C-226/09, *European Commission v Ireland*, ECLI:EU:C:2010:697.

requirements, such as listing labour costs separately, must be legitimate to the purposes of the contract and cannot become arbitrary or excessive.⁴¹⁰

4.4.5 Potential Categories for Non-Economic Considerations

The idea of non-economic considerations within public procurement contracts has, of course, been considered by the CJEU on different occasions. In Case 31/87, for example, it was held that non-economic considerations could be integrated into the tendering process, so long as these are transparently incorporated into the terms of the contract, and are not discriminatory.⁴¹¹ Similarly, Case C-513/99⁴¹² opened the door to environmental considerations being integrated into the granting of a contract.⁴¹³ More recently, it has also been held that contracts including mandatory labour standards are not precluded within EU law.⁴¹⁴ The current legislation is therefore both a consolidation of this case law, as well as an attempt to integrate a greater scope for non-economic considerations within public contracts.⁴¹⁵ Article 70 of Directive 2014/24/EU includes that

‘Contracting authorities may lay down special conditions relating to the performance of a contract, provided that they are linked to the subject-matter of the contract within the meaning of Article 67(3) and indicated in the call for competition or in the procurement documents. Those conditions may include economic, innovation-related, environmental, social or employment-related considerations’.

Examples of social considerations listed as appropriate by the Commission include:

- ‘Promoting fair employment opportunities and social inclusion’ (including reskilling/upskilling of workers, gender equality, and socially excluded groups),⁴¹⁶
- ‘Providing opportunities for social economy and social enterprises’ (focused on providing contracts to social enterprises where at least 30% have a disability or economically disadvantaged),⁴¹⁷
- ‘Promoting decent work’ (including fair wages, secure work, safe working conditions),⁴¹⁸
- ‘Ensuring compliance with social and labour rights’ (compliance with all applicable legal obligations including of International Labour Organisation treaty obligations),⁴¹⁹
- ‘Accessibility and design for all’ (specific emphasis on CRPD compliance and the rights of persons with disabilities more specifically),⁴²⁰

⁴¹⁰ Case C-309/18, *Lavorgna Srl v Comune di Montelanico and Others*, ECLI:EU:C:2019:350.

⁴¹¹ Case 31/87, *Gebroeders Beentjes BV v The Netherlands*, ECLI:EU:C:1988:422.

⁴¹² Case C-513/99, *Concordia Bus Finland Oy Ab, formerly Stagecoach Finland Oy Ab v Helsingin kaupunki and HKL-Bussiliikenne*, ECLI:EU:C:2002:495.

⁴¹³ And arguably confirmed in Case C-448/01, *EVN AG and Wienstrom GmbH v Republik Österreich*, ECLI:EU:C:2003:651.

⁴¹⁴ Case C-115/14 *RegioPost GmbH & Co. KG v Stadt Landau in der Pfalz*, ECLI:EU:C:2015:760.

⁴¹⁵ See also, R Caranta, ‘Towards Socially Responsible Public Procurement’ (2022) 23 ERA Forum 149.

⁴¹⁶ Commission, ‘Commission Notice: Buying Social - a guide to taking account of social considerations in public procurement (2nd edition)’ C(2021) 3573 final, 9.

⁴¹⁷ *Ibid.* 9.

⁴¹⁸ *Ibid.* 9-10.

⁴¹⁹ *Ibid.* 10.

⁴²⁰ *Ibid.* 10-11.



- ‘Respecting human rights and addressing ethical trade issues’ (includes recognition of the global nature of supply chains and compliance with human rights obligations outside of the territory of the EU),⁴²¹ and
- ‘Delivering high quality social, health, education and cultural services’ (a ‘light’ regime for certain qualifying categories of services⁴²²).⁴²³

Disability is also a key consideration within public procurement, with Recital 3 of Directive 2014/24/EU recognising the EU’s international obligations under the CRPD and the necessity of dealing with other, non-economic objectives. Member States must consider other relevant measures,⁴²⁴ but can endeavour to reserve contracts for social enterprises⁴²⁵ that focus on persons with disabilities or disadvantaged members of the community, where at least 30% of the employees identify as disabled or are disadvantaged.⁴²⁶ This is provided for in Article 20 of the Directive, which outlines that

‘Member States may reserve the right to participate in public procurement procedures to sheltered workshops and economic operators whose main aim is the social and professional integration of disabled or disadvantaged persons or may provide for such contracts to be performed in the context of sheltered employment programmes, provided that at least 30 % of the employees of those workshops, economic operators or programmes are disabled or disadvantaged workers’.

A relevant case in this respect, is *Tim SpA - Direzione e coordinamento Vivendi SA v Consip SpA and Ministero dell'Economia e delle Finanze*, where an Italian tender mandated certain standards relating to the right to work for people with disabilities.⁴²⁷ Tim was excluded for consideration as its subcontractors did not all meet these standards.⁴²⁸ This exclusion was upheld on the basis that the

‘contracting authority may legitimately claim to award the contract only to economic operators who, at the stage of the contract award procedure, demonstrate their capacity to ensure in an appropriate manner, during the performance of the contract, that those obligations are fulfilled, where appropriate by having recourse to subcontractors who themselves comply with those obligations’.⁴²⁹

Another relevant case from Spain on the reservation of certain lots or contracts for ‘social initiative special employment centres or to work integration social enterprises’⁴³⁰ has established that the CJEU is often willing

⁴²¹ Ibid. 11-12.

⁴²² Directive 2014/24/EU, Article 76 and Directive 2014/25/EU, Article 93.

⁴²³ Commission, ‘Commission Notice: Buying Social - a guide to taking account of social considerations in public procurement (2nd edition)’ C(2021) 3573 final, 12.

⁴²⁴ See, for example, Council Decision (EU) 2018/1215 of 16 July 2018 on guidelines for the employment policies of the Member States [2018] OJ L 224/4.

⁴²⁵ ‘A social enterprise is an operator in the social economy whose main objective is to have a social impact rather than make a profit for their owners or shareholders. It operates by providing goods and services for the market in an entrepreneurial and innovative fashion and uses its profits primarily to achieve social objectives. It is managed in an open and responsible manner and, in particular, involves employees, consumers and stakeholders affected by its commercial activities’, see European Commission, ‘Social enterprises’ <https://single-market-economy.ec.europa.eu/sectors/proximity-and-social-economy/social-economy-eu/social-enterprises_en> accessed 1 June 2026.

⁴²⁶ Directive 2014/24/EU, Article 20.

⁴²⁷ Case C-395/18, *Tim SpA - Direzione e coordinamento Vivendi SA v Consip SpA and Ministero dell'Economia e delle Finanze*, ECLI:EU:C:2020:58.

⁴²⁸ Ibid. para 14.

⁴²⁹ Ibid. para 39-40.

⁴³⁰ Sapiens Network, ‘Case C-598/19 Conacee – Reserved Contracts and Additional National Criteria Beyond Those Laid Down in Article 20(1) of Directive 2014/24/EU on Public Procurement’(2023) <<https://sapiensnetwork.eu/case-c-598-19-conacee-reserved-contracts-additional-national-criteria/>> accessed 1 June 2026.

to grant a large margin of appreciation in defining the limits of Article 20, once the remaining principles in the Directive are maintained.⁴³¹

As noted above, life-cycle costing is perhaps one of the most effective mechanisms - alongside the technical and subject-matter integration of such objectives - for embedding environmental objectives within a public contract. This is expanded upon within the 'Buying Green!' Handbook that provides practical examples for public authorities. For example, one case study of incorporating green criteria and technical specifications within a contract for office supplies in the city of Ghent provides an everyday embodiment of the same.⁴³² It also identifies Flemish governmental action plans to adopt a 100% sustainable purchasing agenda, as a way in which forward planning (and the provision of clear definitions of what constitutes 'green procurement') can aid in these systemic shifts.⁴³³

However, whilst the Member States do enjoy some latitude in this area of non-economic considerations, it is not absolute. In *Du Pont de Nemours Italiana SpA*⁴³⁴ and *Laboratori Bruneau Srl*⁴³⁵ Italian rules that required all national bodies to obtain a certain percentage of their supplies from a particular region were not justifiable and discriminated against suppliers from other Member States. This is similarly confirmed in *Contse SA and Others*, where at the time of tendering, undertakings needed to operate an office within the relevant Spanish capital city for a full 40 hour working week.⁴³⁶ A further case which required that certain contracts be awarded to undertakings with a majority shareholding in public ownership was similar discriminatory.⁴³⁷

Consequently, whilst these categories for non-economic considerations are not exhaustive and Member States do enjoy a certain latitude, they cannot be used in a way that would be anti-competitive, discriminatory or protectionist in effect.

4.4.6 Modernisation Package

It is important to note that the EU framework on Public Procurement is currently being revised. As Commission President Von der Leyen noted in 2024,⁴³⁸ the next Commission would be committed to the same, and would focus on modernising and simplifying the rules on public procurement via new legislation.⁴³⁹ It would also 'enable preference to be given to European products in public procurement for certain strategic sectors' which 'has gained significant political traction' as an area of focus.⁴⁴⁰ One area of particular relevance for SWINS, is that the revision of these rules also emphasises the need to 'align public procurement policy with EU strategic policies and objectives – ensure coherence across three areas: green, social, and innovation'.⁴⁴¹ These

⁴³¹ Case C-598/19, *Confederación Nacional de Centros Especiales de Empleo (Conacee) v Diputación Foral de Guipúzcoa and Federación Empresarial Española de Asociaciones de Centros Especiales de Empleo (Feacem)*, ECLI:EU:C:2021:810.

⁴³² Commission, 'Buying Green! A Handbook on Green Public Procurement' (2016) Publications Office of the European Union <<https://data.europa.eu/doi/10.2779/837689>> accessed 1 June 2026.

⁴³³ Ibid. 13.

⁴³⁴ Case C-21/88, *Du Pont de Nemours Italiana SpA v Unità sanitaria locale N° 2 di Carrara*, ECLI:EU:C:1990:121.

⁴³⁵ Case C-351/88, *Laboratori Bruneau Srl versus Unità sanitaria locale RM/24 di Monterotondo*, ECLI:EU:C:1991:304.

⁴³⁶ Case C-234/03, *Contse SA and Others v Instituto Nacional de Gestión Sanitaria (Ingesa), formerly Instituto Nacional de la Salud (Insalud)*, ECLI:EU:C:2005:644.

⁴³⁷ Case C-3/88, *Commission of the European Communities v Italian Republic*, ECLI:EU:C:1989:606.

⁴³⁸ U von der Leyen, 'Europe's Choice: Political Guidelines for the Next European Commission 2024–2029' (2024) <https://commission.europa.eu/document/e6cd4328-673c-4e7a-8683-f63ffb2cf648_en> accessed 1 June 2026.

⁴³⁹ Ibid. 12.

⁴⁴⁰ Ibid. 11.

⁴⁴¹ European Commission 'Revision of the Public Procurement Directive' (Public Buyers Community) <<https://public-buyers-community.ec.europa.eu/revision-public-procurement-directives>> accessed 1 June 2026 and Think Tank European Parliament, 'EU public procurement legislation: Implementation and upcoming review' (Briefing, 2026) <[https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI\(2026\)785688](https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI(2026)785688)> accessed 17 June 2026.



priorities were reiterated in the 2025 Single Market Strategy,⁴⁴² leading to a public consultation in November of 2025. The consultation aimed to engage ‘all relevant stakeholders, public authorities and individuals can provide their views, evidence and experience regarding public procurement in the Single Market to support the preparations for the revision of the EU rules on public procurement’,⁴⁴³ and subsequently closed in January of 2026.⁴⁴⁴

The modernisation of public procurement will also arguably support the goal of ensuring greater economic security,⁴⁴⁵ the Union’s broader industrial strategy,⁴⁴⁶ and the Net Zero Industry Act on clean technology, and therefore fit within a larger system of reforms.⁴⁴⁷

The responses to the consultation from the perspective of this analysis interestingly show a clear favouring of either incentivising or making ‘socially responsible public procurement’ mandatory requirements.⁴⁴⁸ It also confirms that many believed that a further incentivising of socially responsible procurement would

‘improve working conditions (77%: 488 replies), reduce the risk of labour and social law breaches (73%: 454 replies), and contribute to poverty reduction and increased social inclusion (69%: 430 replies). High proportions of respondents also anticipated a boost to EU employment (66%: 415 replies) and an increased chance of EU bidders winning contracts (63%: 391 replies)’.⁴⁴⁹

It should also be noted, however, that this was expected to cause increased pricing and higher administrative burdens for both bidders and buyers.⁴⁵⁰ Similarly, academics such as Sanchez-Graells have warned against placing an oversized importance on the results of the consultation, due to the ways in which there are often sectoral biases (as the report notes, for example, ‘with the exception of business associations and SMEs, which favoured no change to the existing rules, and trade union, which favoured mandatory provisions, all other respondent groups supported incentivising measures’) and such aggregated opinions often do not align with the expert views on this issue, or other sources of evidence.⁴⁵¹ Sanchez-Graells notes that the respondents could not comment on whether competition was effective, whilst a Court of Auditor report on the

⁴⁴² European Commission ‘The Single Market: our European home market in an uncertain world: A Strategy for making the Single Market simple, seamless and strong’ COM(2025) 500 final, 6.

⁴⁴³ European Commission, ‘Public Consultation on the Revision of the Public Procurement Directives’ Ref.Ares(2026) 3275694 <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/15492-EU-public-procurement-rules-revision/public-consultation_en> accessed 1 June 2026.

⁴⁴⁴ European Commission ‘Commission wraps up consultation on the EU Public Procurement Revision’ (Public Buyers Community, 2026) <<https://public-buyers-community.ec.europa.eu/news/commission-wraps-consultation-eu-public-procurement-revision>> accessed 16 June 2026.

⁴⁴⁵ European Commission, ‘European Economic Security Strategy’ JOIN(2023) 20 final.

⁴⁴⁶ European Commission, ‘Internal Market, Industry, Entrepreneurship, SMEs – Industry’ <https://single-market-economy.ec.europa.eu/industry_en> accessed 17 June 2026.

⁴⁴⁷ European Commission, ‘Internal Market, Industry, Entrepreneurship, SMEs - The Net-Zero Industry Act, Making the EU the home of clean technologies manufacturing and green jobs’ <https://single-market-economy.ec.europa.eu/industry/sustainability/net-zero-industry-act_en#new-mandatory-rules-in-public-procurement-auctions-and-other-schemes> accessed 17 June 2026.

⁴⁴⁸ European Commission, ‘Factual Summary Report on the Public Consultation on the Revision of the Public Procurement Directives Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs’ Ref.Ares(2026) 3275694, 6 <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/15492-EU-public-procurement-rules-revision/public-consultation_en> accessed 1 June 2026.

⁴⁴⁹ Ibid. 7.

⁴⁵⁰ Ibid and Commission, ‘Staff Working Document Evaluation of Directive 2014/23/EU on Concessions, Directive 2014/24/EU on Public Procurement and Directive 2014/25/EU on Utilities’ SWD(2025) 0333 final.

⁴⁵¹ A Sanchez-Graells, ‘Lucky dip from a mixed bag? Summary results of the consultation on the evaluation of eu procurement rules’ (2025) <<https://www.howtocrackanut.com/blog/2025/5/16/lucky-dip-from-a-mixed-bag-summary-results-on-the-public-consultation-on-the-evaluation-of-the-eu-public-procurement-directives>> accessed 1 June 2025.

matter suggests that statistically-speaking, competition for public contracts had been on the decline for 10 years prior to 2021.⁴⁵²

The official conclusions, were that ‘the current public procurement framework is not sufficiently agile, coherent, and strategically oriented to effectively respond to both current and emerging challenges’,⁴⁵³ and ‘the objectives to simplify rules and reduce administrative burden as well as to pursue strategic policy objectives have become more important than they were in 2014’.⁴⁵⁴ The degree to which these views will therefore be relevant in the weighting of considerations by the Commission in the crafting of the revised legal framework, which is expected in the second quarter of 2026⁴⁵⁵ remains to be seen.

⁴⁵² Ibid and European Court of Auditors, ‘Special report 28/2023: Public procurement in the EU – Less competition for contracts awarded for works, goods and services in the 10 years up to 2021’ (2023) <<https://www.eca.europa.eu/en/publications?ref=SR-2023-28>> accessed 1 June 2026.

⁴⁵³ Commission, ‘Staff Working Document Evaluation of Directive 2014/23/EU on Concessions, Directive 2014/24/EU on Public Procurement and Directive 2014/25/EU on Utilities’ SWD(2025) 0333 final, 5.2.

⁴⁵⁴ Ibid. 5.1.

⁴⁵⁵ European Commission ‘Revision of the Public Procurement Directive’ (Public Buyers Community) <<https://public-buyers-community.ec.europa.eu/revision-public-procurement-directives>> accessed 1 June 2026.



4.5. Key Takeaways

EU law shapes social services not only through more direct regulation but also through large-scale funding instruments that influence how Member States design, deliver and finance social services at the national level.

NextGenerationEU (€2+ trillion for 2021–2027) prioritise recovery, green and digital transitions, and social cohesion, with increasing emphasis on long-term social investment.

The European Cohesion Policy (€392 billion) is the EU's central social investment framework, aimed at reducing regional inequalities and strengthening social infrastructure and services across Member States.

Core cohesion funds—especially the ERDF and ESF+—directly support social services such as employment, education, healthcare, social inclusion, disability services, and social housing.

Additional EU programmes like Erasmus+ and EU4Health complement the European cohesion funding by supporting skills development, mobility, public health systems, and crisis preparedness.

EU digital accessibility law reshapes social services by requiring accessible digital platforms and services, reducing exclusion for persons with disabilities.

AccessibleEU and related initiatives support implementation through guidance, training, and capacity-building for public authorities and service providers.

EU State aid rules do constrain social investment at the Member State level by requiring certain conditions to be met, but also enable social investment via key pathways (*De Minimis*, GBER, SGEI compensation).

In the areas of social services, public procurement represents one way in which the actual service can be deployed, meaning that the social and care services are procured through competitive tendering in line with EU rules (complemented by national laws).

Public procurement allows for social considerations to be taken into account into various phases of the tender process.

5. Enable and Transform: Free Movement Law

As detailed in Section 2, free movement law is an integral element of this report, due to the way in which it enables and transforms the way in which services are either experienced by EU citizens or provided. For example, the right to move and reside freely within the EU allows citizens to access certain social benefits and services outside their home Member State. Similarly, service providers can provide their services in a Member State different from that where they are based.

As Section 2.3 outlined, citizenship of the Union is considered to be a **'fundamental status' of Member State nationals**⁴⁵⁶ and takes effect where persons are economically-inactive (or irrespective of their economic activity), whereas the free movement of people is tied to worker or self-employed status. Citizenship as an explicit constitutional concept was only introduced in the Treaties via the Treaty of Maastricht in 1992 as a potential free-standing right 'to be enjoyed automatically by every national of a Member State'.⁴⁵⁷ This has meant that much of the early development of citizenship case law before the CJEU, as well as academic commentary, focused on how the economic freedoms - such as the free movement of workers or freedom to provide services - were personal rights for EU citizens.⁴⁵⁸ As Maas argues, the 'political development of European rights started with certain categories of workers, then expanded to all workers, to certain categories of non-workers (e.g. retirees, students), and finally perhaps to all citizens'.⁴⁵⁹ Kochenov has articulated that this signified 'a move towards EU citizenship or, at least, a citizenship-like status represented a natural spill-over accompanying the maturation of the internal market'.⁴⁶⁰ In this way, citizenship is both a site of contestation or of disagreement over the division of competences between the EU and Member States, particularly in respect of the 'competence creep'⁴⁶¹ of the Union into social fields, as well as a source of free standing rights for citizens that can offer substantive protections.

Treaty rules require a cross-border element and cannot 'be applied to activities which are confined in all respects within a single Member State'.⁴⁶² That is to say, EU law may be triggered where: the person or service recipient travels; the service provider travers or establish itself abroad. Perhaps the most overt 'blurring' of this rule against 'wholly internal situations' and requirement for a cross-border movement is under citizenship law: national measures which have the effect of depriving a Union citizen of the genuine enjoyment of the substance of the rights associated with his/her status as a Union citizen, or of impeding the exercise of his/her right to move and reside freely within the territory of the Member States (the genuine enjoyment test) may trigger EU law even where a border has not strictly been crossed.⁴⁶³

⁴⁵⁶ Case C-184/99, *Grzelczyk*, ECLI:EU:C:2001:458.

⁴⁵⁷ See European Parliament, 'Free movement of persons' (Fact sheets on the European Union, 2025) <<https://www.europarl.europa.eu/factsheets/en/sheet/147/free-movement-of-persons>>.

⁴⁵⁸ For example, A Durand, 'European Citizenship' (1979) 4 European Law Review 3.

⁴⁵⁹ W Maas, 'The Origins, Evolution, and Political Objectives of EU Citizenship' (2014) 15 German Law Journal 797.

⁴⁶⁰ D Kochenov and R Plender, 'EU Citizenship: From an Incipient Form to an Incipient Substance? The Discovery of the Treaty Text' (2012) 37 European Law Review 369.

⁴⁶¹ V. Vélyvytė, 'Competence Creep in EU Free Movement Case Law' (2023) European Law Review <<https://ssrn.com/abstract=4594922>> accessed 1 June 2026.

⁴⁶² Case C-134/95, *Unità Socio-Sanitaria Locale n° 47 di Biella (USSL) v Istituto nazionale per l'assicurazione contro gli infortuni sul lavoro (INAIL)*, ECLI:EU:C:1997:16, para 19.

⁴⁶³ Case C-413/99, *Baumbast and R v Secretary of State for the Home Department*, ECLI:EU:C:2002:493; Case C-148/02, *Carlos Garcia Avello v Belgian State*, ECLI:EU:C:2003:539; Case C-200/02, *Kunqian Catherine Zhu and Man Lavette Chen v Secretary of State for the Home Department*, ECLI:EU:C:2004:639; Case C-135/08, *Janko Rottman v Freistaat Bayern*, ECLI:EU:C:2010:104 and Case C-34/09, *Gerardo Ruiz Zambrano v ONEm*, ECLI:EU:C:2011:124.



On the whole, the economic freedoms or free movement of goods, capital, persons and services and establishment are inherently 'market building' and its influence on how Member States can organise their provision of social services has been profound.⁴⁶⁴ In this respect, free movement can be considered *transformative* because it alters the way in which the Member States may regulate the provision of social services, whilst the efforts made at the EU level to positively engage in the social arena *enable* Member States to deploy social services.

Due to the focus of SWINS being on social services, as highlighted in Section 1.4.2, this section focuses on free movement of services and freedom of establishment.

5.1. Free Movement of Services and the Right of Establishment

As Section 1.4.1 outlines, services within the meaning of Article 56 TFEU can include 'any self-employed economic activity, normally provided for remuneration, as referred to in [Article 57 TFEU]'.⁴⁶⁵ Economic activity is broadly defined to include those of an industrial or commercial character, and those provided by craftspersons or professions. Key to this, is that they are of an economic character, provided by a company or self-employed person and for remuneration. Remuneration does not need to be paid by the recipient of the service, so long as there is remuneration for the service itself.⁴⁶⁶ This means that insurers who pay on behalf of an individual receiving healthcare from a public system/provider abroad constitutes remuneration.⁴⁶⁷ As such, public healthcare can then fall within the definition of Article 56 TFEU.⁴⁶⁸ In fact, while, for example, in *Nicolas Decker*,⁴⁶⁹ it was held that publicly provided secondary school education did not constitute a service for the purposes of Article 56 TFEU, public social services are not excluded from the scope of EU law and regulation of services.

5.1.1. Free Movement of Services and Freedom of Establishment

A dividing line must be drawn between the freedom to provide services and the right of establishment. The former involves providing an economic activity on a temporary or occasional basis across borders, without establishing a permanent physical presence in the host Member State, whilst the latter essentially requires the material settlement of a company in the host State (i.e. its indefinite presence).

Both the freedom to provide services and right of establishment, insofar as they govern the provision of services by self-employed persons or companies, are affected by the definition of companies in Article 54 TFEU as potential beneficiaries of protection. Companies are deemed to include 'companies or firms' created under national civil or commercial law in the classic sense, but also is considered to include cooperative

⁴⁶⁴ S Leibfried and P Pierson, 'Social Policy: Left to Courts and Markets?' In H Wallace and W Wallace (eds), *Policy-Making in the European Union* (Oxford University Press 2000) 253.

⁴⁶⁵ Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market [2006] OJ L 376/36.

⁴⁶⁶ Case C-120/95, *Nicolas Decker v Caisse de maladie des employés privés*, ECLI:EU:C:1998:167.

⁴⁶⁷ Case C-157/99, *B.S.M. Geraets-Smits v Stichting Ziekenfonds VGZ and H.T.M. Peerbooms v Stichting CZ Groep Zorgverzekeringen*, ECLI:EU:C:2001:404.

⁴⁶⁸ Case C-372/04, *The Queen, on the application of Yvonne Watts v Bedford Primary Care Trust and Secretary of State for Health*, ECLI:EU:C:2006:325.

⁴⁶⁹ *Ibid*.

societies, and other legal persons governed by public or private law, once they are potentially profit making.⁴⁷⁰ Consequently, the freedom to provide services and the right of establishment are broadly defined in a manner which is capable of capturing many different modalities of service provision, and could capture those of a social character because of their remuneration model in particular.

Article 56 TFEU has the effect of prohibiting discrimination on the basis of nationality, or any rule that would have the effect of making cross-border service provision more difficult than a wholly national service. For example, in *Cipolla and others*, an Italian statute that established a minimum price scale for the provision of legal services amounted to a violation of Article 56 TFEU.⁴⁷¹ Consequently, discrimination in this context is interpreted purposively to mean that any rule 'liable to prohibit, impede, or render less advantageous, the activities of a provider of services established in another Member State where he lawfully provides similar services' infringes EU law.⁴⁷² This in turn means that there is arguably no minimum standard for the application of free movement obligations, with the CJEU stressing that a restriction can exist 'even if it is of limited scope or minor importance',⁴⁷³ or 'even though the hinderance is slight'.⁴⁷⁴

5.1.2. Restrictions and Derogations

Of course, no free movement is absolute, and each of the freedoms protected by the Treaty is potentially subject to justifiable restriction. Whilst the EU Treaties seek to create an internal market via free movement, the creation of certain categories of derogations also provides a liminal space for the Member States to protect fundamental public (and non-economic) interests. The ensuing derogations therefore allow Member States to offset their obligations under free movement law once certain criteria are met.

Under the TFEU, activities that constitute the exercise of official authority are excluded from freedom of establishment and provision of services (Article 51 TFEU). This exclusion is, however, limited by a restrictive interpretation. Exceptions also enable Member States to exclude from the scope of the freedom the production of or trade in war material (Article 346(1)(b) TFEU) and to retain rules for non-nationals in respect of public policy, public security or public health (Article 52(1)).

The specific provisions on services tally with derogations of free movement more generally. Figure 5 below includes a non-exhaustive list of derogations provided for in the TFEU as an example of this.

⁴⁷⁰ Although technically dealing with State aid, see Joined Cases C-78/08 to C-80/08, *Ministero dell'Economia e delle Finanze and Agenzia delle Entrate v Paint Graphos Soc. coop. arl* (C-78/08), *Adige Carni Soc. coop. arl, in liquidation v Agenzia delle Entrate and Ministero dell'Economia e delle Finanze* (C-79/08) and *Ministero delle Finanze v Michele Franchetto* (C-80/08), ECLI:EU:C:2011:550.

⁴⁷¹ Joined Cases C-94/04 and C-202/04, *Federico Cipolla v Rosaria Fazari, née Portolese* (C-94/04) and *Stefano Macrino and Claudia Capoparte v Roberto Meloni* (C-202/04), ECLI:EU:C:2006:758.

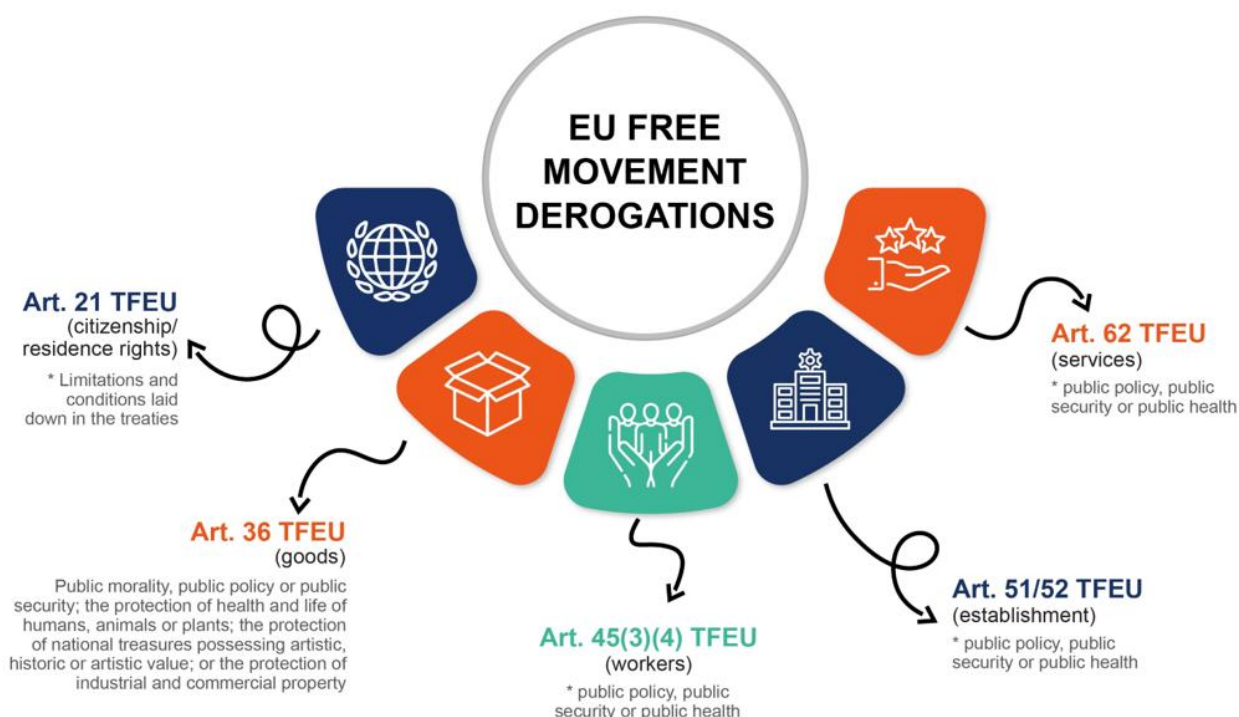
⁴⁷² Joined Cases C-369/96 and C-376/96, *Criminal proceedings against Jean-Claude Arblade and Arblade & Fils SARL* (C-369/96) and *Bernard Leloup, Serge Leloup and Sofrage SARL* (C-376/96), ECLI:EU:C:1999:575, para 33.

⁴⁷³ Case C-170/05, *Denkavit Internationaal BV and Denkavit France SARL v Ministre de l'Économie, des Finances et de l'Industrie*, ECLI:EU:C:2006:783, para 50.

⁴⁷⁴ Joined Cases 177/82 and 178/82, *Criminal proceedings against Jan van de Haar and Kaveka de Meern BV*, ECLI:EU:C:1984:144.



Figure 5 Treaty Derogations



Any Member State must, if it is attempting to justify a restriction on a free movement, conduct an assessment of the reasonableness and necessity of the proposed measure before implementing it, and this same 'proportionality test' will be used by the CJEU if it is subsequently challenged. This can be considered a three-stage test where the CJEU will consider:

1. Does the imputed measure constitute a restriction of free movement rights guaranteed by the Treaty?
2. If so, can the measure be justified?
3. If it is potentially justifiable, is the measure proportionate to its objectives (i.e. is it the minimum level of intervention necessary to achieve its goal)?

For example, a Dutch ban on cold calling could be justified on the basis of protecting vulnerable members of the community against whom these selling techniques can be wielded in an exploitative manner.⁴⁷⁵ Contrastingly, despite public security being a limit to the right of establishment and freedom to provide services, Italian and Belgian cases requiring that security companies swear an oath of loyalty to the State⁴⁷⁶ or to be established in the State⁴⁷⁷ respectively are both unnecessary and disproportionate restrictions on it. A Hungarian rule that required independent notaries to be Hungarian nationals was a similar violation of the right of establishment (as it was not an exercise of public authority, and clear nationality based discrimination).⁴⁷⁸

⁴⁷⁵ Case C-384/93, *Alpine Investments BV v Minister van Financiën*, ECLI:EU:C:1995:126.

⁴⁷⁶ Case C-465/05, *Commission of the European Communities v Italian Republic*, ECLI:EU:C:2007:781 and Case C-283/99, *Commission of the European Communities v Italian Republic*, ECLI:EU:C:2001:307.

⁴⁷⁷ Case C-355/98, *Commission of the European Communities v Kingdom of Belgium*, ECLI:EU:C:2000:113.

⁴⁷⁸ Case C-392/15, *European Commission v Hungary*, ECLI:EU:C:2017:73.

In Case C-169/08, a local ‘stopover tax’ on non-domiciled tourist crafts intended to combat pollution in Sardinia was found to be a violation of the freedom to provide services because

‘pollution is caused regardless of where those aircraft and boats come from and, in particular, it is not linked to the tax domicile of those operators. The aircraft and boats of residents and non-residents alike contribute to environmental damage’.⁴⁷⁹

On that basis, it was not a legitimate means of achieving the goal of environmental protection.

From a more ‘social’ perspective, *Groener* involved an Irish legal requirement that certain professions have a working knowledge of the national language.⁴⁸⁰ The CJEU held that

‘in order to foster one of its national languages, a Member State may therefore rely on that provision for the purpose of laying down the requirement that any candidate for such a post should possess a sufficient knowledge of the language concerned’.⁴⁸¹

so long as it too is proportionate and necessary for the specific role.

These derogations consequently endeavour to help preserve Member States’ ability to protect legitimate non-economic and social (broadly conceived of) interests during the ongoing process of completing the Internal Market - in-keeping with the Union’s constitutional obligation to realise a ‘social market economy’.⁴⁸²

5.2. EU Legislation that Effect Free Movement of Services

There are many key instruments or pieces of secondary legislation that regulate either directly or indirectly services at the EU level. Chief amongst these is the Services Directive,⁴⁸³ which is examined below. When it comes to service users, and within the scope of SWINS, the most relevant piece of legislation is Directive 2011/24/EU - commonly referred to as the ‘Patients Rights Directive’.⁴⁸⁴ The first piece of legislation can be considered *transformative* because it particularly affects the way in which the Member States may regulate the provision of social services. The second one epitomises the *enabling* nature of free movement by showing how people can access healthcare across the EU. Unlike the Services Directive, which partially excludes certain social services from its scope, the Patients’ Rights Directive expressly facilitates the cross-border consumption of healthcare services. It therefore strengthens the position of individuals seeking access to services beyond the boundaries of their national welfare systems. These Directives, in different ways, both represent important examples of the EU’s attempt to balance economic freedoms with social solidarity.

⁴⁷⁹ Case C-169/08, *Presidente del Consiglio dei Ministri v Regione Sardegna*, ECLI:EU:C:2009:709, para 44.

⁴⁸⁰ Case C-379/87, *Anita Groener v Minister for Education and the City of Dublin Vocational Educational Committee*, ECLI:EU:C:1989:197.

⁴⁸¹ *Ibid.* para 38.

⁴⁸² As mentioned in Section 2.1.1.

⁴⁸³ Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market [2006] OJ L 376/36.

⁴⁸⁴ Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients’ rights in cross-border healthcare [2011] OJ L 88/45.



5.2.1. The Service Directive

Adopted in 2006 with an implementation deadline of 28 December 2009, the Service Directive aimed to: simplify any administrative procedures impacting services and establishment; enhance the rights of service providers and users, and foster cooperation in this area.⁴⁸⁵

The debate surrounding the adoption of the Directive was heated, and ‘seen by some of its opponents (who dubbed it the Frankenstein Directive) as a threat to the social systems and public-service ethic of many Member States’.⁴⁸⁶ Hatzopoulos also underlines the degree to which the final version removed many of the innovations (such as the Country of Origin approach) in the initial proposals, which would have improved its impact,⁴⁸⁷ and de Witte notes that some of the adopted provisions lack certainty.⁴⁸⁸ The outcome of this controversial negotiation process, and the ensuing ‘writing down’ of the protections within it, has meant that the number of fields to which the Services Directive does not apply is significant.

Notably, Article 2(2)(j) of the Directive excludes social services relating to social housing, childcare, and support for families and persons permanently or temporarily in need, where such services are provided by the State, by providers mandated by the State, or by charities recognised as such by the state. The result of this exclusion is that of partially sheltering social services from another key provision of the TFEU, Article 60 which includes that

‘the Member States shall endeavour to undertake the liberalisation of services beyond the extent required by the directives issued pursuant to Article 59(1), if their general economic situation and the situation of the economic sector concerned so permit’.⁴⁸⁹

This is often considered to be a ‘liberalisation imperative’ and, from the perspective of SWINS, stands in further tension with the provision of social services at a Member State level. Article 60 TFEU embodies the logic of the EU internal market (and the idea that Member States should endeavour to liberalise services beyond the minimum required by EU legislation whenever economic circumstances permit), whereas social services are often organised according to principles of solidarity, universality, and democratic control at the national level i.e. are based not in the maximisation of consumer choice or efficiency but to achieve social objectives. This exclusion tallies with other exclusions that keep out certain services from the scope of the Directive and are listed in Figure 6 below.⁴⁹⁰

⁴⁸⁵ Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market [2006] OJ L 376/36.

⁴⁸⁶ P Craig and G De Búrca, *EU Law: Text, Cases and Materials* (4th Edn, Oxford University Press 2008) 842.

⁴⁸⁷ V Hatzopoulos, ‘Assessing the Services Directive (2006/123/EC)’ (2008) 10 Cambridge Yearbook of European Legal Studies 215.

⁴⁸⁸ B De Witte, ‘Setting the Scene: How Did Services Get to Bolkestein and Why?’ (2007) EUI Law Working Paper 2007/20 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1023865> accessed 1 June 2026.

⁴⁸⁹ The Commission is empowered to make recommendations to the Member States to aid in this respect.

⁴⁹⁰ For example, Article 2(2)(L) of Directive 2006/123/EC also mentions ‘services provided by notaries and bailiffs’ as potentially excluded, where they are ‘appointed by an official act of government’.

Figure 6 Examples of Services Included and Excluded from the Material Scope of Direct 2006/123/EC

SECTOR COVERED BY THE DIRECTIVE	SECTOR NOT COVERED BY THE DIRECTIVE
Construction Services	Transportation Services
	Financial Services
Tourism and Leisure Services	Healthcare Services
	Electronic Communications
Consultancy and Business Services	Gambling Services
	Temporary Work Agencies
Retail and Wholesale Activities	Private Security Services
	Non-Economic Services of General Interest
Regulated Professions (e.g. Architects, Engineers, Legal Advisors)	Social Services Relating to Social Housing, Childcare and Support of Families and Persons Permanently or Temporarily in Need
	Taxation

These are not always wholesale exclusions, and are, of course, subject to the case law of the CJEU. This often necessitates context-specific assessments using the definition of services detailed above in Section 5.1 and earlier in this deliverable.

Notably, Article 3(3) Art 3(1) gives priority to provisions of other directives that apply to specific sectors or professions when they conflict with the Services Directive. These include, but are not limited to: the Posted Workers Directive;⁴⁹¹ Social Security Regulation;⁴⁹² Audiovisual Media Services Directive,⁴⁹³ and Professional Qualifications Directive.⁴⁹⁴

The Directive allows services to be established in EU Member States other than their own. To support this, Member States must set up points of single contact for information and support on administrative procedures and ensuring that such procedures can be completed electronically; but also simplify their authorisation

⁴⁹¹ Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services [1997] OJ L 18/1.

⁴⁹² Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community [1971] OJ L 149/2.

⁴⁹³ Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by Law, Regulation or Administrative Action in Member States concerning the pursuit of television broadcasting activities [1989] OJ L 298/23.

⁴⁹⁴ Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications [2005] OJ L 255/22.



schemes concerning access to services; and as noted earlier, abolish discriminatory requirements, such as nationality or residence, and restrictive requirements.

Similar guarantees are provided for the rights of recipients of services. EU Member States must remove obstacles for recipients wanting to use services supplied by providers established in another EU Member State and abolish discriminatory requirements based on the recipient's nationality or place of residence.

On the whole, even if the Directive does not apply to certain social services, it remains very relevant in the remit of SWINS. In fact, aside from the obvious observation that only certain categories of social services are excluded and only under specific conditions, all social services provided by private operators on a commercial basis may still fall within the Directive's scope. Consequently, determining whether a service qualifies for exclusion often requires an assessment of its organisation, funding, and relationship with public authorities. Furthermore, the Services Directive strengthens the position of service recipients and ensures that individuals can benefit from the internal market for services across the EU.

5.2.2 The Patients' Rights Directive

Among the pieces of legislation that best exemplify the enabling nature of free movement when it comes to social services broadly conceived of, is the Patients' Rights Directive⁴⁹⁵ which codifies the right of EU citizens to seek healthcare in any EU Member State and receive financial reimbursement from their home country. The Directive ensures that they receive the same standard of care and access to information as domestic patients and incorporates the case law of the CJEU on cross-border healthcare. In that regard, the Directive is of direct relevance to SWINS and, alongside the Work-Life Balance Directive in Section 2.4.2, is another example of EU level regulation of 'care' as broadly conceived.

The Patients' Rights Directive establishes rules for facilitating access to safe and high-quality cross-border healthcare in the Union and to ensure patient mobility in accordance with the principles established by the CJEU and to promote cooperation on healthcare between Member States.⁴⁹⁶ It therefore seeks to enable EU citizens to travel and obtain healthcare services in other MS without prior authorisation or unnecessary obstacles, and with the ability to be reimbursed for the same care,⁴⁹⁷ whilst balancing Member State autonomy to organise their healthcare systems as they see fit with patient mobility and personal autonomy to decide where they seek medical care.⁴⁹⁸

Article 3 defines healthcare as 'health services provided by health professionals to patients to assess, maintain or restore their state of health, including the prescription, dispensation and provision of medicinal products and medical devices'⁴⁹⁹ and applying to 'insured person' within the meaning of other relevant EU measures,⁵⁰⁰ but broadly someone who is using health insurance of some form to fund the treatment in question. The treatment

⁴⁹⁵ Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border healthcare OJ L 88/45.

⁴⁹⁶ Ibid. Recital 10.

⁴⁹⁷ P Quinn and P De Hert, 'The Patients' Rights Directive (2011/24/EU)—Providing (some) rights to EU residents seeking healthcare in other Member States' (2011) 27 Computer Law & Security Review 497.

⁴⁹⁸ D Lorenzetti, 'Directive 2011/24/EU: The application of patients' rights regarding cross-border healthcare' (2018) 19 Pharmaceuticals Policy and Law 133.

⁴⁹⁹ Directive 2011/24/EU, Article 3(a).

⁵⁰⁰ Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems [2004] OJ L 166/1; Council Regulation (EC) No 859/2003 of 14 May 2003 extending the provisions of Regulation (EEC) No 1408/71 and Regulation (EEC) No 574/72 to nationals of third countries who are not already covered by those provisions solely on the ground of their nationality [2003] OJ L 124/1 or Regulation (EU) No 1231/2010 of the European Parliament and of the Council of 24 November 2010 extending Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 to nationals of third countries who are not already covered by these Regulations solely on the ground of their nationality [2010] OJ L 344/1.

must be obtained in another MS, making it cross-border (and therefore within the scope of EU law).⁵⁰¹ This is key, because it means that there are obligations on both host and home Member State. Article 4 is fundamental in ensuring the level of protection that a patient can expect in the host Member State, including: compliance with EU and national medical standards;⁵⁰² adequate complaints, redress and liability systems operate;⁵⁰³ they are provided with adequate information and also have their right to privacy respected,⁵⁰⁴ and that the principle of non-discrimination applies.⁵⁰⁵ For the Home State, Article 5 essentially regulates how this applies to the domestic healthcare system since the link is not severed in this process. The Home State must: provide relevant information about treatments;⁵⁰⁶ ensure access to medical records;⁵⁰⁷ provide follow-up care after treatment abroad where medically appropriate,⁵⁰⁸ and perhaps most importantly, reimburse eligible cross-border healthcare costs.⁵⁰⁹

Reimbursement within the scope of the Directive 'exceeds the previously applicable rule of the prior authorisation by the State of origin [via the case law of the CJEU]'⁵¹⁰ via the incorporation of Article 7, which facilitates reimbursement levels for an equivalent treatment in the Home State;⁵¹¹ whilst also largely excluding travel and accommodation costs,⁵¹² and ensuring that the relevant treatment must fall within the patient's benefit package at home.⁵¹³

Although the Directive seeks to establish that prior authorisation is generally not required, it may be engaged in certain cases, as outlined in Article 8. This should only occur where: there may be hospital care requiring overnight stay;⁵¹⁴ highly specialised or cost-intensive care,⁵¹⁵ or where it is potentially presenting particular risks that may justify prior notification.⁵¹⁶ Grounds for refusal include: equivalent treatment can be provided at home within a medically justifiable timeframe,⁵¹⁷ patient safety would be compromised,⁵¹⁸ or the provider raises serious quality or safety concerns.⁵¹⁹ Most importantly, any refusal 'shall be restricted to what is necessary and proportionate to the objective to be achieved, and may not constitute a means of arbitrary discrimination or an unjustified obstacle to the free movement of patients'.⁵²⁰ Any processes for necessary prior approval

⁵⁰¹ Ibid. Article 3(e).

⁵⁰² Ibid. Article 4(1)(a)-(c).

⁵⁰³ Ibid. Article 4(2)(c) and (d).

⁵⁰⁴ Ibid. Article 4(2)(a), (b), (e) and (f).

⁵⁰⁵ Ibid. Article 4(3).

⁵⁰⁶ Ibid. Article 5(b).

⁵⁰⁷ Ibid. Article 5(d).

⁵⁰⁸ Ibid. Article 5(c).

⁵⁰⁹ Ibid. Article 5(b).

⁵¹⁰ G M O Fares, 'The cross-border healthcare at the European level: the Directive 2011/24/EU on the application of patients 'rights' (2020) 23 Cross-border health care in the European Union-e-Book 19.

⁵¹¹ Directive 2011/24/EU, Article 7(4).

⁵¹² Ibid.

⁵¹³ Ibid. Article 7(1).

⁵¹⁴ Ibid. Article 8(2)(1)(a).

⁵¹⁵ Ibid. Article 8(2)(1)(b).

⁵¹⁶ Ibid. Article 8(2)(b) and (c).

⁵¹⁷ Ibid. Article 8(6)(d).

⁵¹⁸ Ibid. Article 8(6)(a).

⁵¹⁹ Ibid. Article 8(6)(c).

⁵²⁰ Ibid. Article 8(1).



must be objective, transparent and accessible.⁵²¹ They must also ensure that decisions are made within a reasonable period,⁵²² and patients must also have access to review or appeal procedures.⁵²³

Certain practical and administrative measures apply to all Member State. For example, all Member States must create 'National Contact Points' (NCPs) which will provide relevant information on patient rights, reimbursement procedures, quality and safety standards, healthcare providers and complaints mechanisms,⁵²⁴ so that a lack of information does not act a practical barrier to patient mobility. Prescriptions obtained as a consequence of treatment in one Member State must also be recognised in others.⁵²⁵ Finally, there are some cooperation mechanisms, such as European Reference Networks,⁵²⁶ eHealth cooperation,⁵²⁷ Health Technology Assessment⁵²⁸ as well as in the case of rare diseases⁵²⁹ that encourage the smooth running of this system among the Member State.

In its 2022 Evaluation, the Commission found that the Patients' Rights Directive has been 'moderately effective',⁵³⁰ and whilst enshrining important rights within legislation, issues persist such as 'the low level of awareness over patients' rights to cross-border healthcare; inadequate patient information; disproportionate administrative burdens; and uncertainty over healthcare costs abroad and reimbursement'.⁵³¹ It also raised an inherent paradox with the model that the Directive uses: patient-rights organisations highlighted that a 'pay first, reimburse later' model allows for inequalities in access, whereas the Commission's perspective and rationale for the model used is that this is the only way to ensure that prior approval is not necessary, and to reduce the potential for Member States to hamper free movement.⁵³² It is likely for that reason that

'Cross-border patient flows show a stable pattern, being mainly motivated by geographical or cultural proximity. The numbers of the reports we did analyse shows many patients on mobility wish to return to their birth country for healthcare and only seeks another MS for specialist skills not available in their country of origin'.⁵³³

The Patients' Rights Directive is therefore emblematic of the difficulty to strike a balance between the social and the market and of the proscribed limits of the EU action in the social sphere. Yet, it illustrates the growing role of service users as rights holders within the EU internal market.

⁵²¹ Ibid. Article 9(1) and (2).

⁵²² Ibid. Article 9(3).

⁵²³ Ibid. Article 9(4).

⁵²⁴ Ibid. Article 6.

⁵²⁵ Ibid. Article 9 - although this is subject to certain caveats.

⁵²⁶ Ibid. Article 12.

⁵²⁷ Ibid. Article 14.

⁵²⁸ Ibid. Article 15.

⁵²⁹ Ibid. Article 13.

⁵³⁰ Commission 'Report on the operation of Directive 2011/24/EU on the application of patients' rights in cross-border healthcare' COM(2022) 210 final, 6.

⁵³¹ Ibid.

⁵³² Ibid.

⁵³³ M do Rosario Anjos and J da Veiga Cepeda, 'The (ir)relevance of Directive 2011/24/EU on the cross-border health services market' (2020) *Economic and Social Development: Book of Proceedings* 431.

5.3. Key Takeaways

Free movement law has played a transformative role within the EU legal order, and by extension, the provision of social services. This is because it shapes both how EU citizens access social services across borders and how providers deliver services in other Member States.

Early citizenship case law developed through workers and self-employed persons, but gradually extended to students, retirees, and ultimately extended broader EU citizenship rights as part of a 'spill-over' into social rights.

A cross-border element is normally required, although EU citizenship softens this rule in a narrow set of circumstances: EU law usually only applies where there is movement of persons, services, or establishment across borders, but the "genuine enjoyment" test can trigger EU law even in wholly internal situations.

Services include most self-employed economic activity for remuneration, and can even cover publicly provided or publicly funded services (e.g., healthcare paid via insurance mechanisms).

Whether something falls under the free movement of services vs the right of establishment is a key distinction: services are temporary/cross-border provision, while establishment implies stable, long-term economic presence in another Member State.

Restrictions are allowed but tightly controlled: Member States can justify limitations (e.g. public policy, security, health, etc.), but they must pass a strict proportionality test—showing necessity and minimal restriction.

The Services Directive (2006/123/EC) both enables and limits liberalisation: it removes barriers to cross-border service provision and establishment but excludes many social services (like social housing and childcare under certain conditions), reflecting political compromise between market integration and social protection.

The Patients' Rights Directive (2011/24/EU) enables mobility in obtaining healthcare services whilst maintaining Member State control over the organisation of these by: guaranteeing reimbursement for cross-border treatment, setting patient rights standards for such treatments, and concretising CJEU case law in legislation.



6. Comparative Case Studies

Aside from focusing on EU law, this deliverable also illustrates all the way in which EU law orientate, shape, constrain, enable and transform social services in the Member States through comparative case studies in 2 areas: VET and Social Housing. In doing so, it weaves throughout this section national examples taken from countries attached to this project: Italy; Spain; Ireland; Norway; Belgium; Hungary; Serbia; the Netherlands and Germany.

6.1. Vocational Education and Training

Within the EU, VET is considered not only essential in fostering employment and addressing labour shortages, but also in enhancing social inclusion by supporting students at risk of underachievement or disengagement and by helping prevent early leaving from education and training. In most recent times, VET has been conceived of as a crucial tool in ensuring that people acquire the skills necessary to support a fair transition to a green and digital economy, promoting sustainability, competitiveness, social fairness, and resilience.⁵³⁴ In the political guidelines 2024-2029, President von der Leyen declares the need for a 'radical step change in ambition and action – for all skill levels and for all types of training and education'.⁵³⁵ This tallies with the recognition of the right to quality and inclusive education, training and lifelong learning in the EPSR 'in order to maintain and acquire skills that enable them to participate fully in society and manage successfully transitions in the labour market' (Principle 1). In that regard, the 2021 EPSR Action Plan proposes headline targets for the EU by 2030, including the participation of at least 60% of all adults in training every year.⁵³⁶

The responsibility for VET lies primarily with the Member States. Yet, since the early times of the European Community, fundamental freedoms (and particularly free movement of persons expounded upon earlier in Section 2) have been a major stimulus for the enhanced mobility of trainees across the EU, with the *Gravier* case being probably one of the most important decisions of the CJEU in the context of vocational training. The Court held that vocational training included 'any form of education which prepares for a qualification for a particular profession, trade or employment or which provides the necessary skills for such a profession, trade or employment'.⁵³⁷ That decision ultimately expanded the scope of 'vocational training' to include most forms of higher education that prepare individuals for specific professions. By applying the general principle of non-discrimination on the ground of nationality, the Court recognised that students enjoy an equal right of access to education, and that the imposition of higher registration fees on EU nationals who were not resident in the Member States where they were undertaking education, constituted discrimination on grounds of nationality.

The notion of EU citizenship and its interpretation as 'fundamental status of nationals of the Member States', illustrated above, has provided a renewed impetus for the Court to shape a balance between free-movement rights and Member States' autonomy and for the development of educational rights.⁵³⁸ On the whole, CJEU case law related to VET provided a catalyst for EU cooperation and the development of VET policies.

⁵³⁴ See *inter alia* Council Resolution on a strategic framework for European cooperation in education and training towards the European Education Area and beyond (2021-2030) [2021] OJ C 66/1; Council Resolution on the governance structure of the strategic framework for European cooperation in education and training towards the European Education Area and beyond (2021-2030) [2021] OJ C 497/1.

⁵³⁵ U von der Leyen, 'Europe's Choice: Political Guidelines for the Next European Commission 2024–2029' (2024) <https://commission.europa.eu/document/e6cd4328-673c-4e7a-8683-f63ffb2cf648_en> accessed 1 June 2026.

⁵³⁶ Commission, 'European Pillar of Social Rights Action Plan' COM(2021) 102 final 3.

⁵³⁷ Case 293/83, *Gravier*, ECLI:EU:C:1985:69, para 30.

⁵³⁸ Garben S, 'Article 165 TFEU' in Manuel Kellerbauer, Marcus Klamert and Jonathan Tomkin (eds), *The EU Treaties and the Charter of Fundamental Rights: A Commentary* (Oxford University Press 2019); Garben S, 'Article 166 TFEU' in Manuel

6.1.1. EU VET Policies

Since its outset, the EU action on VET has been characterised by an array of specific initiatives, such as the creation of a bespoke agency, the European Centre for the Development of Vocational Training (CEDEFOP), as well as *ad hoc* cooperation tools developed through intergovernmental processes, through soft law instruments and soft governance, reflecting the EU's supporting role.⁵³⁹

The CEDEFOP was established in 1975 by Council Regulation (EEC) No 337/75 to assist the Commission in encouraging the promotion and development of vocational training.⁵⁴⁰ CEDEFOP was recently revamped through Regulation (EU) 2019/128.⁵⁴¹ The latter, establishes the CEDEFOP as an agency with its own legal personality. Its goals are to 'support the promotion, development and implementation of Union policies in the field of VET as well as skills and qualifications policies by working together with the Commission, the Member States and the social partners' (Article 1). The CEDEFOP is tasked with enhancing and disseminating knowledge, providing evidence and services for the purpose of policy making. It is also entrusted with maintaining links with national specialised bodies working on VET and skills and qualifications policies, with public authorities and educational institutions, and with employers' and employees' organisations. It must also cooperate with other EU agencies, particularly the European Training Foundation (ETF), Eurofound and EU-OSHA.

Intergovernmental processes have supported the creation of the European Education Area (EEA) as the shared vision of the Member States and the Commission for the future of the education and training sector, which centre on cooperation around VET, with the aim of increasing the participation of adults in learning. Generally, these processes date back to late 1990s and early 2000s and were marked by an array of soft law documents outlining parameters of collaboration and goals. Among those, the 2002 Copenhagen Declaration set out to strengthen and improve the coordination of Member States' VET policies by creating a 'European education and training area' dedicated to VET.⁵⁴² It gave rise to a multi-year work programme involving not only EU Member States, but also candidates and countries of the EEA. Such cooperation led to the development of European tools to enhance cross-border mobility and mutual recognition, including Europass, the European Qualifications Framework (EQF), the European Credit System for VET (ECVET), and the European Quality Assurance Reference Framework for VET (EQAVET). In particular, the EQF, ECVET and EQAVET constitute the core technical instruments underpinning European cooperation in VET.

The Strategic Framework for European Cooperation in Education and Training 2010 – 2020 was another important milestone in the advancement of European cooperation on VET,⁵⁴³ which was then followed by the 2020 Council Recommendation on Vocational Education and Training for Sustainable Competitiveness, Social Fairness, and Resilience.⁵⁴⁴ The latter emphasised VET's role in the green and digital transitions, supporting upskilling and reskilling, and ensuring inclusivity. The recommendation seeks to ensure that VET is agile, responsive to labour-market needs, and accessible. The Osnabrück Declaration subsequently set

Kellerbauer, Marcus Klamert and Jonathan Tomkin (eds), *The EU Treaties and the Charter of Fundamental Rights: A Commentary* (Oxford University Press 2019).

⁵³⁹ J West, 'The evolution of European Union policies on vocational education and training' (2012) 34 LLAKES Research Paper Centre for Learning and Life Chances in Knowledge Economies and Societies; M Freedland, 'Vocational Training in EC Law and Policy—Education, Employment or Welfare?' (1996) 25/2 *Industrial Law Journal* 110.

⁵⁴⁰ Council Regulation (EEC) 337/75 establishing a European Centre for the Development of Vocational Training [1975] OJ L 39/1 (No longer in force).

⁵⁴¹ European Parliament and Council Regulation (EU) 2019/128 establishing a European Centre for the Development of Vocational Training (Cedefop) and repealing Council Regulation [2019] OJ L 30/90.

⁵⁴² Declaration of the European Ministers of Vocational Education and Training and the European Commission, 'The Copenhagen Declaration: Declaration on Enhanced European Cooperation in Vocational Education and Training' (2002) <https://www.cedefop.europa.eu/files/copenhagen_declaration_en.pdf> accessed 26 June 2026.

⁵⁴³ I Psifidou and A Ranieri, 'European cooperation in vocational education and training: Towards a common ambition' (2020) 36 *Revista Española de Educación Comparada* 32.

⁵⁴⁴ Council Recommendation of 24 November 2020 on vocational education and training (VET) for sustainable competitiveness, social fairness and resilience [2020] OJ C 417/1.



priorities for 2020-2025, focusing on quality and flexible VET, the establishment of lifelong learning cultures, sustainability, and international cooperation.⁵⁴⁵

Most recent EU efforts centre on the digitalisation challenge, with the Digital Education Action Plan 2021-2027, adopted in 2020 being at the core of EU VET policies.⁵⁴⁶ The Plan sets out two various actions towards high-quality, inclusive and accessible digital education in the EU, and aims to support the adaptation of the education and training systems of the Member States to the digital era and to increase participation in digital skills training. These efforts tally with the skills policy framework in response to labour market transformation, demographic change, and the digital and green transitions. Building on the 2020 European Skills Agenda,⁵⁴⁷ and the ensuing the Commission's 2024 Action Plan on Labour and Skills Shortages in the EU,⁵⁴⁸ the Union of Skills, adopted in 2025, has provided an overarching strategic framework for EU skills policy.⁵⁴⁹ It seeks to strengthen educational foundations and promote inclusive lifelong learning, support the upskilling and reskilling of workers for the digital and green transitions, facilitate the circulation of skills through the free movement of people within the EU, and attract, develop, and retain talent across the EU.

In the context of the European Semester, mentioned earlier, the European Commission and the Council of the European Union monitor and assess national education systems and may issue Country-Specific Recommendations (CSRs) on education-related issues.⁵⁵⁰ In addition, each year the Education and Training Monitor provides an updated analysis on the challenges, based on a set of benchmarks.⁵⁵¹

6.1.2. Shaping the Regulatory Framework for VET via State Aid

EU State aid law has allowed Member States to support vocational training and recognise its value through State aid measures. As mentioned, earlier in Section 4, the GBER exempts from notification 'training aid', up to €3 million per training project. Where national training aid measures exceed the thresholds set out in the GBER and are therefore subject to notification, the Training Communication provides guidance on the criteria the Commission will apply when assessing their compatibility with the internal market.⁵⁵²

In the last five years, GBER aid for training has remained relatively low, compared to aid for other priorities, including environmental protection and Research and Development.⁵⁵³ Yet, the GBER has allowed Member States to deploy social investment on VET and support the reskilling of unemployed.

⁵⁴⁵ Declaration of the Ministers in charge of Vocational Education and Training of the Member States, the EU Candidate Countries and the EEA-EFTA Countries, the European Social Partners and the European Commission, 'Osnabrück Declaration on Vocational Education and Training as an Enabler of Recovery and Just Transitions to Digital and Green Economies' (2020) <https://www.cedefop.europa.eu/files/osnabrueck_declaration_eu2020.pdf> accessed 1 June 2026.

⁵⁴⁶ Commission, 'Digital Education Action Plan 2021-2027 Resetting education and training for the digital age' COM(2020) 624 final.

⁵⁴⁷ Commission, 'European Skills Agenda for sustainable competitiveness, social fairness and resilience' COM(2020) 274 final.

⁵⁴⁸ Commission, 'Labour and Skills Shortages in the EU: An Action Plan' COM(2024) 131 final.

⁵⁴⁹ Commission, 'The Union of Skills' COM(2025) 90 final.

⁵⁵⁰ European Commission, 'European Education Area, European Semester / Country analysis' (2025) <<https://education.ec.europa.eu/about-eea/european-semester>> accessed 1 June 2026.

⁵⁵¹ European Commission, 'Education and Training Monitor 2025' <<https://op.europa.eu/webpub/eac/education-and-training-monitor/en/index.html>> accessed 1 June 2026.

⁵⁵² Commission, 'Criteria for the analysis of the compatibility of State aid for training subject to individual notification' [2009] OJ C 188/01.

⁵⁵³ European Commission, 'State aid Scoreboard 2025' (2026) <https://competition-policy.ec.europa.eu/document/download/cc9cdf4e-97e9-4f8e-ac7d-5f094a9fd12d_en?filename=state_aid_scoreboard_note_2025.pdf> accessed 1 June 2026.

6.1.3. The Role of EU Funding in Shaping National VET Policies

An array of bespoke EU funding tools has also been consistently deployed to support VET and foster exchanges and best practices across the Member States. Currently, the EU primarily (although not exclusively) supports VET through the ESF+ and Erasmus+, discussed above in Section 4.

Historically, up to 1970s, the ESF reimbursed Member States for up to 50% of vocational training and resettlement costs for workers affected by restructuring, supporting over two million people. Its scope has expanded, integrating complementary instruments, and transforming ESF+ into the EU's main tool for investing in the upskilling and reskilling of people. ESF+ objectives relevant to VET include improving the quality, inclusiveness, and labour-market relevance of education and training systems, including the validation of non-formal and informal learning; promoting equal access to and completion of inclusive education and training, particularly for disadvantaged groups, through learning mobility and improved accessibility; and supporting lifelong learning with flexible upskilling and reskilling opportunities that address digital and entrepreneurial skills, anticipate labour market needs, and facilitate career transitions.⁵⁵⁴

As mentioned earlier, the total budget of the ESF+ for the 2021-2027 programming period managed under the shared management strand is €142 billion. The ESF+ shared management strand is implemented by Member States in partnership with the Commission. For each programming period, the Member States and the Commission define key priorities for ESF+ investments, which are set out in national and regional programmes. For the programming period 2014-2020 budget allocated to Educational & Vocational Training was €36 billion, with a slightly higher figure in the subsequent programming period (€43 billion).⁵⁵⁵ By end of 2024, a total of 7.8 million persons were reported as ESF+ participants, with the highest share of participants (24.4%) being reported under activities enhancing the quality of education and training and making them inclusive.⁵⁵⁶ The evaluation indicates that ESF+ has been a strategic instrument to address the EU policy priorities and national needs, including that of enhancing VET in alignment with the EPSR.⁵⁵⁷ Notably, the largest ESF+ allocations correspond to EPSR principles, including Education, training and lifelong learning.⁵⁵⁸

When it comes to Erasmus+, the EU bespoke programme for education and training, youth and sport, data show that it has been a key programme to allow cross-border VET. In the programming period 2014-2020, more than 6.2 million of learners and staff were supported,⁵⁵⁹ and the most recent evaluation of the programme states that Erasmus+ 2021-2027 'is on track to achieve its key outputs results and impacts, with over 1.6 million learners and staff and over 77000 distinct organisations have benefitted from programme support from 2021 to 2023'.⁵⁶⁰ The evaluation also indicates that Erasmus+ has been highly adaptable to the diverse requirements of participants and beneficiary organisations across its various fields of activity. The programme's strengthened commitment to inclusion, particularly through efforts to engage individuals with fewer opportunities, has been positively received. Furthermore, the incorporation of blended learning methodologies and digital technologies has enhanced accessibility and facilitated participation among a wider range of socio-economic groups.

⁵⁵⁴ Regulation (EU) 2021/1057 of the European Parliament and of the Council of 24 June 2021 establishing the European Social Fund Plus (ESF+) and repealing Regulation (EU) No 1296/2013 [2021] OJ L 231/21, Article 4(1).

⁵⁵⁵ Commission, 'Staff Working Document - European Social Fund Plus mid-term evaluation' SWD(2025) 391 final.

⁵⁵⁶ Ibid.

⁵⁵⁷ Ibid.

⁵⁵⁸ Ibid.

⁵⁵⁹ Commission, 'Report From The Commission To The European Parliament, The Council, The European Economic And Social Committee And The Committee Of The Regions on the interim evaluation of the 2021-2027 Erasmus+ programme and the final evaluation of the 2014-2020 Erasmus+ programme' COM(2025) 395 final.

⁵⁶⁰ Ibid.



6.1.4. Orientating and Shaping VET in the Member States: Some National Examples

Although education remains primarily a national competence, the EU has supported coordinated VET policies and, through governance processes (that are mostly based on intergovernmental cooperation), it steers and encourages policy action on VET at the national level. Such action is monitored to ensure that it meets EU objectives, priorities and fulfil previously defined goals.⁵⁶¹

The latest report on Belgium praises the strides made towards a more 'agile, flexible, innovative, attractive and inclusive' EU VET system and towards labour market needs.⁵⁶² For Hungary, CEDEFOP reported that the policy measures implemented in 2023 also resulted in a more flexible, attractive, and inclusive VET system with a focus on the digital transition and the development of green skills. Particularly, VET excellence is fostered through certified technician programmes developed in collaboration with higher education institutions and initiatives like technological development hubs.⁵⁶³ Another example relevant for our project is Ireland, which, since 2020, has made great progress according to the CEDEFOP, with the expansion of online offerings through eCollege, the development of Micro Qualifications, the rollout of the Adult Literacy for Life Strategy, supports for learners, the establishment of Centres of Excellence and the development of the concept of Colleges of the Future, and more, increasing its number of learners from 151 260 to 218 775.⁵⁶⁴ Outside the EU but in the European Economic Area (EEA), Norway has made continuous progress since 2020 in relation to objectives and benchmark laid out in the Osnabrück Declaration.⁵⁶⁵

⁵⁶¹ Cedefop, 'Timeline of VET policies in Europe' <<https://www.cedefop.europa.eu/en/tools/timeline-vet-policies-europe>> accessed 1 June 2026.

⁵⁶² A Karno, 'Implementing European priorities in VET: making national VET agile, flexible, innovative, attractive, inclusive and quality-assured: Belgium' (2024) Cedefop Refernet Thematic Perspectives <[implementing_eu_priorities_belgium_2024_0.pdf](#)> accessed 1 June 2026.

⁵⁶³ K Vujkov, 'Implementing European priorities in VET: making national VET agile, flexible, innovative, attractive, inclusive and quality-assured: Hungary' (2024) Cedefop Refernet Thematic Perspectives <[implementing_eu_priorities_hungary_2024_0.pdf](#)> accessed 1 June 2026.

⁵⁶⁴ B Gallagher, 'Implementing European priorities in VET: making national VET agile, flexible, innovative, attractive, inclusive and quality-assured: Ireland' (2024) Cedefop Refernet Thematic Perspectives. <[implementing_eu_priorities_ireland_2024_2.pdf](#)> accessed 1 June 2026.

⁵⁶⁵ M Haukås, 'Implementing European priorities in VET: making national VET agile, flexible, innovative, attractive, inclusive and quality-assured: Norway' (2024) Cedefop Refernet Thematic Perspectives <[implementing_eu_priorities_norway_2024_1.pdf](#)> accessed 1 June 2026.

6.2. Social Housing

As mentioned earlier in this deliverable, social and affordable housing is one of the priorities set under the EPSR. As established in Section 3.2.1, the EPSR is an important tool for advancing 'Social Europe', albeit its uncertain legal status. From the perspective of social housing in particular, Principle 19 entitled 'Housing and Assistance for the Homeless' includes commitments regarding:

1. 'Access to social housing or housing assistance of good quality shall be provided for those in need.
2. Vulnerable people have the right to appropriate assistance and protection against forced eviction.
3. Adequate shelter and services shall be provided to the homeless in order to promote their social inclusion'.⁵⁶⁶

The EPSR Action Plan also specifically highlights that 'Access to affordable housing is an increasing concern in many Member States, regions and cities. Homelessness is increasing in most Member States'.⁵⁶⁷ It further links this, among other things, to the energy poverty, 'living in dignity'⁵⁶⁸ and building a 'Union of Equality',⁵⁶⁹ with the goal of launching 'in Q2 2021 the Affordable Housing Initiative piloting 100 renovation districts'.⁵⁷⁰

The urgency to increase the supply of affordable and social housing, and ultimately the growing political pressure on an EU-level response to this, is supported by the 'on the ground' reality in the Member States. Between 2010 and 2025, house prices increased more than rents in 21 of the 26 EU countries for which data are available. House prices more than tripled in Hungary (+277%) and doubled or more than doubled in 10 other EU countries. During the same period, rents increased in 26 EU countries, with the highest rises registered in Hungary (+125%) and Ireland (+117%).⁵⁷¹ Indeed, 2025 Eurostat data underlined that the population living in a household where total housing often represents more than 40% of disposable income has grown significantly.⁵⁷²

Consequently, the supply of new social and affordable housing is under significant pressure across the EU as a whole. This ongoing housing crisis also does not necessarily show any signs of abating in the near future without sustained action, as many Member States including France, Finland, Sweden, Denmark, Germany, Ireland, and Italy, report recent declining construction, largely due to escalating costs of materials, rising interest rates, and constrained financing.⁵⁷³

In this vein, to help Member States counter this crisis, the Commission has enacted an array on initiatives and modified the regulatory framework to support social investments on the housing market and associated

⁵⁶⁶ Commission, 'Recommendation (EU) 2017/761 of 26 April 2017 on the European Pillar of Social Rights' COM(2017) 251 final.

⁵⁶⁷ Commission, 'The European Pillar of Social Rights Action Plan' COM(2021) 102 final, 3.3.

⁵⁶⁸ Ibid.

⁵⁶⁹ Ibid. 3.2.

⁵⁷⁰ Ibid. 3.3.

⁵⁷¹ Eurostat, 'Ongoing rise: house prices and rents climb further' (News Articles, 2025) <https://ec.europa.eu/eurostat/en/web/products-eurostat-news/w/ddn-20251003-1> accessed 1 June 2026.

⁵⁷² Eurostat, 'Housing in Europe – 2025 Edition' < <https://ec.europa.eu/eurostat/web/interactive-publications/housing-2025>> accessed 1 June 2026.

⁵⁷³ Housing Europe, 'The state of housing in Europe 2025 – Trends in a nutshell' (2025) < https://www.housingeurope.eu/wp-content/uploads/2025/10/the_state_of_housing_in_the_eu_2025_trends-in-a-nutshell_digital.pdf> accessed 16 June 2026.



services from 2021 to 2027, as well as shared some successful examples for Member States and other stakeholders to consider.⁵⁷⁴

6.2.1. Social Housing Policies

In April 2025, the Commission set up the Housing Advisory Board, an expert group tasked with providing independent advice in the preparation of the European Affordable Housing Plan, and on 16 December 2025 the Commission presented the first ever European Affordable Housing Plan (EAHP) to comprehensively respond to the housing crisis.⁵⁷⁵ This acknowledges that

‘Europe’s shared housing challenge calls for a shared response. The EU can and must play a stronger role in supporting, coordinating, and amplifying national, regional and local efforts – not by replacing them, but by providing common ambition and resources’.⁵⁷⁶

In this way, it accepts that housing policy remains primarily a national and local responsibility, but there is a requirement for a ‘new way in which EU institutions, national, regional and local governments, financial institutions and stakeholders can work together to address the housing crisis’.⁵⁷⁷

The Plan identifies 4 key objectives:

1. Increasing housing supply
2. Mobilising public and private investment
3. Delivering immediate support while promoting structural reforms
4. Protecting vulnerable groups and improving access to housing

Each of these then have corresponding actions and goals intended to operationalise these, that leverage on EU funding instruments but also on a modified regulatory framework on SGEI that traces new contours for social investment for social housing. A (non-exhaustive) list of the same is included below in Figure 7. Sitting alongside these, will also be a cooperation stream, including the EU’s first EU Housing Summit, and a new European Housing Alliance which will unite all levels of government ‘to drive forward a shared commitment to ensure affordable, sustainable and quality housing for all’.⁵⁷⁸

⁵⁷⁴ European Commission: Directorate-General for Employment, Social Affairs and Inclusion, ‘Social Housing and Beyond Operational toolkit on the use of EU funds for investments in social housing and associated services’ (2024) Publications Office of the European Union < <https://data.europa.eu/doi/10.2767/924036>> accessed 1 June 2026.

⁵⁷⁵ Commission, ‘The European Affordable Housing Plan’ COM(2025) 1025 final.

⁵⁷⁶ Ibid. 2.

⁵⁷⁷ Ibid. introduction.

⁵⁷⁸ Ibid. 3.

Figure 7 Sample Objectives, Actions and Goals in the European Affordable Housing Plan

Objectives	Actions	Goals
1. Boosting Supply	Strengthening productivity, capacity and innovation of the construction industry	European Strategy for Housing Construction
		Construction Services Act
	Cutting red tape to accelerate housing supply	Housing simplification package
	Combining affordability, sustainability and quality in housing'	Regeneration of neighbourhoods - New European Bauhaus
		Energy Communities Action Plan
2. Mobilising Investment	Mobilising additional public and private investment	Pan-European Investment Platform for affordable/sustainable housing
	Enabling faster and simpler public support for social and affordable housing	Revised State aid rules
3. Enabling immediate support while driving reforms	Addressing short-term rentals in areas under housing stress	New legislative initiative on short-term rentals in Affordable Housing Act
	Addressing speculation in the housing market	Facilitate investments in non-profit/limited-profit housing providers
	Driving forward Member States' structural reforms	Stronger monitoring/targeted recs - European Semester
4. Supporting the Most Affected	Housing for young people	Mobilising investments for student housing
	Addressing homelessness and supporting tenants and households in vulnerable situations	Citizens Energy Package



Whilst the EAHP does signal a shift in EU-level thinking on the issue, it has not been without criticism. DESCA Observatory, for example, has highlighted that the EAHP appears to rely more on policy and cooperation and that ‘no binding European legal instruments are proposed that effectively guarantee the right of access to decent and affordable housing’, nor does it contain an explicit definition of what affordable housing is, ‘such as the fact that the cost of housing does not exceed 30% of household incomes’.⁵⁷⁹ Criticisms could also be expressed of the Plan’s emphasis on market-based solutions, and emphasis on ‘affordability’ rather than on social housing *strictu sensu*. This can consequently treat a structural ‘housing crisis as a temporary imbalance that can be corrected simply by building more ‘affordable homes’ and ‘overlooks the deep structural forces that produced this crisis in the first place’.⁵⁸⁰ This has led to the criticism that ‘the Plan remains captive to free-market supply-and-demand doctrines’.⁵⁸¹ Conversely, that same emphasis on economic and existing competences is likely a result of the Commission focusing on areas where it can take concrete action and without being accused of further ‘competence creep’. This also explains the pragmatic emphasis on cooperation in many parts of the Plan, where potentially more concrete action *could* theoretically be possible. This tension is something that will likely be reflected in the upcoming European Housing Act, for which the Call for Evidence closed in April 2026.⁵⁸²

The EAHP, while being the latest and most significant policy initiative, builds on and tallies with an array of soft law that tackles adjacent issues, such as homelessness. Among those, the Lisbon Declaration that set up the European Platform on Combatting Homelessness,⁵⁸³ which recognises that the elimination of homelessness can contribute to the 2030 EU targets on poverty and social exclusion. On 6 May 2026 the Commission also adopted the first ever EU Anti-Poverty Strategy,⁵⁸⁴ and a proposal for a Council recommendation on fighting housing exclusion, which are key initiatives in combatting the housing crisis.

6.2.2. State Aid and Social Housing

The provision of social housing was designated as a SGEI and could be publicly funded under the previous SGEI Decision of 2012.⁵⁸⁵ Yet, Member States had to show that there was a real social need limiting social housing to projects for marginalised groups. The increase in the price of residential housing in many Member States and the chronic shortage of affordable housing in urban areas made the previous framework unfit for purpose, and rendered it difficult for Member States to designate as an SGEI housing for the majority of their population.

⁵⁷⁹ Observatori DESCA, ‘[Analysis] The European Housing Plan: an insufficient step forward in the face of the residential crisis’ (2025) <<https://observatoridesca.org/en/noticies/analysis-the-european-housing-plan-an-insufficient-step-forward-in-the-face-of-the-residential-crisis>> accessed 21 June 2026.

⁵⁸⁰ D Czischke, ‘Brussels asked for housing advice — then ignored its own EU-funded research’ (Euobserver, 2026) <<https://euobserver.com/217560/brussels-asked-for-housing-advice-then-ignored-its-own-eu-funded-research>> accessed 1 June 2026.

⁵⁸¹ European Action Coalition, ‘[Statement] The European Union’s Affordable Housing Plan is a tool for opening up social housing and affordable housing to the financialized markets’ (2026) <<https://housingnotprofit.org/second-statement-the-european-unions-affordable-housing-plan/>> accessed 1 June 2026.

⁵⁸² See European Commission, ‘The Affordable Housing Act’ <https://housing.ec.europa.eu/european-affordable-housing-plan/affordable-housing-act_en>.

⁵⁸³ Lisbon Declaration on the European Platform on Combatting Homelessness, (2021) <[https://www.europarl.europa.eu/cmsdata/280675/20210619_bb%20-%20Lisbon%20Declaration%20on%20the%20European%20Platform%20on%20Combatting%20HomelessnessFINAL%20\(8\).pdf](https://www.europarl.europa.eu/cmsdata/280675/20210619_bb%20-%20Lisbon%20Declaration%20on%20the%20European%20Platform%20on%20Combatting%20HomelessnessFINAL%20(8).pdf)> accessed 1 June 2026.

⁵⁸⁴ Commission, ‘European Union’s Anti-Poverty Strategy: addressing and preventing poverty from childhood to old age’ COM(2026) 538 final.

⁵⁸⁵ Commission Decision 2012/21/EU of 20 December 2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest [2011] OJ L 7/3.

The new SGEI Decision, enacted in December 2025 and which took effect in January 2026, mentioned earlier in Section 4 overhauls rules for the housing sector. It exempts Member States from prior State aid notification for both social and affordable housing projects, with an updated SGEI notification threshold for compensation is €20 million annually per single undertaking (increased from the previous €15 million). The concept of an affordable housing SGEI is broader than social housing, making the Decision notable in that it recognises market failures also for middle-income households, who are not considered socially disadvantaged, yet are unable to obtain adequate housing at affordable prices, because of high rents, limited supply, or other market distortions. The broadening of the SGEI Decision signals a shift from a narrowly targeted welfare approach, towards a more expansive conception of housing affordability as a social investment as understood in the SWINS project.

As noted earlier in the introduction, for the purpose of the SGEI Decision, ‘social housing’ SGEI is defined as a service for disadvantaged households, including people experiencing homelessness, but can also cover a limited portion of non-disadvantaged households, to avoid concentration of poverty.⁵⁸⁶ It must meet ‘the minimum quality and environmental standards and accessibility requirements in force in the Member State’ and be available for social housing purposes for a minimum period of 20 years from the beginning of the delivery of the service (albeit Member States may allow a shorter period provided that it is duly justified). In such cases of social housing, compensation may cover investment costs for the construction of new buildings, including land acquisition, the acquisition of existing apartments or buildings to be transformed or renovated, the transformation or the renovation of existing apartments or buildings (or individual building elements thereof), compliance with accessibility requirements for older people or persons with disabilities, compliance with environmental standards, adaptation for climate resilience, as well as operating costs, where necessary for the operation of the service.

With regard to affordable housing, this is defined as being ‘available to households that are not able, due to market outcomes and notably market failures, to access housing at affordable conditions’. When characterising affordability, Member States must apply reliable indicators, like rent-to-income ratio, mortgage-to-income ratio or other rooted indicators,⁵⁸⁷ and must ensure that the subsidised housing ‘is and remains used for affordable housing’.⁵⁸⁸ Similar to social housing, it must meet ‘the minimum quality and environmental standards and accessibility requirements in force in the Member State’ and be available for a minimum period of 20 years, and compensation may cover the same type of costs (e.g. investment costs for the construction of new buildings, the transformation or the renovation of existing apartments or buildings, compliance with accessibility requirements for older people or persons with disabilities etc.).

The revised SGEI Decision represents a significant development in the regulatory framework, expanding and shaping the conditions in which public compensation may be granted for housing provision. By recognising affordable housing alongside social housing, the SGEI Decision is likely to encourage Member States to redesign existing housing policies and funding schemes to address market failures more comprehensively. At the same time, it creates new opportunities for municipal and other housing providers to engage in publicly supported housing provision, potentially strengthening the role of public and quasi-public actors in tackling the ongoing housing crisis. However, the effectiveness of the SGEI Decision will ultimately depend on how Member States exploit the flexibilities in the revised version, and whether sufficient public resources are allocated to meet housing needs.

⁵⁸⁶ Annex to SGEI Decision.

⁵⁸⁷ Annex to SGEI Decision.

⁵⁸⁸ Ibid.



6.2.3. EU Funding and Social Housing

Cohesion Funds, and particularly the ERDF, expounded upon above in Section 4, support Member States in upgrading substandard housing stock, fighting housing exclusion, and building new energy-efficient social housing. Other instruments are, however, relevant in the field, such as the ESF+. In that regard, the EU published a toolkit that provides an overview of all the opportunities offered by EU funds in the field of social housing and associated services, which also includes case studies across a large number of countries.⁵⁸⁹

A particular strand of funding that may have an important impact on housing (and affordable housing), is the Social Climate Fund (SCF),⁵⁹⁰ which entered into force on 1 January 2026.⁵⁹¹ This represents the principal social policy component of the EU's climate governance framework which was established in recognition of the distributive consequences of extending carbon pricing to buildings and road transport under the revised Emissions Trading System 2 (ETS2).⁵⁹² The SCF mitigates these effects by providing targeted financial support for measures such as building renovation, access to affordable and energy-efficient housing, clean mobility solutions, and temporary direct income support. With a budget exceeding €85 billion for the period 2026-2032, the SCF represents a significant attempt to integrate social considerations into EU climate policy. The SCF also illustrates the increasingly prominent role of social policy as an instrument for securing the political legitimacy and public acceptance of the EDG. This raises broader questions regarding the extent to which social protection is being reshaped to support environmental transition goals and whether the Fund's resources will be sufficient to address the structural inequalities that climate policies may exacerbate.

6.2.4. Orientating and Shaping Social Housing in the Member States: Some National Examples

While the effects of the recent EAHP and the SGEI Decision remain to be seen, the principal contribution to national housing policy to date has come via EU funding instruments, particularly the Cohesion Funds. The recent SCF, together with other recent measures, is likely to have a greater impact over the medium term and is expected to support national housing policies while contributing to the reduction of homelessness and housing poverty.

Between 2016 and 2021, **Madrid** received €60 million in total funding, including €30 million from the ERDF to address severe housing exclusion and improve access to the right to housing. The funding targeted highly marginalised informal settlements, particularly where around 1,300 families were living in precarious conditions marked by extreme poverty, overcrowding, unemployment, early school leaving, and limited access to public services. As part of the intervention, authorities developed nine new neighbourhoods, each combining decent housing and social facilities, successfully rehousing approximately 90 families per neighbourhood and helping reduce long-standing patterns of social exclusion.

Between 2020 and 2023, the cities of **Palermo**, **Monreale**, and **Villabate** implemented a €3.9 million social housing initiative, including €3 million from the ESF that aimed to tackle the growing housing insecurity affecting vulnerable households. The project established a Social Housing Agency to coordinate fragmented housing policies and provide integrated, community-based support for people at risk of eviction or unable to access affordable housing. As a result, 10 multidisciplinary support teams were deployed across 8 districts, bringing together psychologists, social workers, educators, and language mediators, while more than 2,500

⁵⁸⁹ European Commission: Directorate General for Employment, Social Affairs, and Inclusion, 'Social housing and beyond - Operational toolkit on the use of EU funds for investments in social housing and associated services' (2024) Publications Office of the European Union <<https://data.europa.eu/doi/10.2767/924036>> accessed 1 June 2026.

⁵⁹⁰ Regulation (EU) 2023/955 of the European Parliament and of the Council of 10 May 2023 establishing a Social Climate Fund and amending Regulation (EU) 2021/1060 [2023] OJ L 130/1.

⁵⁹¹ European Commission, 'Social Climate Fund' <https://employment-social-affairs.ec.europa.eu/policies-and-activities/funding/social-climate-fund_en> accessed 1 June 2026.

⁵⁹² See Section 3.

families received targeted assistance. The initiative also created an innovative cooperation platform between public and non-profit services and introduced a guarantee fund to cover unpaid rents, helping prevent evictions and reducing long-term dependence on social assistance.

Between 2019 and 2024, the city of **Hanover** launched a €204 million housing investment programme, supported by €60 million from InvestEU, to address severe housing shortages caused by population growth and rising real estate prices in an increasingly strained housing market. Led by Hanover's municipal housing company, the initiative aimed to expand access to affordable accommodation for low- and middle-income residents. The project financed the construction of approximately 640 new rental housing units across seven development schemes, including 232 social housing units (36%) and 408 affordable housing units (64%). All units were designed to be barrier-free, with around 12% fully wheelchair accessible, helping improve housing accessibility, strengthen social inclusion, and promote a more balanced social mix across the city.

Between 2017 and 2019, the city of **Antwerp** implemented a €6.1 million integration and housing project, including €4.9 million from the ERDF, to support unaccompanied young refugees facing housing insecurity after reaching adulthood and losing access to protected accommodation. In response to growing migration pressures, the project developed an integrated co-housing and case management model combining affordable housing, education, language learning, psychological counselling, social integration, and employment support. The municipality created 75 affordable co-housing units through property purchase, renovation, and private rental schemes, offering accommodation at €250 per month per person. In total, 135 young beneficiaries of international or subsidiary protection aged 17–22 lived alongside Flemish 'buddies' for 1 to 3 years, receiving tailored support to access education and the labour market, while also strengthening social inclusion and intercultural exchange for both refugees and local participants.

Taken together, these examples demonstrate that EU funding can serve not only as a source of financial support but also as a mechanism for promoting innovative, inclusive and place-based solutions that contribute to reducing housing exclusion and advancing the social objectives of the EPSR. However, effective social housing policy also requires sustained investment, robust multi-level governance, and close cooperation between public authorities, civil society organisations and local communities. While the EAHP seeks to provide a more comprehensive framework for addressing these challenges, its long-term effectiveness - and its capacity to strengthen national housing policies - remains to be seen.



7. Conclusions

This deliverable has examined the role of EU law and policy in shaping the funding, organisation and delivery of social services across the Member States. Rather than viewing social services solely through the lens of national welfare systems, it has located them within the broader constitutional, legal and policy architecture of the European Union, illustrating how EU law both enables and constrains their development.

At first sight, EU law might appear to limit rather than promote the protection of social rights at a national level. Whilst the Union possesses no general competence to legislate on social rights, its powers are instead dispersed across a range of competences that either possess a social dimension or support national social policy. Moreover, EU law frequently applies to entities engaged in economic activities through legal regimes - via internal market rules, competition and State aid law, for example - that are often perceived as constraining national intervention. However, the post-Lisbon constitutional framework demonstrates that EU law also possesses significant potential to facilitate social investment.

In that vein, the analysis conducted in this deliverable demonstrates that the social dimension of EU law is not limited to expressly 'social' provisions. While the Treaties contain specific provisions on social policy, health, VET, and social protection, many of the most practically significant effects on social services arise from legal fields that are not primarily social in character. Competition law, State aid law, public procurement law and free movement law are traditionally associated with the internal market. Yet they have substantial consequences for the way social services are financed and delivered and can support social activities. The case studies on VET and social housing illustrate this point, as both are areas illustrative of how social services are shaped by a combination of EU policy objectives, funding opportunities and regulatory constraints, and that embed the recognition that the social fabric is key for the European integration project.

The deliverable has shown that EU law affects social services in at least three main ways. First, it frames and orientates social services through policy instruments, including the EPSR, the European Semester, the EPSR Action Plan, social economy initiatives and broader strategies with a social dimension. These instruments do not always create directly enforceable rights, but they nevertheless influence the priorities, language and direction of national policy. Secondly, EU law shapes and constrains social services through regulatory frameworks, including State aid rules, public procurement law, accessibility obligations and budgetary mechanisms. These frameworks determine how Member States may fund, commission and organise social services. Thirdly, EU law enables and transforms social services through free movement law, EU citizenship, cross-border service provision and rights-based measures that alter how individuals and service providers interact with available funding systems. Free movement law is perhaps one of the most fundamental - and controversial - areas in respect of the transformation of social services. Indeed, the jurisprudence of the CJEU has often limited the space for Member States to regulate their solidarity-based systems, as well as labelling many social-based actors as an economic barrier to cross-border trade. However, EU citizens are also made the beneficiary of these economic freedoms as rights, including to non-discrimination. Member States therefore have for duty to ensure that eligible mobile EU citizens are not discriminated against on grounds of nationality when accessing social services falling within the scope of EU law. In sectors such as healthcare for example, free movement law should facilitate access to treatment in other Member States and encourages cooperation between national authorities.

An implicit takeaway from D 2.2 should therefore be that, while EU law undoubtedly introduces additional layers of complexity into the funding, organisation and delivery of social services at Member State level, this complexity should not be understood as an insurmountable barrier to investment in social services. The challenge instead lies in navigating the legal and policy frameworks through which social objectives can be pursued. EU law contains not only constraints on the Member States, but also a range of enabling mechanisms, including, but not limited to, funding instruments, social policy initiatives, SGEI frameworks, the incorporation of social considerations within public contracts, accessibility obligations and rights-based measures. The key task for policymakers, legislators and service providers is therefore to develop greater fluency in these legal pathways, to help ensure that social services are not only compliant with EU law, but actively strengthened by it. This deliverable also calls for creative thinking in the interpretation, implementation and use of EU law that stir away from narrow market orientation and economic meanings towards a socially oriented approach.

List of Primary Sources

EU Legislation and Soft Law

Commission Directive 70/32/EEC of 17 December 1969 on provision of goods to the State, to local authorities and other official bodies [1970] OJ L 13/1.

Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community [1971] OJ L 149/2.

Council Directive 75/129/EEC of 17 February 1975 on the approximation of the laws of the Member States relating to collective redundancies [1975] OJ L 48/29.

Council Regulation (EEC) 337/75 establishing a European Centre for the Development of Vocational Training [1975] OJ L 39/1 (No longer in force).

Council Directive 77/187/EEC of 14 February 1977 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of businesses [1977] OJ L 61/26.

Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security [1979] OJ L 6/24.

Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by Law, Regulation or Administrative Action in Member States concerning the pursuit of television broadcasting activities [1989] OJ L 298/23.

Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) [1992] OJ L 348/1.

Council Directive 93/36/EEC of 14 June 1993 coordinating procedures for the award of public supply contracts [1993] OJ L199/1.

Council Directive 93/37/EEC of 14 June 1993 concerning the coordination of procedures for the award of public works contracts [1993] OJ L199/54.

Council Directive 93/38/EEC of 14 June 1993 coordinating the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors [1993] OJ L199/84.

Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services [1997] OJ L 18/1.

Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC - Annex : Framework agreement on part-time work [1998] OJ L 14/9.

Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP [1998] OJ L 175/43.

Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin [2000] OJ L180/22.



Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation [2000] OJ L303/16.

Commission Decision of 12 January 2001, case State aid N 258/2000 – Leisure Pool Dorsten.

Declaration of the European Ministers of Vocational Education and Training and the European Commission, 'The Copenhagen Declaration: Declaration on Enhanced European Cooperation in Vocational Education and Training' (2002) <https://www.cedefop.europa.eu/files/copenhagen_declaration_en.pdf> accessed 26 June 2026.

Council Regulation (EC) No 859/2003 of 14 May 2003 extending the provisions of Regulation (EEC) No 1408/71 and Regulation (EEC) No 574/72 to nationals of third countries who are not already covered by those provisions solely on the ground of their nationality [2003] OJ L 124/1.

Commission Decision of 29 October 2003, case State aid C(2003) 3890 – Non-profits harbours for recreational crafts.

Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services [2004] OJ L 373/37.

Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems [2004] OJ L 166/1.

Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC [2004] OJ L 229/35.

Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications [2005] OJ L 255/22.

Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market [2006] OJ L 376/36.

Commission, 'Implementing the Community Lisbon programme: Social services of general interest in the European Union' (2006) (Communication) COM(2006) 177 final 4.

Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market [2006] OJ L 376/36.

Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) [2006] OJ L 204/23.

Explanations relating to the Charter of Fundamental Rights [2007] OJ C 303/02.

Commission, 'Criteria for the analysis of the compatibility of State aid for training subject to individual notification' [2009] OJ C 188/01.

Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems [2009] OJ L 284/1.

Council Decision 2010/48/EC of 26 November 2009 concerning the conclusion, by the European Community, of the United Nations Convention on the Rights of Persons with Disabilities [2010] OJ L23/35.

Regulation (EU) No 1231/2010 of the European Parliament and of the Council of 24 November 2010 extending Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 to nationals of third countries who are not already covered by these Regulations solely on the ground of their nationality [2010] OJ L 344/1.

Commission, 'EUROPE 2020 A strategy for smart, sustainable and inclusive growth' (Communication) COM(2010) 2020 final.

Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audio-visual media services (Audio-visual Media Services Directive) [2010] OJ L 95/1.

Commission, 'A Digital Agenda for Europe' COM(2010) 245 final.

Commission, 'European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe' COM(2010) 636 final.

Commission, 'Social Business Initiative. Creating a favourable ecosystem for social enterprises, key stakeholders in the social economy and innovation' (Communication) COM(2011) 682 final.

Commission Decision 2012/21/EU of 20 December 2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest [2011] OJ L 7/3.

Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border healthcare OJ L 88/45.

Commission, 'A Quality Framework for Services of General Interest in Europe' (Communication) COM(2011) 900 final, 3-4.

Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border healthcare [2011] OJ L 88/45.

Commission Decision of 7 November 2012, case State aid SA.34576 (2012/N) – Jean Piaget / Northeast Medium and Long-Term Continuing Care.

Treaty on the Functioning of the European Union [2012] OJ C 326/47.

Charter of Fundamental Rights of the European Union [2012] OJ C 326/391.

Treaty on European Union [2012] OJ C 326/13.

Commission Decision on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest [2012] OJ L 7/3.

Commission, 'Strengthening the Social Dimension of the Economic and Monetary Union' (Communication) COM(2013) 690 final.

Commission, 'Towards Social Investment for Growth and Cohesion – including implementing the European Social Fund 2014-2020' COM(2013) 083 final.

Commission Regulation (EU) 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty [2014] OJ L 187/1.

Commission Decision of 10 December 2014, State aid SA.39426 (2014/N) – Italy Rescue aid to PICFIC in A.S., health care services operator in the Region of Lazio, C(2014) 9255 final.



Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC [2014] OJ L 94/65, Recital 2.

Commission, 'Closing the loop - An EU action plan for the Circular Economy' COM (2015) 614 final.

Commission, 'A Digital Single Market Strategy for Europe' COM(2015) 192 final.

Commission, 'Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union' [2016] OJ L C 262/1.

Directive (EU) 2016/2102 on the accessibility of the websites and mobile applications of public sector bodies [2016] OJ L327/1.

Regulation (EU) 2016/589 of the European Parliament and of the Council of 13 April 2016 on a European network of employment services (EURES), workers' access to mobility services and the further integration of labour markets, and amending Regulations (EU) No 492/2011 and (EU) No 1296/2013 [2016] OJ L 107/1.

Commission, 'Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union' [2016] OJ L C 262/1.

Commission, 'Recommendation (EU) 2017/761 of 26 April 2017 on the European Pillar of Social Rights' COM(2017) 251 final.

Commission Decision of 23 November 2017, case State aid SA.42268 (2017/E) - State aid for the promotion of public welfare services, OJ C 2018/061.

Commission Decision of 23 November 2017, case State aid SA.42877 (2017/E) - CarePool Hannover GmbH, C(2017) 7686 final.

Directive (EU) 2017/1564 on certain permitted uses of certain works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print-disabled and amending Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society [2017] OJ L 242/6.

Regulation (EU) 2017/1563 on the cross-border exchange between the Union and third countries of accessible format copies of certain works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print-disabled [2017] OJ L 242/1.

Commission, 'Making Public Procurement work in and for Europe' COM(2017) 0572 final.

Commission Implementing Decision (EU) 2018/1523 of 11 October 2018 establishing a model accessibility statement in accordance with Directive (EU) 2016/2102 of the European Parliament and of the Council on the accessibility of the websites and mobile applications of public sector bodies [2018] OJ L 256/103.

Council Decision (EU) 2018/1215 of 16 July 2018 on guidelines for the employment policies of the Member States [2018] OJ L 224/4.

Commission, 'The European Green Deal' COM(2019) 640 final.

Council Recommendation of 8 November 2019 on access to social protection for workers and the self-employed [2019] OJ C387/1.

European Parliament and Council Regulation (EU) 2019/128 establishing a European Centre for the Development of Vocational Training (Cedefop) and repealing Council Regulation [2019] OJ L 30/90.

Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services (European Accessibility Act – EAA) [2019] OJ L 151/70.

Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU [2019] OJ L 188/79.

Directive (EU) 2019/1152 of the European Parliament and of the Council of 20 June 2019 on transparent and predictable working conditions in the European Union [2019] OJ L 186/121.

Commission, 'Digital Education Action Plan 2021-2027 Resetting education and training for the digital age' COM(2020) 624 final.

Commission, 'European Skills Agenda for sustainable competitiveness, social fairness and resilience' COM(2020) 274 final.

Commission, 'A Union of Equality: EU Roma strategic framework for equality, inclusion and participation' COM(2020) 620 final.

Council Recommendation of 24 November 2020 on vocational education and training (VET) for sustainable competitiveness, social fairness and resilience [2020] OJ C 417/1.

Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis [2020] OJ L 433/23.

Commission, 'An SME Strategy for a sustainable and digital Europe' COM(2020)103 final 1.

Commission, 'Union of Equality: LGBTIQ Equality Strategy 2020-2025' COM(2020) 698 final.

Commission, 'A Union of Equality: Gender Equality Strategy 2020-2025' COM(2020) 152 final.

Commission, 'A Union of Equality : EU anti-racism action plan 2020-2025' COM(2020) 565 final.

Commission, 'The Just Transition Mechanism: Making Sure No One Is Left Behind' COM(2020) 22 final.

Commission, 'Shaping Europe's digital future' COM(2020) 67 final.

Declaration of the Ministers in charge of Vocational Education and Training of the Member States, the EU Candidate Countries and the EEA-EFTA Countries, the European Social Partners and the European Commission, 'Osnabrück Declaration on Vocational Education and Training as an Enabler of Recovery and Just Transitions to Digital and Green Economies' (2020) <https://www.cedefop.europa.eu/files/osnabrueck_declaration_eu2020.pdf> accessed 1 June 2026.

Regulation (EU) 2021/1057 of the European Parliament and of the Council of 24 June 2021 establishing the European Social Fund Plus (ESF+) and repealing Regulation (EU) No 1296/2013 [2021] OJ L 231/21.

Council and European Parliament, Regulation (EU) 2021/1056 of 24 June 2021 establishing the Just Transition Fund [2021] OJ L 231/1.

Lisbon Declaration on the European Platform on Combatting Homelessness, (2021) <[https://www.europarl.europa.eu/cmsdata/280675/20210619_bb%20-%20Lisbon%20Declaration%20on%20the%20European%20Platform%20on%20Combatting%20HomelessnessFINAL%20\(8\).pdf](https://www.europarl.europa.eu/cmsdata/280675/20210619_bb%20-%20Lisbon%20Declaration%20on%20the%20European%20Platform%20on%20Combatting%20HomelessnessFINAL%20(8).pdf)> accessed 1 June 2026.

Commission, 'Union of Equality: Strategy for the rights of persons with disabilities 2021-2030' COM(2021) 101 final.

Council Resolution on a strategic framework for European cooperation in education and training towards the European Education Area and beyond (2021-2030) [2021] OJ C 66/1.



Council Resolution on the governance structure of the strategic framework for European cooperation in education and training towards the European Education Area and beyond (2021-2030) [2021] OJ C 497/01.

Commission, 'European Pillar of Social Rights Action Plan' (2021) (Communication) COM(2021) 102 final 3.

Regulation (EU) 2021/1056 of the European Parliament and of the Council of 24 June 2021 establishing the Just Transition Fund [2021] OJ L 231/1.

Regulation (EU) 2021/1057 of the European Parliament and of the Council of 24 June 2021 establishing the European Social Fund Plus (ESF+) and repealing Regulation (EU) No 1296/2013 [2021] OJ L 231/21.

Regulation (EU) 2021/1058 of the European Parliament and of the Council of 24 June 2021 on the European Regional Development Fund and on the Cohesion Fund [2021] OJ L 231/60.

Regulation (EU) 2021/1755 of the European Parliament and of the Council of 6 October 2021 establishing the Brexit Adjustment Reserve [2021] OJ L 357/1.

Commission, 'New European Bauhaus Beautiful, Sustainable, Together' COM(2021) 573 final.

Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy [2021] OJ L 231/159.

Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility [2021] OJ L 57/17.

Commission, '2030 Digital Compass: the European way for the Digital Decade' COM(2021) 118 final.

Commission, 'Commission Notice: Buying Social - a guide to taking account of social considerations in public procurement (2nd edition)' C(2021) 3573 final, 6.

Commission, 'Review of the application of Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies' SWD(2022) 0410 final.

Commission, 'European care strategy' COM(2022) 440 final.

Commission 'Report on the operation of Directive 2011/24/EU on the application of patients' rights in cross-border healthcare' COM(2022) 210 final, 6.

Regulation (EU) 2023/955 of the European Parliament and of the Council of 10 May 2023 establishing a Social Climate Fund and amending Regulation (EU) 2021/1060 [2023] OJ L 130/1.

Council Recommendation of 27 November 2023 on developing social economy framework conditions [2023] OJ C(2023) 1344.

Commission Regulation (EU) 2023/2832 of 13 December 2023 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to undertakings providing services of general economic interest [2023] OJ L 2023/2832.

Council Regulation (EU) No 2023/2831 of 13 December 2023 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid [2023] OJ L 2831/1.

European Commission, 'European Economic Security Strategy' JOIN(2023) 20 final.

European Declaration on Digital Rights and Principles for the Digital Decade [2023] OJ C 23/1.

Commission, 'Labour and Skills Shortages in the EU: An Action Plan' COM(2024) 131 final.

European Commission, 'Commission Notice: Guidance on recovery and resilience plans' (2024) OJ C/2024/461.

Regulation (EU, Euratom) 2024/2509 of the European Parliament and of the Council of 23 September 2024 on the financial rules applicable to the general budget of the Union (recast) [2024] OJ L 2024/2509.

Commission, 'The Union of Skills' COM(2025) 90 final.

Commission Delegated Regulation (EU) 2025/2152 of 22 October 2025 amending Directive 2014/24/EU of the European Parliament and of the Council in respect of the thresholds for public supply, service and works contracts, and design contests for the years 2026-2027 [2025] OJ L 2025/2152

Commission Delegated Regulation (EU) 2025/2151 of 22 October 2025 amending Directive 2014/23/EU of the European Parliament and of the Council in respect of the thresholds for concessions for the years 2026-2027 [2025] OJ L 2025/2151.

Commission, 'Decision (EU) 2025/2630 of 16 December 2025 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest and repealing Decision 2012/21/EU' [2025] OJ L 2630/1.

Commission, 'Union of Equality: LGBTIQ+ Equality Strategy 2026-2030' COM(2025) 725 final.

Commission, 'Report From The Commission To The European Parliament, The Council, The European Economic And Social Committee And The Committee Of The Regions on the interim evaluation of the 2021-2027 Erasmus+ programme and the final evaluation of the 2014-2020 Erasmus+ programme' COM(2025) 395 final.

Commission, 'Staff Working Document - European Social Fund Plus mid-term evaluation' SWD(2025) 391 final.

Commission, 'Commission work programme 2026 Europe's Independence Moment' COM(2025) 870 final.

Council 'Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 883/2004 on the coordination of social security systems and regulation (EC) No 987/2009 laying down the procedure for implementing Regulation (EC) No 883/2004' COM(2025) 501 final/2.

European Commission 'The Single Market: our European home market in an uncertain world: A Strategy for making the Single Market simple, seamless and strong' COM(2025) 500 final, 6.

Commission, 'Staff Working Document Evaluation of Directive 2014/23/EU on Concessions, Directive 2014/24/EU on Public Procurement and Directive 2014/25/EU on Utilities' SWD(2025) 0333 final.

Commission, 'A Competitiveness Compass for the EU' COM(2025) 30 final.

Commission, 'Commission work programme 2026 Europe's Independence Moment' COM(2025) 870 final.

Commission, 'Data Union Strategy Unlocking Data For AI' COM(2025) 835 final.

Commission, 'The European Affordable Housing Plan' COM(2025) 1025 final.

European Commission, 'NextGenerationEU – The Road to 2026' COM(2025) 310 final/2.

Commission, 'European Union's Anti-Poverty Strategy: addressing and preventing poverty from childhood to old age' COM(2026) 538 final.



Commission, 'Gender Equality Strategy 2026-2030' COM(2026) 113 final.

Commission, 'Union of Equality: Anti-Racism Strategy 2026-2030' COM(2026) 12 final.

Commission, 'Middle East Crisis Temporary State Aid Framework' [2026] OJ C 2026/2947.

European Commission, 'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the European Union's Anti-Poverty Strategy: Addressing and Preventing Poverty from Childhood to Old Age' COM(2026) 538 final.

Commission, 'Mid-term review of the action plan for the social economy: main achievements and way forward' COM(2026) 138 final.

CJEU Case Law

Case C-173/73, *Italian Republic v Commission*, ECLI:EU:C:1974:71.

Case 730/79, *Philip Morris Holland BV v Commission of the European Communities*, ECLI:EU:C:1980:209.

Joined Cases 177/82 and 178/82, *Criminal proceedings against Jan van de Haar and Kaveka de Meern BV*, ECLI:EU:C:1984:144.

Case 53/81, *Levin* ECLI:EU:C:1982:105.

Case 293/83, *Gravier*, ECLI:EU:C:1985:69.

Cases 25 and 26/84, *Ford - Werke AG and Ford of Europe Inc. v Commission of the European Communities*, ECLI:EU:C:1985:340.

Case C-66/85 *Lawrie-Blum*, ECLI:EU:C:1986:284.

CJEU 66/85, *Lawrie-Blum* ECLI:EU:C:1986:284.

Case 31/87, *Gebroeders Beentjes BV v The Netherlands*, ECLI:EU:C:1988:422.

Case C-352/85, *Bond van Adverteerders*, ECLI:EU:C:1988:196.

Case C-3/88, *Commission of the European Communities v Italian Republic*, ECLI:EU:C:1989:606.

Case C-379/87, *Anita Groener v Minister for Education and the City of Dublin Vocational Educational Committee*, ECLI:EU:C:1989:197.

Case C-21/88, *Du Pont de Nemours Italiana SpA v Unità sanitaria locale N° 2 di Carrara*, ECLI:EU:C:1990:121.

Case C-351/88, *Laboratori Bruneau Srl versus Unità sanitaria locale RM/24 di Monterotondo*, ECLI:EU:C:1991:304.

Case C-41/90, *Höfner and Elser v Macrotron GmbH*, ECLI:EU:C:1991:161.

Case C-387/92, *Banco Exterior de España*, ECLI:EU:C:1994:100.

Case C-384/93, *Alpine Investments BV v Minister van Financiën*, ECLI:EU:C:1995:126.

Case C-134/95, *Unità Socio-Sanitaria Locale n° 47 di Biella (USSL) v Istituto nazionale per l'assicurazione contro gli infortuni sul lavoro (INAIL)*, ECLI:EU:C:1997:16.

Case C-120/95, *Nicolas Decker v Caisse de maladie des employés privés*, ECLI:EU:C:1998:167.

Case C-126/97, *Eco Swiss China Time Ltd*, ECLI:EU:C:1999:269.

Joined Cases C-369/96 and C-376/96, *Criminal proceedings against Jean-Claude Arblade and Arblade & Fils SARL (C-369/96) and Bernard Leloup, Serge Leloup and Sofrage SARL (C-376/96)*, ECLI:EU:C:1999:575.

Case C-355/98, *Commission of the European Communities v Kingdom of Belgium*, ECLI:EU:C:2000:113.

Case T-41/96, *Bayer AG v Commission of the European Communities*, ECLI:EU:T:2000:242.

Case C-83/98, *P French Republic v Ladbroke Racing Ltd and Commission*, ECLI:EU:C:2000:248.

Case C-283/99, *Commission of the European Communities v Italian Republic*, ECLI:EU:C:2001:307.

Case C-184/99, *Grzelczyk*, ECLI:EU:C:2001:458.

Case C-157/99, *B.S.M. Geraets-Smits v Stichting Ziekenfonds VGZ and H.T.M. Peerbooms v Stichting CZ Groep Zorgverzekeringen*, ECLI:EU:C:2001:404.

Case C-19/00, *SIAC Construction Ltd v County Council of the County of Mayo*, ECLI:EU:C:2001:553.

Case C-184/99, *Grzelczyk*, ECLI:EU:C:2001:458.

Case C-157/99, *Smits and Peerbooms*, ECLI:EU:C:2001:404.

Case C-143/99, *Adria-Wien Pipeline and Wietersdorfer & Peggauer Zementwerke*, ECLI:EU:C:2001:598.

Case C-286/99, *Impresa Ing. Mantovani SpA v ANAS - Ente nazionale per le strade and Ditta Paolo Bregoli*, ECLI:EU:C:2001:640.

Joined Cases C-285/99 and C-286/99, *Impresa Lombardini SpA - Impresa Generale di Costruzioni v ANAS - Ente nazionale per le strade and Società Italiana per Condotte d'Acqua SpA (C-285/99)* ECLI:EU:C:2001:640.

Case C-513/99, *Concordia Bus Finland Oy Ab, formerly Stagecoach Finland Oy Ab v Helsingin kaupunki and HKL-Bussiliikenne*, ECLI:EU:C:2002:495.

Case C-413/99, *Baumbast and R v Secretary of State for the Home Department*, ECLI:EU:C:2002:493.

Case C-148/02, *Carlos Garcia Avello v Belgian State*, ECLI:EU:C:2003:539.

Case C-280/00, *Altmark Trans GmbH*, ECLI:EU:C:2003:415.

Case C-448/01, *EVN AG and Wienstrom GmbH v Republik Österreich*, ECLI:EU:C:2003:651.

Case C-6/01, *Anomar*, ECLI:EU:C:2003:446.

Case C-209/03, *Bidar*, ECLI:EU:C:2004:715.

Case C-200/02, *Kunqian Catherine Zhu and Man Lavette Chen v Secretary of State for the Home Department*, ECLI:EU:C:2004:639.

Case C-234/03, *Contse SA and Others v Instituto Nacional de Gestión Sanitaria (Ingesa), formerly Instituto Nacional de la Salud (Insalud)*, ECLI:EU:C:2005:644.



Case C-144/04, *Mangold*, ECLI:EU:C:2005:709.

Case T-289/03, *BUPA and Others v Commission*, ECLI:EU:T:2005:78.

Case C-170/05, *Denkavit Internationaal BV and Denkavit France SARL v Ministre de l'Économie, des Finances et de l'Industrie*, ECLI:EU:C:2006:783.

Case C-372/04, *The Queen, on the application of Yvonne Watts v Bedford Primary Care Trust and Secretary of State for Health*, ECLI:EU:C:2006:325.

Case C-222/04, *Ministero dell'Economia e delle Finanze v Cassa di Risparmio di Firenze SpA and Others*, ECLI:EU:C:2006:8.

Case C-519/04, *Meca-Medina and Majcen*, ECLI:EU:C:2006:492.

Joined Cases C-94/04 and C-202/04, *Federico Cipolla v Rosaria Fazari* (C-94/04) and *Stefano Macrino and Claudia Capoparte v Roberto Meloni* (C-202/04), ECLI:EU:C:2006:758.

Case C-287/05, *Hendrix*, ECLI:EU:C:2007:494.

Case C-465/05, *Commission of the European Communities v Italian Republic*, ECLI:EU:C:2007:781.

Case C-76/05, *Schwarz*, ECLI:EU:C:2007:492.

Case C-303/06, *S. Coleman v Attridge Law and Steve Law*, ECLI:EU:C:2008:415.

Case C-376/08, *Serrantoni Srl and Consorzio stabile edili Srl v Comune di Milano*, ECLI:EU:C:2009:808.

Case C-169/08, *Presidente del Consiglio dei Ministri v Regione Sardegna*, ECLI:EU:C:2009:709.

Case C-555/07, *Küçükdeveci*, ECLI:EU:C:2009:429.

Case C-135/08, *Janko Rottman v Freistaat Bayern*, ECLI:EU:C:2010:104.

Case C-226/09, *European Commission v Ireland*, ECLI:EU:C:2010:697.

Case C-34/09, *Gerardo Ruiz Zambrano v ONEm*, ECLI:EU:C:2011:124.

Joined Cases C-78/08 to C-80/08, *Ministero dell'Economia e delle Finanze and Agenzia delle Entrate v Paint Graphos Soc. coop. arl* (C-78/08), *Adige Carni Soc. coop. arl, in liquidation v Agenzia delle Entrate and Ministero dell'Economia e delle Finanze* (C-79/08) and *Ministero delle Finanze v Michele Franchetto* (C-80/08), ECLI:EU:C:2011:550.

Joined Cases C-78/08 to C-80/08 *Ministero dell'Economia e delle Finanze and Agenzia delle Entrate v Paint Graphos Soc. coop. arl* (C-78/08), *Adige Carni Soc. coop. arl, in liquidation v Agenzia delle Entrate and Ministero dell'Economia e delle Finanze* (C-79/08) and *Ministero delle Finanze v Michele Franchetto* (C-80/08) ECLI:EU:C:2011:550.

Case C-368/10, *European Commission v Kingdom of the Netherlands*, ECLI:EU:C:2012:284.

Case C-1/12, *Ordem dos Técnicos Oficiais de Contas v. Autoridade da Concorrência*, ECLI:EU:C:2013:127.

Case C-356/12, *Glatzel*, ECLI:EU:C:2014:350.

Case C 333/13, *Dano v Jobcenter Leipzig*, ECLI:EU:C:2014:2358.

Case C-268/13, *Elena Petru*, ECLI:EU:C:2014:2271.

C-67/14, *Jobcenter Berlin Neukölln v Nazifa Alimanovic and Others*, ECLI:EU:C:2015:597.

Case C-115/14, *RegioPost GmbH & Co. KG v Stadt Landau in der Pfalz*, ECLI:EU:C:2015:760.

Case C-67/14, *Jobcenter Berlin Neukölln v Nazifa Alimanovic and Others*, ECLI:EU:C:2015:597.

Case C-83/14, *CHEZ Razpredelenie Bulgaria*, ECLI:EU:C:2015:480.

Case C-171/15, *Connexxion Taxi Services BV v Staat der Nederlanden, Transvision BV and others*, ECLI:EU:C:2016:948.

Case C-20/15 P, *Commission v World Duty Free Group SA and Others*, EU:C:2016:981.

Case C-201/15, *AGET Iraklis*, ECLI:EU:C:2016:972.

Case C-441/14, *Dansk Industri*, EU:C:2016:278.

Case C-392/15, *European Commission v Hungary*, ECLI:EU:C:2017:73.

Case C-74/16, *Congregación de Escuelas Pías*, ECLI:EU:C:2017:496.

Case C-660/15, *P Viasat Broadcasting v European Commission*, EU:C:2017:178.

Case C-414/16, *Egenberger*, ECLI:EU:C:2018:257.

Case T-216/15, *Dôvera zdravotná poisťovňa, a.s.*, ECLI:EU:T:2018:64.

Joined Case T-202/10 and T-203/10, *RENV II Stichting Woonlinie and Others v Commission*, ECLI:EU:T:2018:795.

Case C-309/18, *Lavorgna Srl v Comune di Montelanico and Others*, ECLI:EU:C:2019:350.

Case C-395/18, *Tim SpA - Direzione e coordinamento Vivendi SA v Consip SpA and Ministero dell'Economia e delle Finanze*, ECLI:EU:C:2020:58.

Case C-212/19, *Compagnie des pêches de Saint-Malo*, ECLI:EU:C:2020:726.

Case C-598/19, *Confederación Nacional de Centros Especiales de Empleo (Conacee) v Diputación Foral de Guipúzcoa and Federación Empresarial Española de Asociaciones de Centros Especiales de Empleo (Feacem)*, ECLI:EU:C:2021:810.

Case C 452/20, *Agenzia delle dogane e dei monopoli and Ministero dell'Economia e delle Finanze*, ECLI:EU:C:2022:111.

Case C-156/21, *Hungary v Parliament & Council*, ECLI:EU:C:2022:97.

Case C-157/21, *Poland v Parliament & Council*, ECLI:EU:C:2022:98.

Case T-166/21, *Autorità di sistema portuale del Mar Ligure occidentale*, ECLI:EU:T:2023:862.

Case C-40/23, *P European Commission v Kingdom of the Netherlands*, ECLI:EU:C:2024:492.

Case C-38/24, *G.L. v AB SpA*, ECLI:EU:C:2025:690.

Case C-19/23, *Kingdom of Denmark v European Parliament and Council of the European Union*, ECLI:EU:C:2025:865.



Case T-489/21, *Spain v Commission*, ECLI:EU:T:2025:656.

Case T-784/22, *Zásilkovna v Commission*, ECLI:EU:T:2025:809.

Case C-769/23, *Mara Soc. coop. arl v Ministero della Difesa, Gruppo Samir Global Service Srl*, ECLI:EU:C:2025:984.

Case C-799/23, *European Commission v Slovak Republic*, ECLI:EU:C:2025:621.

Case C-769/22, *Commission v Hungary*, ECLI:EU:C:2026:326.

International Documents

UN General Assembly, Transforming our world: the 2030 Agenda for Sustainable Development, UNGA Res 70/1 (25 September 2015) UN Doc A/RES/70/1.

UN Convention on the Rights of Persons with Disabilities, 13 December 2006, in force 03 May 2008, UN Doc A/RES/61/106.

Bibliography

- Adloff F, Neckel S, 'Futures of sustainability as modernization, transformation, and control: A conceptual framework' (2019) 14 Sustainability Science 1015.
- Albano G and Sparro M, 'Flexible Strategies for Centralized Public Procurement' (2010) 1(2) Review of Economics and Institutions 1.
- Aranguiz A, 'Social Mainstreaming Through the European Pillar of Social Rights: Shielding 'the Social' from 'the Economic' in EU Policymaking' (2019) 20 European Journal of Social Security.
- Armstrong K A, 'EU Social Policy and the Governance Architecture of Europe 2020' (2012) 18 Transfer: European Review of Labour and Research 285.
- Arrowsmith S, *The Law Of Public And Utilities Procurement* (Sweet & Maxwell 2018) 752.
- Ashiagbor D, 'On the "Slow Constitutionalisation" of Social Europe' in Claes M and Vos E (eds), *Making Sense of European Union Law* (Hart Publishing 2022).
- Baiocco S *et al*, 'Changing social investment strategies in the EU' (2022) JRC Working Papers Series on Labour, Education and Technology <<https://publications.jrc.ec.europa.eu/repository/handle/JRC127769>> accessed 29 April 2026.
- Bambra C, 'Decommodification and the worlds of welfare revisited' (2006) 16 Journal of European Social Policy 73.
- Barnard C, 'EU Citizenship and the Principle of Solidarity' in M Dougan and E Spaventa (eds.), *Social Welfare and EU Law: Essays in European Law* (Hart Publishing, 2005).
- Barnard C, 'To Boldly Go: Social Clauses in Public Procurement' (2017) 46 Industrial Law Journal 208.
- Bene C *et al*, 'Review Article: Resilience, Poverty And Development' (2014) 26 Journal of International Development 598.
- Bilbao-Ubillos J, 'the Social Dimension of the European Union: A Means to lock out Social Competition?' (2023) 165 Soc Indic Res 267.
- Bokhorst D, Schreurs S, and Corti F, 'The European Union and Social Investment: From Intellectual Diffusion to Institutional Consolidation' in A Hemerijck, and D Bokhorst (eds), *Governing the Welfare Commons: On Europe's Social Investment Turn* (Oxford Academic 2026).
- Brown H A, *Marx on Gender and the Family: A Critical Study* (Haymarket Books 2012)
- Caimi V and Sansonetti S, 'The Social Impact of Public Procurement - Can the EU Do More?' (2023) Committee on Employment and Social affairs, Policy Department for Economic, Scientific and Quality of Life Policies, European Parliament <<https://carloscoelho.eu/ed/files/study-public-procurement.pdf>> accessed 27 May 2026.
- Caranta R, 'Towards Socially Responsible Public Procurement' (2022) 23 ERA Forum 149.
- Caracciolo di Torella E, 'Re-thinking care after the pandemic: a European Care Strategy for Caregivers and Care Receivers' (2023) 24 ERA Forum 58.



- Cedefop, 'Terminology of European education and training policy: a selection of 130 key terms' (2014) Luxembourg: Publications Office. Cedefop reference series. <<https://data.europa.eu/doi/10.2801/991753>> accessed 29 April 2026.
- Cedefop, 'Timeline of VET policies in Europe' <<https://www.cedefop.europa.eu/en/tools/timeline-vet-policies-europe>> accessed 1 June 2026.
- Charitakis S, 'Accessibility of goods and services' in Ferri D and Broderick A (eds), *Research Handbook on EU Disability Law* (Edward Elgar Publishing 2020).
- Charitakis S, *Access Denied: The Role of the European Union in Ensuring Accessibility under the United Nations Convention on the Rights of Persons with Disabilities* (Intersentia 2018).
- Chieregato E, 'A Work–Life Balance for All? Assessing the Inclusiveness of EU Directive 2019/1158' (2020) 36 *International Journal of Comparative Labour Law and Industrial Relations* 59.
- Ciani F and Fattacciu I, 'Theoretical Framework for SWINS – Sustainable Well-being through Investment in Social Services' (2025) D2.1, SWINS – Sustainable Well-being through Investment in Social Services, ARCO, research lab at PIN Foundation <www.swins.eu> accessed 29 April 2026.
- Commission 'Commission completes proposal for the 2028-2034 EU long-term budget' (Press Release 3 September 2025) <https://ec.europa.eu/commission/presscorner/detail/en/ip_25_2011> accessed 1 June 2026.
- Commission 'Commission wraps up consultation on the EU Public Procurement Revision' (Public Buyers Community, 2026) <<https://public-buyers-community.ec.europa.eu/news/commission-wraps-consultation-eu-public-procurement-revision>> accessed 16 June 2026.
- Commission 'Revision of the Public Procurement Directive' (Public Buyers Community) <<https://public-buyers-community.ec.europa.eu/revision-public-procurement-directives>> accessed 1 June 2026
- Commission, '2025 Strategic Foresight Report Resilience 2.0: Empowering the EU to thrive amid turbulence and uncertainty' COM(2025) 484 final.
- Commission, 'Available budget of Cohesion Policy 2021-2027' <https://ec.europa.eu/regional_policy/funding/available-budget_en> accessed 1 June 2026.
- Commission, 'Draft GBER Explanatory Memorandum' <https://competition-policy.ec.europa.eu/document/download/75eccdf3-2811-4207-8577-12fdc06a0bd9_en?filename=2026_draft_GBER_explanatory_memorandum_en.pdf> accessed 1 June 2026.
- Commission, 'Education and training Monitor 2025' <<https://op.europa.eu/webpub/eac/education-and-training-monitor/en/index.html>> accessed 1 June 2026.
- Commission, 'European Citizens' Panel on a new European budget fit for our ambitions' (2025) Publication Office of the European Union <https://citizens.ec.europa.eu/document/download/e1bcbfa9-f220-454a-8fea-75e98fec792e_en?filename=European%20Citizens%20Panel%20on%20a%20New%20European%20Budget%20-%20final%20recommendations.pdf> accessed 1 June 2026.
- Commission, 'European Education Area, European Semester / Country analysis' (2025) <<https://education.ec.europa.eu/about-eea/european-semester>> accessed 1 June 2026.

- Commission, 'European Regional Development Fund' <https://ec.europa.eu/regional_policy/funding/erdf_en> accessed 1 June 2026.
- Commission, 'Factual Summary Report on the Public Consultation on the Revision of the Public Procurement Directives Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs' Ref.Ares(2026) 3275694 <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/15492-EU-public-procurement-rules-revision/public-consultation_en> accessed 1 June 2026.
- Commission, 'FAQ Social security – Regulations' <https://employment-social-affairs.ec.europa.eu/policies-and-activities/moving-working-europe/eu-social-security-coordination/frequently-asked-questions/faq-social-security-regulations_en> accessed 29 April 2026.
- Commission, 'Feedbacks and statistics: call for Evidence' (The new Action Plan on the implementation, 2025) <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14736-The-new-Action-Plan-on-the-implementation/feedback_en?p_id=19846> accessed 29 April 2026.
- Commission, 'Internal Market, Industry, Entrepreneurship, SMEs - The Net-Zero Industry Act, Making the EU the home of clean technologies manufacturing and green jobs' <https://single-market-economy.ec.europa.eu/industry/sustainability/net-zero-industry-act_en#new-mandatory-rules-in-public-procurement-auctions-and-other-schemes> accessed 17 June 2026.
- Commission, 'Internal Market, Industry, Entrepreneurship, SMEs – Industry' <https://single-market-economy.ec.europa.eu/industry_en> accessed 17 June 2026.
- Commission, 'Ninth report on economic, social and territorial cohesion' (2024) Publications Office of the European Union, Luxembourg <https://ec.europa.eu/regional_policy/sources/reports/cohesion9/9CR_Report_FINAL.pdf> accessed 1 June 2026.
- Commission, 'Public Consultation on the Revision of the Public Procurement Directives' Ref.Ares(2026) 3275694 <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/15492-EU-public-procurement-rules-revision/public-consultation_en> accessed 1 June 2026.
- Commission, 'Public procurement' <https://single-market-economy.ec.europa.eu/single-market/public-procurement_en> accessed 1 June 2026.
- Commission, 'Recovery and Resilience Scoreboard' <https://ec.europa.eu/economy_finance/recovery-and-resilience-scoreboard/index.html> accessed 1 June 2026.
- Commission, 'Services of General Economic Interest (SGEI)' <https://competition-policy.ec.europa.eu/state-aid/legislation/sgei_en> accessed 1 June 2026.
- Commission, 'Social Climate Fund' <https://employment-social-affairs.ec.europa.eu/policies-and-activities/funding/social-climate-fund_en> accessed 1 June 2026.
- Commission, 'Social enterprises' <https://single-market-economy.ec.europa.eu/sectors/proximity-and-social-economy/social-economy-eu/social-enterprises_en> accessed 1 June 2026.
- European Parliament, 'Amending social security coordination' (2017) <[https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI\(2017\)599322](https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI(2017)599322)> accessed 29 April 2026.



Commission, 'Social Procurement' <https://commission.europa.eu/funding-and-tenders/tools-public-buyers/social-procurement_en> accessed 17 June 2026.

Commission, 'State aid Regulations' <https://competition-policy.ec.europa.eu/state-aid/legislation/regulations_en> accessed 1 June 2026.

Commission, 'State aid Scoreboard 2025' (2026) <https://competition-policy.ec.europa.eu/document/download/cc9cdf4e-97e9-4f8e-ac7d-5f094a9fd12d_en?filename=state_aid_scoreboard_note_2025.pdf> accessed 1 June 2026.

Commission, 'The 2028-2034 EU budget for a stronger Europe' <https://commission.europa.eu/strategy-and-policy/eu-budget/long-term-eu-budget/eu-budget-2028-2034_en> accessed 1 June 2026.

Commission, 'The Affordable Housing Act' <https://housing.ec.europa.eu/european-affordable-housing-plan/affordable-housing-act_en>.

Commission, 'The EU budget in motion' <https://commission.europa.eu/strategy-and-policy/eu-budget/motion_en> accessed 29 April 2026.

Commission, 'The EU's 2021-2027 long-term Budget and NextGeneration EU FACTS AND (2021) Publications Office of the European Union <https://www.ewi-vlaanderen.be/sites/default/files/downloads/bestanden/facts_and_figures.pdf> accessed 1 June 2026.

Commission, 'The European Affordable Housing Plan' <https://housing.ec.europa.eu/european-affordable-housing-plan_en> accessed 29 April 2026.

Commission, 'The European Employment Strategy – Working to improve employment in Europe' (2010) Publications Office of the European Union <<https://op.europa.eu/en/publication-detail/-/publication/214dd8b1-be8e-442f-ae94-28a34fd9846b/language-en>> accessed 1 June 2026.

Commission, 'The Recovery and Resilience Facility' <https://reforms-investments.ec.europa.eu/recovery-and-resilience-facility-1_en?> accessed 1 June 2026.

European Commission, 'The European Social Fund Plus' <<https://european-social-fund-plus.ec.europa.eu/en>> accessed 1 June 2026.

Commission, 'Web Accessibility Directive - Monitoring reports 2022-2024' (Shaping Europe's digital future, 2025) <<https://digital-strategy.ec.europa.eu/en/news/web-accessibility-directive-monitoring-reports-2022-2024>> accessed 1 June 2025.

Commission, 'What is the ESF+' <<https://european-social-fund-plus.ec.europa.eu/en/what-esf>> accessed 1 June 2026.

Commission, 'Buying Green! A Handbook on Green Public Procurement' (2016) Publications Office of the European Union <<https://data.europa.eu/doi/10.2779/837689>> accessed 1 June 2026.

Commission, Directorate General for Employment, Social Affairs, and Inclusion, 'Social housing and beyond -Operational toolkit on the use of EU funds for investments in social housing and associated services' (2024) Publications Office of the European Union <<https://data.europa.eu/doi/10.2767/924036>> accessed 1 June 2026.

- Commission, Directorate-General for Budget, 'Europe's budget – Social and skills' (2025) Publications Office of the European Union <<https://data.europa.eu/doi/10.2761/6479427>> accessed 1 June 2026.
- Commission, Directorate-General for Competition and others, 'Study on the financing models for public services in the EU and their impact on competition – Final report' (2016) Publications Office of the European Union <<https://data.europa.eu/doi/10.2763/251648>> accessed 1 June 2026.
- Commission, Directorate-General for Economic and Financial Affairs, 'Economic impacts of the Recovery and Resilience Facility: New insights at sectoral level and the case of Germany' (2025) Publications Office of the European Union <https://economy-finance.ec.europa.eu/document/download/8b42b93b-288a-498c-bb2f-3a00c837541c_en?filename=dp221_en_2.pdf> accessed 1 June 2026.
- Commission, Directorate-General for Economic and Financial Affairs, 'Mid-term evaluation of the recovery & resilience facility: Strengthening our Union through ambitious reforms & investments' (2024) Publications Office of the European Union <<https://data.europa.eu/doi/10.2765/895571>> accessed 1 June 2026.
- Commission, Directorate-General for Education, Youth, Sport and Culture, 'Support study for the Erasmus+ 2021-2027 interim evaluation and the Erasmus+ 2014-2020 final evaluation – Synthesis of national reports on the implementation and impact of Erasmus+' (2025) Publications Office of the European Union <<https://data.europa.eu/doi/10.2766/7139089>> accessed 1 June 2025.
- Commission, Directorate-General for Employment, Social Affairs and Inclusion, 'Social Housing and Beyond Operational toolkit on the use of EU funds for investments in social housing and associated services' (2024) Publications Office of the European Union <<https://data.europa.eu/doi/10.2767/924036>> accessed 1 June 2026.
- Commission, Directorate-General for Employment, Social Affairs and Inclusion, 'Report on access to essential services in the EU – Commission staff working document' (2024) Publications Office of the European Union <<https://data.europa.eu/doi/10.2767/447353>> accessed 29 April 2026.
- Commission, Directorate-General for Employment, Social Affairs and Inclusion, 'Study on social services with particular focus on personal targeted social services for people in vulnerable situations – Final report – Annexes, Publications Office of the European Union' (2022) Publications Office of the European Union <<https://data.europa.eu/doi/10.2767/779379>> accessed 29 April 2026.
- Commission, Directorate-General for Employment, Social Affairs and Inclusion, 'Building an economy that works for people – An action plan for the social economy' (2021) Publications Office of the European Union <<https://data.europa.eu/doi/10.2767/12083>> accessed 29 April 2026.
- Commission, Directorate-General for Employment, Social Affairs and Inclusion, 'Social Protection Committee annual report 2025 – Review of the Social Protection Performance Monitor (SPPM) and developments in social protection policies – Key social challenges and key messages' (2025) Publications Office of the European Union <<https://data.europa.eu/doi/10.2767/4818667>> accessed 29 April 2026.
- Commission, Directorate-General for Regional and Urban Policy, Ecorys, Ismeri and Nordregio, [Directorate-General for Regional and Urban Policy, Ecorys, Ismeri, Nordregio], 'The application of the partnership principle in the 2021-2027 shared management Funds covered by the Common Provisions Regulation – Final report' (2026) <<https://data.europa.eu/doi/10.2776/1142445>> accessed 17 June 2026.



- Corti F, Liscai A and Ruiz T, 'The Recovery and Resilience Facility: Boosting Investment in Social Infrastructure in Europe?' (2022) 15 Italian Labour Law E-Journal 15.
- Costamagna F and Giubboni S, 'EU citizenship and the welfare state' in Kostakopoulou D and Thym D (eds) *Research Handbook on European Union Citizenship Law and Policy* (Hart Publishing 2022).
- Council of the EU, 'Social security coordination: EU member states' representatives confirm provisional agreement' (European Council of the EU 29 April 2026) <<https://www.consilium.europa.eu/en/press/press-releases/2026/04/29/social-security-coordination-eu-member-states-representatives-confirm-provisional-agreement/>> accessed 1 June 2026.
- Countouris N, 'The Concept of 'Worker' in European Labour Law: Fragmentation, Autonomy and Scope' (2018) 47 Industrial Law Journal 192.
- Czischke D, 'Brussels asked for housing advice — then ignored its own EU-funded research' (Euobserver, 2026) <<https://euobserver.com/217560/brussels-asked-for-housing-advice-then-ignored-its-own-eu-funded-research>> accessed 1 June 2026.
- Daly M and Rake K, *Gender and the Welfare State* (Polity 2003).
- Dani M, 'Openness, Purposiveness, and the Realignment of the EU and the Democratic and Social Constitutional State' (2023) 24 German Law Journal.
- De Micheli B and Smilari A, 'Work-life balance: Policy developments' (2024) Eurofound <<https://www.eurofound.europa.eu/en/publications/all/work-life-balance-policy-developments>> accessed 1 June 2026
- De Schutter O, 'The European Pillar of Social Rights: Transforming Promises into Reality' (2022) UC Louvain, CRIDHO Working Paper 2022–3, accessed <<https://research.dial.uclouvain.be/entities/publication/4b995c94-b44d-4f90-93e0-44b718a1fd4a>> 29 April 2026.
- De Vries S and De Jager R, 'Between Hope and Fear: The Creation of a More Inclusive EU Single Market Through Art. 9 TFEU' (2022) 7 European Papers 1405.
- De Witte B, 'Legal Methods for the Study of EU Institutional Practice' (2022) 18 European Constitutional Law Review 637.
- De Witte B, 'Setting the Scene: How Did Services Get to Bolkestein and Why?' (2007) EUI Law Working Paper 2007/20 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1023865> accessed 1 June 2026.
- Dimitri N, 'Best Value for Money' in Procurement.' (2013) 13 Journal of Public Procurement 149.
- Craig P and De Búrca G, *EU Law: Text, Cases and Materials* (Oxford University Press 2008).
- Do Rosario Anjos M and Da Veiga Cepeda J, 'The (ir)relevance of Directive 2011/24/EU on the cross-border health services market' (2020) Economic and Social Development: Book of Proceedings 431.
- Draghi M, 'The Draghi report: A competitiveness strategy for Europe (Part A)' (2024) Publication Office of the EU <https://commission.europa.eu/topics/competitiveness/draghi-report_en> accessed 20 January 2026.

Dragos D and Neamtu B, 'Sustainable Public Procurement: Life-Cycle Costing in the New EU Directive Proposal' (2013) 8 European Procurement & Public Private Partnership Law Review 19.

Durand A, 'European Citizenship' (1979) 4 European Law Review 3.

EASPD, 'Alternatives to Public Procurement in Social Care' (2019) <https://easpd.eu/fileadmin/user_upload/Publications/alternatives_to_public_procurement_in_social_care_final.pdf> accessed 27 May 2026.

Erridge A, and McIlroy J, 'Public Procurement and Supply Management Strategies' (2002) 17 Public Policy and Administration 52.

Esping-Andersen G, *Politics against Markets: The Social Democratic Road to Power* (Princeton University Press 1985).

Eurofound, 'Social services in Europe: Adapting to a new reality' (2023) Publications Office of the European Union <<https://www.eurofound.europa.eu/en/publications/all/social-services-europe-adapting-new-reality>> accessed 29 April 2026.

European Action Coalition, 'The European Union's Affordable Housing Plan is a tool for opening up social housing and affordable housing to the financialized markets' (2026) <<https://housingnotprofit.org/second-statement-the-european-unions-affordable-housing-plan/>> accessed 1 June 2026.

European Commission: Directorate-General for Employment, Social Affairs and Inclusion, ICF and European Centre for Social Welfare Policy and Research, 'Peer review on 'Participation of persons with disabilities in the development of social services at local level' (2024) Publications Office of the European Union < <https://data.europa.eu/doi/10.2767/105237> > accessed 1 June 2026.

European Commission: Executive Agency for Small and Medium-sized Enterprises, 'Buying for Social Impact' (2020) Publications Office of the European Union <<https://data.europa.eu/doi/10.2826/694344>> accessed 27 May 2026.

European Court of Auditors, 'Special report 28/2023: Public procurement in the EU – Less competition for contracts awarded for works, goods and services in the 10 years up to 2021' (2023) <<https://www.eca.europa.eu/en/publications?ref=SR-2023-28>> accessed 1 June 2026.

European Innovation Council and others, 'Benchmarking the socio-economic performance of the EU social economy – Improving the socio-economic knowledge of the proximity and social economy ecosystem' (2024) Publications Office of the European Union 11 <<https://data.europa.eu/doi/10.2826/880860>> accessed 20 January 2026.

European Parliament, 'Factsheets on the European Union, Environmental policy: general principles and policy framework' (2026) <<https://www.europarl.europa.eu/factsheets/en/sheet/71/environmental-policy-general-principles-and-policy-framework>> accessed 1 June 2026.

European Parliament, 'Factsheets on the European Union, European Regional Development Fund (ERDF)' (2025) <<https://www.europarl.europa.eu/factsheets/en/sheet/95/european-regional-development-fund-erdf-?>> accessed 1 June 2026.

European Parliament, 'Factsheets on the European Union: Free movement of persons' (2025) <<https://www.europarl.europa.eu/factsheets/en/sheet/147/free-movement-of-persons>>.



- European Parliament, 'Next Generation EU A European instrument to counter the impact of the coronavirus pandemic' (2020) Briefing 2021-2027 MFF EPRS <[https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/652000/EPRS_BRI\(2020\)652000_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/652000/EPRS_BRI(2020)652000_EN.pdf)> accessed 1 June 2026.
- European Parliamentary Research Service, 'Briefing: Reflection paper on the social dimension' (2017) EU Parliament <[https://www.europarl.europa.eu/RegData/etudes/BRIE/2017/603970/EPRS_BRI\(2017\)603970_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2017/603970/EPRS_BRI(2017)603970_EN.pdf)> accessed 09 June 2026.
- Eurostat, 'Government expenditure by function for the European Union, 2024 (% of GDP)' (2024) <<https://ec.europa.eu/eurostat/cache/visualisations/economy/government-expenditure/>> accessed 1 June 2026.
- Eurostat, 'Housing in Europe – 2025 Edition' <<https://ec.europa.eu/eurostat/web/interactive-publications/housing-2025>> accessed 1 June 2026.
- Eurostat, 'Ongoing rise: house prices and rents climb further' (News Articles, 2025) <<https://ec.europa.eu/eurostat/en/web/products-eurostat-news/w/ddn-20251003-1>> accessed 1 June 2026.
- Fabbrini F, 'The Principle of Subsidiarity' in Schütze R and Tridimas T (eds), *Oxford Principles Of European Union Law: The European Union Legal Order: Volume I* (Oxford Law Pro 2018).
- Fabbrini F, 'The recovery and resilience facility as a new legal technology of European governance' (2025) 47 *Journal of European Integration* 85.
- Famà R, Fisicaro M and Spaventa E, 'EU Funding in Times of Geopolitical Turbulence: A Constitutional Laboratory' (2026) 33 *Maastricht Journal of European and Comparative Law* 113.
- Fares G M O, 'The cross-border healthcare at the European level: the Directive 2011/24/EU on the application of patients' rights' (2020) 23 *Cross-border health care in the European Union-e-Book* 19.
- Ferri D and Broderick A, 'Introduction' in Ferri D and Broderick A (eds), *Research Handbook on EU Disability Law* (Edward Elgar, 2020).
- Ferri D and Cortese F (eds), *The EU Social Market Economy and the Law: Theoretical Perspectives and Practical Challenges for the EU* (Routledge 2018).
- Ferri D, 'State aid and the Social Economy' in Piernas Lopez J J, *State aid in times of global competitiveness* (Edward Elgar Publishing forthcoming).
- Ferri D, 'Social services and State aid: New steps towards a more 'Social Europe'?' in Hancher L and Piernas López J J (eds), *Research Handbook on European State Aid Law* (Edward Elgar Publishing 2021).
- Ferri D, 'The role of soft law in advancing the rights of persons with disabilities in the EU: A 'hybridity' approach to EU disability law' (2022) 28 *European Law Journal* 134.
- Fiedziuk N, *Services of general economic interest in EU law: The role of the 'public service' exception in the light of recent developments in EU law* (Wolf Legal Publishers 2013).

- Flynn L, 'Competition Policy and Public Services in EC Law after Maastricht and Amsterdam Treaties' in O'Keeffe D and Twomey P (eds) *Legal Issues of the Amsterdam Treaty* (Oxford University Press 1999) 185.
- Freedland M, 'Vocational Training in EC Law and Policy—Education, Employment or Welfare?' (1996) 25/2 *Industrial Law Journal* 110.
- Frischhut M, 'Who Is the Editor-in-Chief in EU Health Law, the Member States or the EU? Patients' Rights in Cross-Border Healthcare, EU Values and Ethics' (2025) 32 *European Journal of Health Law* 258.
- Gallagher B, 'Implementing European priorities in VET: making national VET agile, flexible, innovative, attractive, inclusive and quality-assured: Ireland' (2024) Cedefop Refernet Thematic Perspectives <https://www.cedefop.europa.eu/files/implementing_eu_priorities_ireland_2024_2.pdf> accessed 1 June 2026.
- Gand D and El-Enany N, 'The Limits of Social Europe: EU Law and the Ordoliberal Agenda' (2013) 14 *German Law Journal*.
- Garben S, 'Article 165 TFEU' in Kellerbauer M, Klamert M and Tomkin J (eds), *The EU Treaties and the Charter of Fundamental Rights: A Commentary* (Oxford University Press 2019).
- Garben S, 'Article 166 TFEU' in Kellerbauer M, Klamert M and Tomkin J (eds), *The EU Treaties and the Charter of Fundamental Rights: A Commentary* (Oxford University Press 2019).
- Garben S, 'The Constitutional (Im)balance between "the Market" and "the Social" in the European Union' (2017) 13 *European Constitutional Law Review*.
- Garben S, 'The European Pillar of Social Rights: An Assessment of its Meaning and Significance' (2019) 21 *Cambridge Yearbook of European Legal Studies*.
- Garben S, 'The European Pillar of Social Rights: Effectively Addressing Displacement?' (2018) 14 *European Constitutional Law Review* 210.
- Gómez-Barroso J L, Barillà S, and Harsløf I, 'Chapter 2: The European Union policy framework for social services: agendas, regulations and discourses' in Martinelli F, Anttonen A, and Mätzke M (eds), *Social Services Disrupted* (Edward Elgar Publishing 2017).
- Guy M and Sauter W, 'The History and Scope of EU Health Law and Policy' in Hervey T K, Young C A, and Bishop L E (eds), *Research Handbook on EU Health Law and Policy* (Edward Elgar Publishing 2017).
- Halloran D, 'Evaluating Social Value in Social Clauses: Tensions in Public Procurement Regulation and Horizontal Considerations' (PhD thesis, National University of Ireland Galway, 2020).
- Hatzopoulos V, 'Assessing the Services Directive (2006/123/EC)' (2008) 10 *Cambridge Yearbook of European Legal Studies* 215.
- Haukås M, 'Implementing European priorities in VET: making national VET agile, flexible, innovative, attractive, inclusive and quality-assured: Norway' (2024) Cedefop Refernet Thematic Perspectives <<https://www.cedefop.europa.eu/en/country-reports/implementing-european-priorities-vet-norway-2024>> accessed 1 June 2026.



- Hendrickx F, 'The European Social Pillar: A first evaluation' (2018) 9 European Labour Law Journal 3.
- Hemerijck A, *The Uses of Social Investment Social Investment* (Oxford 2017).
- Housing Europe, 'The state of housing in Europe 2025 – Trends in a nutshell' (2025) <https://www.housingeurope.eu/wp-content/uploads/2025/10/the_state_of_housing_in_the_eu_2025_trends-in-a-nutshell_digital.pdf> accessed 16 June 2026.
- Impact Europe, 'The Investing for Impact Network The new Action Plan to implement the European Pillar of Social Rights' (2025) <https://www.impacteurope.net/sites/www.impacteurope.net/files/publications/EU%20Pillar%20of%20Social%20Rights%20Action%20Plan_ImpactEurope_2025_v2.pdf> accessed 29 April 2026.
- Karno A, 'Implementing European priorities in VET: making national VET agile, flexible, innovative, attractive, inclusive and quality-assured: Belgium' (2024) Cedefop Refernet Thematic Perspectives <<https://www.cedefop.europa.eu/en/country-reports/implementing-european-priorities-vet-belgium>> accessed 1 June 2026.
- Khemani R S and Dutz M A, 'The Instruments of Competition Policy and their Relevance for Economic Policy' (1996) 26 PSD Occasional Paper.
- Kilpatrick C and Scott J (eds), *New frontiers of EU funding : law, policy, politics* (Oxford University Press 2024).
- Kilpatrick C, 'The displacement of Social Europe: a productive lens of inquiry' (2018) 14 European Constitutional Law Review.
- Klamert M and Kochenov D, 'Article 2 TEU' in M Kellerbauer, M Klamert, and J Tomkin (eds), *The EU Treaties and the Charter of Fundamental Rights: A Commentary* (Oxford Academic 2019).
- Kochenov D and Plender R, 'EU Citizenship: From an Incipient Form to an Incipient Substance? The Discovery of the Treaty Text' (2012) 37 European Law Review 369.
- Korkea-Aho E, 'EU Soft Law in Domestic Legal Systems: Flexibility and Diversity Guaranteed?' (2009) 16 Maastricht Journal of European and Comparative Law 271.
- Kramer D, 'Had they only worked one month longer! An Analysis of the Alimanovic Case [2015] C-67/14.' (2015) European Law Blog <<https://www.europeanlawblog.eu/pub/had-they-only-worked-one-month-longer-an-analysis-of-the-alimanovic-case-2015-c-6714/release/1>> accessed 21 May 2026.
- Láncos P L and Jiménez L A, 'Chapter 1: Introduction to The Legal Effects of EU Soft Law', in Láncos P L, Xanthoulis N, and Jiménez L A, *The Legal Effects of EU Soft Law* (Edward Elgar Publishing 2023).
- Lara-Montero A, 'Future EU budget, what does it mean for social services?' (European Social Network, 2025) <<https://www.esn-eu.org/news/future-eu-budget-what-does-it-mean-social-services>> accessed 1 June 2026.
- Leibfried S and Pierson P, 'Social Policy: Left to Courts and Markets?' in Wallace H and Wallace W (eds), *Policy-Making in the European Union* (Oxford University Press 2000).

- Letta E, 'Much More than a Market. Speed, Security, Solidarity: Empowering the Single Market to deliver a sustainable future and prosperity for all EU Citizens' (2024) <<https://www.consilium.europa.eu/media/ny3j24sm/much-more-than-a-market-report-by-enrico-letta.pdf>> accessed 1 June 2026.
- Lolich L and Timonen V, 'Digitalisation of Public Services as a Challenge to Social Justice' in Yerkes M A and Bal M (eds) *Solidarity and Social Justice in Contemporary Societies* (Palgrave Macmillan 2022).
- Lorenzetti D, 'Directive 2011/24/EU: The application of patients' rights regarding cross-border healthcare' (2018) 19 *Pharmaceuticals Policy and Law* 133.
- Maas W, 'The Origins, Evolution, and Political Objectives of EU Citizenship' (2014) 15 *German Law Journal* 797.
- Martin D, 'Article 21 TFEU', in Kellerbauer M, Klamert M, and Tomkin J (eds), *The EU Treaties and the Charter of Fundamental Rights: A Commentary*, (Oxford Academic 2019).
- Martin D, 'Article 34 CFR', in Kellerbauer M, Klamert M, and Tomkin J (eds), *The EU Treaties and the Charter of Fundamental Rights: A Commentary* (Oxford University Press 2019).
- McCaughey M, 'The European social model: Key to competitive growth?' (Eurofound 2025) <<https://www.eurofound.europa.eu/en/podcast-and-blog/all/the-european-social-model-key-to-competitive-growth>> accessed 1 June 2026.
- McEvoy E, 'Small and Medium-Sized Enterprise (SME) Participation in Public Procurement' (PhD thesis, National University of Ireland Maynooth, 2020).
- Merola M and Cogoni A, 'The European Commission Must Always Take a Final Position on the Classification as State Aid: Case T-469/20 Netherlands v Commission' (2023) 14 *Journal of European Competition Law & Practice* 293.
- Morel N, Palier B, and Palme J (eds), *Towards a Social Investment Welfare State?: Ideas, Policies and Challenges* (Bristol University Press 2012).
- Motta M, *Competition Policy: Theory and Practice* (Cambridge University Press, 2003).
- Muir E, 'Drawing Positive Lessons From the Presence of 'The Social' Outside of EU Social Policy Stricto Sensu' (2018) 14 *European Constitutional Law Review* 75.
- Muir E, *EU Equality Law: The First Fundamental Rights Policy of the EU* (Oxford University Press 2018).
- Natea M D, 'A New European Philosophy on Recovery and Resilience: The Recovery and Resilience Facility and the impact over Member States' (2021) 15 *Acta Marisiensis. Series Oeconomica* 45.
- Nicolaides P, 'The General Block Exemption Regulation, its content and application. Specific focus on access to finance for the social economy' (2023) Directorate-General for Employment, Social Affairs and Inclusion Thematic Discussion Paper 1 <https://social-economy-gateway.ec.europa.eu/system/files/2023-07/WS2_Synthesis%20report.pdf> accessed 20 January 2026.



O'Brien C, 'Civis Capitalist Sum: Class as the New Guiding Principle of EU Free Movement Rights' (2016) 53 Common Market Law Review 937.

Observatori DESCA, '[Analysis] The European Housing Plan: an insufficient step forward in the face of the residential crisis' (2025) <<https://observatoridesca.org/en/noticies/analysis-the-european-housing-plan-an-insufficient-step-forward-in-the-face-of-the-residential-crisis>> accessed 21 June 2026.

OECD/European Union, 'Social Economy in Europe: Contributing to Competitiveness and Prosperity, Local Economic and Employment Development (LEED)' (2025) OECD Publishing, 3. <https://www.oecd.org/content/dam/oecd/en/publications/reports/2025/12/social-economy-in-europe_2599a910/3432de93-en.pdf> accessed 20 January 2026.

Parliament, 'Legislative Train Schedule - Public Procurement Act' <<https://www.europarl.europa.eu/legislative-train/theme-a-new-plan-for-europe-s-sustainable-prosperity-and-competitiveness/file-public-procurement-act>> accessed 17 June 2026.

Pickernell D, Kay A, Packham G and Miller C, 'Competing Agendas in Public Procurement: an Empirical Analysis of Opportunities and Limits in the UK for SME' (2011) 29 Environment and Planning C: Government and Policy.

Piernas López J J, *The Concept of State Aid Under EU Law: From Internal Market to Competition and Beyond* (Oxford University Press 2015).

Piernas López J J, 'Services of General Economic Interest and Social Considerations' in Ferri D and Cortese F (eds), *The EU Social Market Economy and the Law: Theoretical Perspectives and Practical Challenges for the EU* (Routledge 2018).

Piernas López J J, 'When Is a Company Not an Undertaking Under EU Competition Law? The Contribution of the Dôvera Judgment' (2021) 58 Common Market Law Review.

Plomien A, 'EU Social and Gender Policy beyond Brexit: Towards the European Pillar of Social Rights' (2018) 17 Social Policy & Society.

Polomarkakis K A, 'A Tale of Two Approaches to Social Europe: The CJEU and the Advocate General drifting apart in Case C-201/15 AGET Iraklis' (2017) 24 Maastricht Journal of European and Comparative Law.

Psifidou I and Ranieri A, 'European cooperation in vocational education and training: Towards a common ambition' (2020) 36 Revista Española de Educación Comparada.

Quinn P and De Hert P, 'The Patients' Rights Directive (2011/24/EU)—Providing (some) rights to EU residents seeking healthcare in other Member States' (2011) 27 Computer Law & Security Review.

Ranchordás S, 'Connected but Still Excluded?: Digital Exclusion beyond Internet Access' in Lenca M, Pollicino O, Liguori L, Stefanini E and Andorno R (eds), *The Cambridge Handbook of Information Technology, Life Sciences and Human Rights* (Cambridge University Press 2022).

Riga J F, 'Recent Council Directives and Commission Proposals Affecting Public Procurement in the European Communities' (1989) 12 Boston College International and Comparative Law Review 387.

Ryszka J, 'Protection of Social Rights as a Permanent Challenge for the European Union' (2021) 46 Review of European and Comparative Law.

- Salese V, 'Unorthodox Competences and the Functional Architecture of EU Social Law' (2026) 11 *European Papers – A Journal on Law and Integration*.
- Sanchez-Graells A, 'Lucky dip from a mixed bag? Summary results of the consultation on the evaluation of eu procurement rules' (2025) <<https://www.howtocrackanut.com/blog/2025/5/16/lucky-draw-from-a-mixed-bag-summary-results-on-the-public-consultation-on-the-evaluation-of-the-eu-public-procurement-directives>> accessed 1 June 2025.
- Sanchez-Graells A, *Public Procurement and the EU Competition Rules* (Bloomsbury 2015).
- Sapiens Network, 'Case C-598/19 Conacee – Reserved Contracts and Additional National Criteria Beyond Those Laid Down in Article 20(1) of Directive 2014/24/EU on Public Procurement'(2023) <<https://sapiensnetwork.eu/case-c-598-19-conacee-reserved-contracts-additional-national-criteria>> accessed 1 June 2026.
- Scharpf F W, 'The Asymmetry of European Integration, or Why the EU Cannot Be a “Social Market Economy”' (2010) 8 *Socio-Economic Review*.
- Schreurs S, 'Social Europe and its limits: hardening integration, softening constraints?' (2025) *Journal of European Public Policy*.
- Seiwerth S, 'The European Pillar of Social Rights: A Dangerous Distraction?' (2023) 39 *International Journal of Comparative Labour Law and Industrial Relations*.
- Semple A, 'The Link To The Subject-Matter: A Glass Ceiling For Sustainable Public Contracts?' in Sjäfjell B and Wiesbrock A (eds), *Sustainable Public Procurement under EU Law: New Perspectives on the State as Stakeholder* (Cambridge University Press 2015) 50.
- Senden L, *Soft Law in European Community Law* (Hart 2004).
- Shin C, 'A conceptual approach to the relationships between the social economy, social welfare, and social innovation' (2016) 7 *Journal of Science and Technology Policy Management*.
- Snyder F, 'The Effectiveness of European Community Law: Institutions, Processes, Tools and Techniques' (1993) 56 *Modern Law Review*.
- Ștefan O, 'Helping Loose Ends Meet? The Judicial Acknowledgement of Soft Law as a Tool of Multi-Level Governance.' (2014) 21 *Maastricht Journal of European and Comparative Law* 359.
- Stevenson H, 'The European Semester: A literature review' (2019) University of Nottingham <https://www.epsu.org/sites/default/files/article/files/Literature%20review_0.pdf> accessed 1 June 2026.
- Submission to CfE with Reference No. F3711623 <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14736-The-new-Action-Plan-on-the-implementation/F3711623_en> accessed 29 April 2026.
- Submission to CfE with Reference No. F3714919 <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14736-The-new-Action-Plan-on-the-implementation/F3714919_en> accessed 18 June 2026.



- Submission to CfE with Reference No. F3716135 <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14736-The-new-Action-Plan-on-the-implementation/F3716135_en> accessed 29 April 2026.
- Szyszczak E, 'Modernising healthcare: Pilgrimage for the holy grail?' in Krajewski M, Neergaard U, and van de Gronden JW (eds), *The Changing Legal Framework for Services of General Interest in Europe – Between Competition and Solidarity* (TMC Asser Press 2009).
- Think Tank European Parliament, 'EU public procurement legislation: Implementation and upcoming review' (Briefing, 2026) <[https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI\(2026\)785688](https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI(2026)785688)> accessed 17 June 2026.
- Thörnqvist C and Woolfson C, 'When tender turns tough: posted workers and the tendering regime in the Swedish construction industry' (2012) 30 Construction Management and Economics 525.
- Trubek D M, Cottrell M P and Nance M, "Soft Law", "Hard Law", and European Integration: Toward a Theory of Hybridity' (2005) University of Wisconsin Legal Studies Research Paper No. 1002.
- Trybus M, 'The Division of Public Contracts into Lots Under Directive 2014/24: Minimum Harmonisation and Impact on SMEs in Public Procurement?' (2018) 43 European Law Review 313.
- United Nations, 'Article 9: Illustrative Indicators' (2020) <<https://www.ohchr.org/sites/default/files/article-9-indicators-en.pdf>> accessed June 1 2026.
- Uysal E, 'Sustainability Clauses in "Public" Contracts' (2024) 20 European Review of Contract Law 105.
- Valls-Val K, Ibáñez-Forés V and Bovea M D, 'Evaluation of Sustainable Public Procurement in Spanish Universities: A Focus on Canteen Services' (2025) 112 Environmental Impact Assessment Review 1.
- Van de Gronden J W and Guy M, 'The role of EU competition law in health care and the 'undertaking' concept' (2021) 16 Health Economics, Policy and Law 76.
- Vandenbroucke F, 'The Idea of a European Social Union: A Normative Introduction Chapter' in Vandenbroucke F, Barnard C, and De Baere G (eds), *A European Social Union after the Crisis* (Cambridge University Press 2017).
- Vélyvytė V, 'Competence creep in EU free movement case law' (2023) 48 European Law Review 363.
- Vesan P and Corti F, 'New Tensions over Social Europe? The European Pillar of Social Rights and the Debate within the European Parliament' (2019) 57 Journal of Common Market Studies 977.
- Von der Leyen U, 'Europe's Choice: Political Guidelines for the Next European Commission 2024–2029' (2024) <https://commission.europa.eu/document/e6cd4328-673c-4e7a-8683-f63ffb2cf648_en> accessed 1 June 2026.
- Vujkov K, 'Implementing European priorities in VET: making national VET agile, flexible, innovative, attractive, inclusive and quality-assured: Hungary' (2024) Cedefop Refernet Thematic Perspectives <<https://www.cedefop.europa.eu/en/country-reports/implementing-european-priorities-vet-hungary>> accessed 1 June 2026.

- Waddington L and Bell M, 'The right to request flexible working arrangements under the Work-life Balance Directive – A comparative perspective' (2021) 12 *European Labour Law Journal* 508.
- Waddington L and Lawson A, 'The Unfinished Story of EU Disability Non-Discrimination Law' in Bogg A, Costello C and Davies ACL (eds), *Research Handbook on EU Labour Law* (Edward Elgar Publishing 2016).
- West J, 'The evolution of European Union policies on vocational education and training' (2012) 34 *LLAKES Research Paper Centre for Learning and Life Chances in Knowledge Economies and Societies*.
- Winter J A, 'Public Procurement in the EEC' (1991) 28 *Common Market Law Review* 741.
- Zeitlin J, and Vanhercke B, 'Socializing the European Semester: EU social and economic policy co-ordination in crisis and beyond' (2018) 25 *Journal of European Public Policy* 149.
- Zeitlin J, Bokhorst D, and Eihmanis E, 'Rethinking the governance and delivery of the Cohesion Policy funds: Is the Recovery and Resilience Facility (RRF) a model?' (2023) Final report, Group of high-level specialists on the future of Cohesion Policy <<https://cadmus.eui.eu/server/api/core/bitstreams/be765a59-5f60-56ed-8b49-1b0309693881/content>> accessed 1 June 2026.

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