



Reports of Cases

JUDGMENT OF THE COURT (First Chamber)

11 July 2013*

(Directive 2006/123/EC — Scope *ratione materiae* — Healthcare services — Social services — Day-care centres and Night-care centres providing assistance and care to elderly persons)

In Case C-57/12,

REQUEST for a preliminary ruling under Article 267 TFEU from the Cour constitutionnelle (Belgium), made by decision of 25 January 2012, received at the Court on 3 February 2012, in the proceedings

Fédération des maisons de repos privées de Belgique (Femarbel) ASBL

v

Commission communautaire commune de Bruxelles-Capitale,

THE COURT (First Chamber),

composed of A. Tizzano (Rapporteur), President of the Chamber, M. Berger, A. Borg Barthet, E. Levits and J.-J. Kasel, Judges,

Advocate General: P. Cruz Villalón,

Registrar: C. Strömholm, Administrator,

having regard to the written procedure and further to the hearing on 17 January 2013,

after considering the observations submitted on behalf of:

- the Fédération des maisons de repos privées de Belgium (Femarbel) ASBL, by M. Vastmans, avocate,
- the Commission communautaire commune de Bruxelles-Capitale, by B. Fonteyn, acting as Agent, and by P. Slegers and S. Engelen, avocats,
- the Netherlands Government, by B. Koopman and C. Wissels, acting as Agents,
- the European Commission, by I. Rogalski and C. Vrignon, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 14 March 2013,

gives the following

* Language of the case: French.

Judgment

- 1 This request for a preliminary ruling concerns the interpretation of Article 2(2)(f) and (j) of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ 2006 L 376, p. 36).
- 2 The request has been made in proceedings between the Fédération des maisons de repos privées de Belgique (Femarbel) ASBL ('Femarbel') and the Commission communautaire commune de Bruxelles-Capitale ('COCOM') concerning the concepts of 'healthcare services' and 'social services'.

Legal context

European Union law

- 3 Recital 7 in the preamble to Directive 2006/123 states:

'This Directive establishes a general legal framework which benefits a wide variety of services while taking into account the distinctive features of each type of activity or profession and its system of regulation. ... This Directive also takes into account other general interest objectives, including the protection of the environment, public security and public health as well as the need to comply with labour law.'

- 4 Recital 22 in the preamble to that directive states:

'The exclusion of healthcare from the scope of this Directive should cover healthcare and pharmaceutical services provided by health professionals to patients to assess, maintain or restore their state of health where those activities are reserved to a regulated health profession in the Member State in which the services are provided.'

- 5 Recital 27 in the preamble to Directive 2006/123 reads as follows:

'This Directive should not cover those social services in the areas of housing, childcare and support to families and persons in need which are provided by the State at national, regional or local level by providers mandated by the State or by charities recognised as such by the State with the objective of ensuring support for those who are permanently or temporarily in a particular state of need because of their insufficient family income or total or partial lack of independence and for those who risk being marginalised. These services are essential in order to guarantee the fundamental right to human dignity and integrity and are a manifestation of the principles of social cohesion and solidarity and should not be affected by this Directive.'

- 6 Article 2 of that directive provides:

'1. This Directive shall apply to services supplied by providers established in a Member State.

2. This Directive shall not apply to the following activities:

...

- (f) healthcare services whether or not they are provided via healthcare facilities, and regardless of the ways in which they are organised and financed at national level or whether they are public or private;

...

- (j) social services relating to social housing, childcare and support of families and persons permanently or temporarily in need which are provided by the State, by providers mandated by the State or by charities recognised as such by the State;

...'

7 Article 4 of Directive 2006/123 provides:

'For the purpose of this Directive, the following definitions shall apply:

...

- (6) "authorisation scheme" means any procedure under which a provider or recipient is in effect required to take steps in order to obtain from a competent authority a formal decision, or an implied decision, concerning access to a service activity or the exercise thereof.'

8 Article 3 of 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 2011 L 88, p. 45), is worded as follows:

'For the purposes of this Directive, the following definitions shall apply:

- (a) "healthcare" means 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;

...

- (f) "health professional" means a doctor of medicine, a nurse responsible for general care, a dental practitioner, a midwife or a pharmacist within the meaning of Directive 2005/36/EC, or another professional exercising activities in the healthcare sector which are restricted to a regulated profession as defined in Article 3(1)(a) of Directive 2005/36/EC, or a person considered to be a health professional according to the legislation of the Member State of treatment;

...'

Belgian law

9 The draft order of 21 June 2007 (*Doc. Parl., Assemblée réunie de la Commission communautaire commune, 2006-2007, B-102/1, p. 1*) states:

'Through the present order, the General Assembly shall have the means to implement a monitoring policy in respect of all facilities for the elderly and shall be able to ensure the development of a diverse range of facilities, with particular attention being paid to the updating of services available to this vulnerable group.

... The "life plan" is a central aspect in the care of the person, who must be able to live in an active and participatory manner at all times.'

10 Article 2 of the order of 24 April 2008 concerning facilities receiving or accommodating the elderly (*Moniteur belge*, 16 May 2008, p. 25666, ‘the 2008 order’) provides:

‘For the purposes of this order the following shall have the meanings hereby assigned to them:

...

(4) Facilities for the elderly:

...

(e) “day-care centre”: a building or part of a building, however described, established in, or in connection with, a care home, offering reception facilities, during the day, for elderly persons living at home, who, at the centre, receive assistance and care appropriate to their loss of independence;

...

(g) “night-care centre”: a building or part of a building, however described, established within a care home, offering reception facilities, during the night, for elderly persons who, although living at home, need night-time supervision, assistance and health care which cannot be provided by their close relatives on a continuous basis.’

11 Article 4 of the 2008 order is worded as follows:

‘The General Assembly may, after obtaining the opinion of the Section, decide on programmes for all or any of the facilities for the elderly referred to in Article 2(4), with the exception of those referred to in Article 2(4)(b)(β) ...’

12 Under Article 6 of that order:

‘No new facility referred to in Article 2(4) may be brought into service, and no extension of the reception or accommodation capacities of an existing facility may be brought into service or operated, without the authorisation of the General Assembly, if the facility concerned falls within a category of facility in respect of which the General Assembly has adopted a programme in accordance with Chapter II. The authorisation provided for in the first subparagraph, which signifies that a project complies with the programme, is called “specific authorisation for bringing into service and operation” ...’

13 Article 11(1) of the order provides:

‘No facility referred to in Article 2(4)(a), (b)(α), (c), (d), (e), (f) or (g), may be brought into service, and no provider may offer services in a facility referred to in Article 2(4)(b)(α), without prior approval.

Approval shall be granted by the General Assembly, after obtaining the opinion of the Section, for a maximum, renewable, period of six years.

The approval decision, referred to in subparagraph 2, shall determine the maximum number of elderly persons who may be accommodated or received in the facility.

To be approved by the General Assembly, the facility must comply, where appropriate, with the standards laid down by the competent federal authorities, and with any rules that the General Assembly may, after obtaining the opinion of the Section, lay down for each category of facility referred to in Article 2(4).

Those rules shall relate to:

1. the admission and reception of elderly persons;
2. respect for the elderly, their constitutional and legal rights and freedoms, having regard to their state of health and their right to lead a life in keeping with human dignity, including from a sexual and emotional perspective ...;
3. “life plans” and arrangements to enable the elderly or their representatives to participate and be informed;
4. the consideration and processing of complaints from elderly persons or their representative;
5. food, hygiene and care to be provided;
6. the number, qualifications, training programme, good character and minimum attendance requirements for staff and management and, in respect of the latter, the amount of experience required;
7. with the exception of the facilities referred to in Article 2(4)(b)(β), the specific building and safety standards rules applying to the facilities;
8. with the exception of the facilities referred to in Article 2(4)(b)(β), the reception or accommodation agreements; the content of which shall be determined by the General Executive.

In particular, agreements must clearly and exhaustively specify everything that is included in the daily rate and the expenses over and above the daily rate that can be separately invoiced by way of a supplement or by way of a payment on account of third parties.

...’

- 14 Article 13 of the 2008 order provides:

‘The General Assembly shall, after obtaining the opinion of the Section, grant a provisional operating authorisation to facilities holding the authorisation referred to in Article 7 ... which make an initial request for approval, if the conditions of admissibility laid down by the General Assembly are met.

That authorisation shall be granted for a renewable period of one year, and set the maximum number of elderly persons which may be received or accommodated in the facility ...’

- 15 Article 19 of the order is worded as follows:

‘Any decision to grant, refuse, or withdraw approval, to grant or withdraw a provisional operating authorisation, or to close a facility, shall be communicated to the mayor of the municipality within 60 days. ...’

- 16 As regards the rules relating to day-care centres, the decision of the General Assembly of 3 December 2009 laying down rules for approval to be satisfied by facilities receiving or accommodating elderly people and laying down definitions concerning groupings and mergers and special rules with which they must comply (*Moniteur belge* of 17 December 2009, p. 79487, ‘the 2009 decision’), provides in Article 210:

‘The necessary assistance shall be provided to elderly persons who are unable to carry out everyday actions unassisted.’

17 That decision provides in the first and second paragraphs of Article 211:

‘Where appropriate, a record of treatment containing, inter alia, the date of the attending physician’s visit, his orders, the medications and care to be administered, and any diets shall be kept for each elderly person.

Where appropriate, that record shall also include any services provided by the nursing and paramedical staff consulted by the elderly person, for the purposes of the continuity of the treatment in the day-care centre. It shall also contain the remarks and observations of the staff who provided those services and their notification to the health care providers chosen by the elderly person.’

18 Article 213 of the 2009 decision is worded as follows:

‘If necessary, a nurse shall ensure the distribution and administration to the elderly person of medication prescribed by the attending physician.’

19 The first and second paragraphs of Article 216 of that decision provide:

‘Each centre shall establish a programme of events and activities in order to stimulate and support the independence of elderly persons and their participation in social life.

That programme shall be organised in such a way as to meet, on a daily basis, the sociocultural needs of elderly persons, in particular, and shall involve, in particular, activities relating to everyday actions, the paramedical field and wellbeing, health education, and cultural and participatory activities ...’

20 As regards the standards relating to night-care centres, Article 238 of the 2009 decision states:

‘The management rules must include the following additional information:

...

3. the means by which an elderly person may have recourse to the care staff or paramedical staff of the care home in which the centre is located;
4. the free choice of doctor, physiotherapist, and paramedical staff, for care supplementary to that provided by the facility ...;
5. the means by which the centre ensures the continuity of the administration of medication to elderly persons.’

21 Article 242 of the decision provides:

‘Elderly persons shall have access to the assistance, care, and supervision that they require.’

The dispute in the main proceedings and the question referred for a preliminary ruling

22 In the Bruxelles-Capitale Region, COCOM is authorised to exercise jurisdiction over ‘personal’ matters, such as policy in relation to the elderly, as regards individuals as well as institutions, centres, and services which, because of the way in which they are organised, cannot be considered as belonging exclusively to the Flemish community or the French-speaking community.

23 In that context, on 24 April 2008, the COCOM General Assembly adopted the 2008 order in order to provide a legislative framework for all facilities for the elderly.

- 24 Under Article 4 of the 2008 order, programming may be carried out in respect of the facilities expressly referred to therein, including sheltered housing schemes, day-care centres and night-care centres. As is clear from Article 6 of the order, where such programming has been decided upon, no such facility may be brought into service or operated without the authorisation of the COCOM General Executive.
- 25 Under Articles 11 to 19 of that order, any facility concerned, including sheltered housing schemes, day-care centres and night-care centres, must obtain a provisional operating authorisation, and subsequently an approval, in order to carry on its activity. On the basis of Article 11, the COCOM General Executive adopted the 2009 decision, for the purpose, *inter alia*, of laying down the standards which reception or accommodation centres for elderly persons must meet in order to be granted an approval.
- 26 On 15 February 2010, Femarbel brought an action before the Conseil d'État (Council of State) for the annulment of that decision, alleging the unconstitutionality of its legal basis, namely the provisions of the 2008 order relating to both the authorisation, approval, and programming procedures and the rules concerning the fixing of prices.
- 27 The Conseil d'État, sharing Femarbel's doubts, referred three questions to the Cour constitutionnelle (Constitutional Court) for a preliminary ruling, the first two of which concerned the compatibility with Articles 10 and 11 of the Belgian Constitution, read in conjunction with Directive 2006/123, of the approval and programming schemes implemented by the 2008 order and with which day-care centres and night-care centres must comply in order to carry on their activities.
- 28 The Cour constitutionnelle found that, in order to examine that compatibility issue, it was necessary, at the outset, to determine whether the facilities at issue could come within the scope of Directive 2006/123. It found that this was indeed the case in respect of sheltered accommodation schemes. However, it found that neither the relevant national provisions, nor the parties' written pleadings, were capable of clarifying doubts relating to the applicability of that directive to day-care centres and night-care centres.
- 29 In those circumstances, the Cour constitutionnelle decided to stay the proceedings and to refer the following question to the Court for a preliminary ruling:

'Must the healthcare services referred to in Article 2(2)(f) and the social services referred to in Article 2(2)(j) of Directive 2006/123 be interpreted in such a way as to exclude from the scope of that directive day-care centres within the meaning of the [2008 order], in so far as they provide assistance and care appropriate to the loss of independence of elderly persons, and likewise night-care centres within the meaning of the same order, in so far as they provide assistance and healthcare which cannot be given to elderly persons by their close relatives on a continuous basis?'

The question referred for a preliminary ruling

- 30 By its question, the referring court asks, in essence, whether Article 2(2)(f) and (j) of Directive 2006/123 must be interpreted as meaning that day-care and night-care centres are excluded from the scope of that directive because they provide assistance and care to elderly persons.
- 31 Directive 2006/123, as is clear from Article 1 thereof, read in conjunction with recitals 2 and 5 in the preamble thereto, lays down general provisions, intended to remove restrictions on the freedom of establishment for service providers in Member States and on the free movement of services between the Member States, in order to contribute to the completion of a free and competitive internal market (see, to that effect, Case C-119/09 *Société fiduciaire nationale d'expertise comptable* [2011] ECR I-2551, paragraph 26).

- 32 Directive 2006/123 thus applies, pursuant to Articles 2(1) and 4 thereof, to any self-employed economic activity, normally provided for remuneration, by a provider established in a Member State, regardless of whether the provider is established in a stable and continuous manner in the Member State in which the services are provided, with the exception of the activities expressly excluded, which include ‘healthcare services’ and ‘social services’, referred to in Article 2(2)(f) and Article 2(2)(j) respectively, provisions referred to in the national court’s question.
- 33 In that context, in order to provide a useful answer to that court, it is necessary to specify the constituent elements of the concepts ‘healthcare services’ and ‘social services’, so that the referring court may determine whether, and, as the case may be, to what extent, day-care centres and night-care centres carry out activities excluded from the scope of Directive 2006/123. The centres would be exempt from the rules established in that directive only if such activities constitute their principal activity.
- 34 In order to understand, in the first place, the scope of the exclusion laid down in Article 2(2)(f) of Directive 2006/123, it is necessary to interpret the concept of ‘healthcare services’ by reference, not only to the wording of that provision, but also to its purpose and general structure, in the context of the scheme laid down by that directive.
- 35 As regards, first, the wording of Article 2(2)(f), it must be pointed out that the concept of ‘healthcare services’ adopted by the European Union legislature is rather broad, in that it includes services relating to human health, whether or not they are provided via healthcare facilities, and regardless of the ways in which they are organised and financed at national level or whether they are public or private.
- 36 Concerning, secondly, the purpose and general structure of Article 2(2)(f) of Directive 2006/123, it must be noted that, as stated in recital 22 in the preamble thereto, the exclusion of healthcare from the scope of that directive should cover ‘healthcare and pharmaceutical services provided by health professionals to patients to assess, maintain or restore their state of health where those activities are reserved to a regulated health profession in the Member State in which the services are provided’.
- 37 That is also apparent from the handbook on the implementation of the Services Directive (‘the handbook’), which merely adds that the exclusion from the scope of Directive 2006/123 of healthcare services covers activities directly and strictly linked to the state of human health and therefore does not concern services which are designed to enhance well-being or provide relaxation, such as sports or fitness clubs. That is, incidentally, reflected in Directive 2011/24, Article 3(a) of which 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’.
- 38 Lastly, that broad interpretation of the concept of ‘healthcare services’, and therefore of the extent of the exclusion of those services from the scope of Directive 2006/123, is supported by the analysis of the scheme laid down by that directive.
- 39 In that respect, it must be pointed out that, as is clear from recital 7 in the preamble to Directive 2006/123, that directive establishes a general legal framework which benefits a wide variety of services while taking into account the distinctive features of each type of activity and its system of regulation, as well as other general interest objectives, including public health. It follows that the European Union legislature expressly sought to ensure the respect of the balance between, on the one hand, the objective of eliminating obstacles to freedom of establishment of service providers and the free movement of services, and, on the other hand, the need to safeguard the specific characteristics of certain sensitive activities, in particular those linked to the protection of human health.

- 40 It is in the light of those clarifications that the national court must verify whether the principal activities provided by day-care centres and night-care centres come within the scope of ‘healthcare services’, within the meaning of Article 2(2)(f) of Directive 2006/123, and whether, as a consequence, those centres are excluded from the scope of that directive.
- 41 In particular, it is for the national court to verify whether the care activities carried out in day-care centres, on the basis, inter alia, of Articles 211 and 213 of the 2009 decision, such as the distribution and administration by a nurse of medication prescribed by the attending physician, and in night-care centres, pursuant to Article 238 of that decision, such as the care provided by the care staff or paramedical staff of the care home concerned, are genuinely intended to maintain or restore the state of health of elderly persons, are provided by a health professional, and constitute a principal part of the services provided by those centres.
- 42 As regards, in the second place, the ‘social services’ referred to in Article 2(2)(j) of Directive 2006/123, it is clear from a reading of that provision in conjunction with recital 27 in the preamble to that directive that only those services which meet two cumulative conditions fall within the scope of that concept.
- 43 The first condition concerns the nature of the activities carried out, which, as explained in the handbook, must relate to, inter alia, the care and assistance of elderly persons who are permanently or temporarily in a state of need because of a total or partial lack of independence and who thus risk being marginalised. They must, in other words, be activities which are essential in order to guarantee the fundamental right to human dignity and integrity and are a manifestation of the principles of social cohesion and solidarity.
- 44 The second condition concerns the status of the service provider, which may be the State itself, a charity recognised as such by the State, or a private service provider mandated by the State.
- 45 Although the wording of Article 2(2)(j) of the directive does not contain any express indication as to the circumstances in which such a provider may be considered as being mandated by the State, useful information in that respect can be found in the handbook, in paragraph 2.3 of the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions accompanying the Communication on ‘A single market for 21st century Europe - Services of general interest, including social services of general interest: a new European commitment’ (COM(2007) 725 final), and in paragraphs 23, 24 and 41 of the European Parliament Resolution of 5 July 2011 on the future of social services of general interest (2009/2222(INI)).
- 46 As regards the content of that mandate, it must be noted that, as confirmed by the handbook, a private service provider is to be considered as being mandated by the State if it has an ‘obligation’ to provide the social services which have been entrusted to it.
- 47 From the perspective of the provider, that ‘obligation’ must be understood, as is also clear from the communication and resolution mentioned above, as implying, first, the binding commitment to provide the services in question and, secondly, the need to do so under certain specific conditions. Those conditions relate, inter alia, to ensuring that the services are provided in accordance with the established quantitative and qualitative requirements and in such a manner as to ensure the equality of access to services, subject, in principle, to adequate financial compensation, calculated on the basis of parameters established in advance in an objective and transparent manner (see, by analogy, Case C-140/09 *Fallimento Traghetti del Mediterraneo* [2010] ECR I-5243, paragraph 38 and the case-law cited).

- 48 As regards the characteristics of the mandating act, it is indeed true that, as COCOM submitted in its written observations, Directive 2006/123 does not require the use of a particular legal form, so those characteristics may vary between different Member States. Nevertheless, certain minimum criteria must be satisfied, such as, inter alia, the presence of an act conferring to a private service provider, in a clear and transparent manner, the social services obligation with which it is charged (see, by analogy, *Fallimento Traghetti del Mediterraneo*, paragraph 37 and the case-law cited).
- 49 Thus, the fact that, for reasons of public interest, a national authority adopts measures imposing authorisation and operation rules on all of the operators in a given economic sector does not, in itself, constitute such a mandating act for the purposes of the application of Article 2(2)(j) of Directive 2006/123.
- 50 It is for the national court to verify, in the light of those clarifications, whether the principal activities carried out by day-care centres and night-care centres constitute ‘social services’ within the meaning of Article 2(2)(j) of Directive 2006/123 and thus fall within the scope of the exclusion laid down in that provision.
- 51 In particular, the national court must first ascertain whether – as Article 2, fourth paragraph, (e) and (g) of the 2008 order, read in conjunction with Articles 216 and 242 of the 2009 decision, suggest – those activities are of a genuinely social nature, in that they are intended to provide elderly persons with ‘assistance and care appropriate to their loss of independence’ accompanied by a specific programme of events, or the necessary care ‘which cannot be provided by their close relatives on a continuous basis’. The draft order of 21 June 2007 may be useful to such an assessment, in that it states that those services must be provided to a ‘vulnerable group’ so as to enable members of that group to ‘live in an active and participatory manner at all times’.
- 52 Second, it is for the national court to determine whether the approval granted by the COCOM General Assembly, pursuant to Article 11 of the 2008 order, constitutes an act of public authority conferring, in a clear and transparent manner, on the operators of day-care centres and night-care centres a genuine obligation to provide such services under specific conditions, and whether such an approval may therefore be considered as a mandating act for the purposes of Article 2(2)(j) of Directive 2006/123.
- 53 In the light of all the foregoing considerations, the answer to the question referred is that:
- Article 2(2)(f) of Directive 2006/123 must be interpreted as meaning that the exclusion of healthcare services from the scope of that directive covers any activity intended to assess, maintain or restore the state of health of patients, where that activity is carried out by healthcare professionals recognised as such by the Member State concerned, regardless of the ways in which the facilities in which that care is provided are organised and financed or whether they are public or private. It is for the national court to ascertain whether day-care centres and night-care centres are excluded from the scope of that directive, having regard to the nature of the activities carried out by the healthcare professionals in those centres and whether those activities constitute a principal part of the services offered by those centres.
 - Article 2(2)(j) of Directive 2006/123 must be interpreted as meaning that the exclusion of social services from the scope of that directive covers any activity relating, inter alia, to the care and assistance of elderly persons, where that activity is carried out by a private service provider which has been mandated by the State by means of an act conferring, in a clear and transparent manner, a genuine obligation to provide such services under specific conditions. It is for the national court to ascertain whether day-care centres and night-care centres are excluded from the scope of Directive 2006/123, on the basis of the nature of the principle activities of care and assistance of elderly persons carried out in those centres, and the status of those centres under the applicable Belgian legislation.

Costs

- ⁵⁴ Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (First Chamber) hereby rules:

Article 2(2)(f) of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market must be interpreted as meaning that the exclusion of healthcare services from the scope of that directive covers any activity intended to assess, maintain or restore the state of health of patients, where that activity is carried out by healthcare professionals recognised as such by the Member State concerned, regardless of the ways in which the facilities in which that care is provided are organised and financed or whether they are public or private. It is for the national court to ascertain whether day-care centres and night-care centres are excluded from the scope of that directive, having regard to the nature of the activities carried out by the healthcare professionals in those centres and whether those activities constitute a principal part of the services offered by those centres.

Article 2(2)(j) of Directive 2006/123 must be interpreted as meaning that the exclusion of social services from the scope of that directive includes any activity relating, inter alia, to the care and assistance of elderly persons, where that activity is carried out by a private service provider which has been mandated by the State by means of an act conferring, in a clear and transparent manner, a genuine obligation to provide such services under specific conditions. It is for the national court to ascertain whether day-care centres and night-care centres are excluded from the scope of Directive 2006/123, on the basis of the nature of the principle activities of care and assistance of elderly persons carried out in those centres, and the status of those centres under the applicable Belgian legislation.

[Signatures]