

# Multinational care company expansion

## Major trends and eligibility for European Works Councils

by

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# 1 Executive Summary

- The European Commission (EC) estimates that the number of people between 65 and 79 living in the European Union will grow by 37% between 2010 and 2030
- The EC views social services as both an economic and non-economic activity
- National policies, for the financing of care, have a strong influence on the type of care services provided by the private and not-for-profit sector
- Since 2005, there is evidence of a slow expansion of some multinational care companies, into neighbouring countries
- Nordic countries and France/ Belgium/ Italy/ Spain and Germany are experiencing multinational care company expansion
- Many care companies provide care services and mental health services, allowing some diversification

## 2 Trends in care policies

### 2.1 European level

In 1996, the Turin Social Charter of the Council of Europe agreed to establish the right to social services as mandatory. In the 1<sup>st</sup> EU Convention (2000) and the draft European Constitution (2003) this mandatory right was abolished, as it was for the right to social assistance. This indicates the although the demand for social care services in Europe will continue to expand with an ageing population, the rights to social services and social assistance can not be assumed to be protected in future.

The European Commission estimates that the number of people between 65 and 79 living in the European Union will grow by 37% between 2010 and 2030. This is a sign of an ageing population, which will bring demands for different types of care delivery. There have already been extensive changes taking place in the financing of care and the support for carers, which affect the domestic demand for care from public, private and NGO providers. These changes have also led to the development of new occupations and role in social care. They also provide opportunities for care companies to expand into larger markets.

### 2.2 Services of General Interest

Whether social services are considered a Service of General Interest or Service of General Economic Interest has been subject to extensive political debate and the issue is still not resolved. The draft Services Directive (June 2004) *Services in the internal market COM(2004)* recommended that “*personal social services*” are considered a Service of General Economic Interest (SGI).<sup>1</sup> If this had been agreed then social care services would have been subject to competition law. The final version of the Services Directive, approved by the European Parliament, excluded both health and social care services.

The Protocol attached to the Treaty of Lisbon (October 2007) aims to clarify the approach to Services of General Interest. It also states that “*The Provisions of the treaties do not affect in any way the competence of member States to provide, commission and organise non-economics services of general interest*”.<sup>2</sup> However, recent Communications, including COM(2007) 725 (22 November 2007) on “*Services of General Interest, including social services of general interest: a new European commitment*”, suggest that social services can be considered both as an economic

and a non-economic Service of General Interest.<sup>3</sup> This new Communication sets out a strategy for social services, across the EU, and this can be seen as indicative of the European Commission perspective. It proposes the development of a “*voluntary EU quality framework providing guidelines on the methodology to set, monitor and evaluate quality standard*”. The EC will also “*promote the training of public authorities in the field of public procurement*”. This is clearly supporting a move away from direct public service provision and encouraging voluntary, rather than legally required, quality standards.

### 2.3 National policies

National policies, for the financing of care, have a strong influence on the type of care services provided by the private and not-for-profit sector. The case of the Netherlands shows how recent changes in legislation have affected care provision. The modernisation of the Exceptional Medical Expenses Act (AWBZ) in 2000-2003, which encourages people to live in their own homes for as long as possible, will only reimburse the direct costs of care for people with disabilities. The individual pays for the costs of housing and home care. This has had an impact on the families of people with disabilities, because people living in the same household have been expected to provide informal care.<sup>4</sup> People can only apply for additional care when the need for care is ‘prolonged’ and informal resources are not available. The government only has the responsibility for providing care for those unable to support themselves.

A new law in the Netherlands, the Social Support Act, which also changes individual responsibilities for care, was introduced in January 2007. The underlying principle is that every citizen is personally responsible for their own care and for the care of their family/ friends. This Act puts the municipality in charge of social care services but does not oblige the municipality to provide certain types of services.<sup>5</sup>

Care is also provided through the provision of cash for care, which is given to the individual requiring care. France, Italy, Poland and the UK provide care allowances. In France, it is known as the Personalised Autonomy allowance (*Allocation Personnalisée d’Autonomie APA*). In Italy, home care vouchers are available for older people needing care. In the UK, direct payments for care services are available to people with high levels of disabilities. Older people are expected to be eligible for direct payments in future. In Spain, a new social care law has also introduced new individual rights and responsibilities for care services. This new legislation has provided new opportunities for social care provision by private providers.

In Austria, a care allowance for people with long term care needs was introduced in 1993. There is little long term care provision for older people 3.8% of people aged over 60 live in institutions and 3.0% receive home care services. The introduction of a care allowance has led to the development of a fragmented system of care services with different providers, different form of provision and different regulations in relation to access and finance.<sup>6</sup> In most cases social services provide additional care and informal care is still essential.

Changes in the way that care is funded have also led to the expansion of types of care worker.<sup>7</sup> As well as care workers employed by the public, private or voluntary sectors, there are ‘independent’ formal carers, who are registered with an employment agency, for short term placements. Job security and wages are often poor. A third category, called ‘personal assistant’ carers, are recruited by the care recipient or recipient’s family, and may be permanent, short term or live in.

### 2.4 Child care

The European Union has recognised the need to improved access to childcare as part of its European Employment Strategy to expand the percentage of women in the workforce. The Barcelona European Council targets aim to provide, by 2010, childcare services for 90% of children between three years of age and the mandatory school age, and for 33% of children, under three years of age.<sup>8</sup> The EU focus on child care provision is also related to falling birth-rates and the recognition that good quality child care is a factor in determining decisions about family size and in achieving a sustainable work-life balance.<sup>9</sup>

There has been an expansion of child care during the 1990s and this trend continues. However, there are wide variations between countries, which are influenced by the period in which child care provision has expanded.

Countries in the Nordic region established a state system of childcare by the 1980s. The UK has been developing a much more mixed system, since the 1990s. The largest investments are in pre-school age care. Except in Denmark and Sweden, the pre-school age care is more developed than care for 0-3 year olds, which is more likely to be small scale, and informal.<sup>10</sup>

Informal care continues to be the dominant form of care. Changes in types of funding are having an influence on the types of care worker. Child care is more widely recognised, at both national and European levels, as a priority than social care for older people.

### **3 Multinational company trends**

Many multinational social care companies own a mix of care homes as well as some clinical services, most usually mental health services. Since 2005, there is evidence of a slow expansion of some multinational care companies, into neighbouring countries.

Companies in the Nordic region, for example Attendo, Aleris and Carema, have continued to expand, in terms of volume of services, within Sweden, Norway, Denmark and Finland. All three companies have changed ownership since 2005.

French companies have shown the most rapid expansion in the last 18 months, buying homes in Spain, Italy, Belgium, Switzerland and Germany. These movements suggest an expansion of the European social care market. Company perceptions are that the European social care market is still fragmented. Acquisitions in Continental Europe, by several French companies, can be seen as a significant move towards some form of consolidation.

There was also expansion by a UK company, BUPA, into the Australian and New Zealand social care markets. Similarly, an Australian child care company has expanded into the UK and the United States.

There is a continued presence of private equity investors in the sector. The experience of a company, such as Attendo, which was re-organised and sold within two years, shows the timescale of many private equity investments.

### **4 European Works Councils**

The European Works Councils (EWC) Directive, initially adopted in 1994,<sup>11</sup> aims to improve the right of workers to information and consultation in trans-national companies. It requires transnational companies to establish information and consultation agreements covering their entire European workforce, if they have not already done so. The content of these agreements is

largely left to negotiation between management and employee representatives, but minimum requirements where management refuses to negotiate include the requirement of annual reports to the EWC on the company's business prospects, and the right to be informed about exceptional circumstances affecting employees' interests, such as closure or collective redundancy.

The EWC directive applies to companies,<sup>12</sup> or groups of companies<sup>13</sup>, with

- at least 1000<sup>14</sup> employees across the member states,<sup>15</sup> *and*
- at least 150 employees in each of two or more distinct member states.

These employment criteria represent a lower bound - *companies meeting them are obliged to establish a EWC*, but companies which do not meet them may nonetheless choose to establish one voluntarily. In a number of instances companies have chosen to do so, whether it be for purposes of labour relations, prestige in order to demonstrate Europe-wide coverage, or, in the case of UK during its opt out, in the expectation of the future introduction of a legal obligation.

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<sup>1</sup> (June 2004) *Services in the internal market COM(2004)*

<sup>2</sup> European Union (2007) *Treaty of Lisbon Protocol on services of general interest*

<sup>3</sup> European Commission (2007) Communication on "*Services of general interest, including social services of general interest: a new European commitment*"

<sup>4</sup> Pommer *et al* 2007

<sup>5</sup> Floris de Boer, 2006

<sup>6</sup> Schiffbaenker and Kraimer, 2003

<sup>7</sup> European Foundation, 2006

<sup>8</sup> Barcelona Council, 2002

<sup>9</sup> Blackburn, 2006

<sup>10</sup> Blackburn, 2006

<sup>11</sup> Directive 94/45/EC was adopted by all EU member states except the UK on 22 September 1994, under Article 2(2) of the Agreement on Social Policy (the "Social Chapter") and was later extended to cover the rest of the European Economic Area (Norway, Liechtenstein and Iceland). The deadline for national implementation in these member states was 22 September 1996. The original Directive was extended to cover the UK by directive 97/74/EC in December 1997.

<sup>12</sup> Strictly speaking, the requirements apply to "undertakings", a term which may include partnerships or other forms of organisation as well as companies. <http://www.dti.gov.uk/er/consultation/ewcover2.htm>

<sup>13</sup> A group of companies (undertakings) includes a controlling company and any companies it controls ("exerts a dominant influence over"), whether by virtue of ownership, financial participation or the governing rules of the controlled company.

<sup>14</sup> Based on the average number of employees, including part-time employees, employed during the previous two years calculated according to national legislation and/or practice. [http://europa.eu.int/comm/employment\\_social/social/labour/directive9445/9445euen.htm](http://europa.eu.int/comm/employment_social/social/labour/directive9445/9445euen.htm)

<sup>15</sup> "Member states" means the member states of the European Union, but for the purposes of the EWC Directive includes since 1996 the rest of the European Economic Area (Norway, Liechtenstein and Iceland). The UK opted out of the EWC directive until December 1997. There are now 27 members in 2007.