

# Legal Issues of Services of General Interest

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Editors

# Social Services of General Interest in the EU

T · M · C · A S S E R P R E S S

 Springer

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## Series Information

The aim of the series *Legal Issues of Services of General Interest* is to sketch the framework for services of general interest in the EU and to explore the issues raised by developments related to these services. The Series encompasses, inter alia, analyses of EU internal market, competition law, legislation (such as the Services Directive), international economic law and national (economic) law from a comparative perspective. Sector-specific approaches will also be covered (health, social services). In essence, the present Series addresses the emergence of a European Social Model and will therefore raise issues of fundamental and theoretical interest in Europe and the global economy.

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## Preface and Acknowledgments

This book is part of the series *Legal Issues of Services of General Interest* that publishes topical issues arising from the underpinning research project: the *Transformation of the Market and the State* (ToMaS). *Social* services of general interest (SSGIs) are a new concept in EU terminology. As the chapters in this book reveal the concept is not used in national law or policy. However, it is a concept that is emerging as a special category of Services of General Interest in the EU. SSGIs are not a legal concept and do not have a clear definition in either EU legislation, policy documents or soft law. Indeed EU legislative competence in the field is limited. Often SSGIs are conceptualised as exemptions or exclusions in EU law. Yet the economic downturn in Europe alongside attempts by the European Commission to modernise public and social services and introduce efficiency have propelled issues of the regulation of SSGIs to a prominent position in EU policy-making. They are a central concern of the modernisation of the internal market project, embracing issues of state aid, procurement and competition policy. We believe that this topic is currently one of the most politically sensitive, controversial and legally complex topics in the EU.

EU policy, alongside the case law of the European Courts has led to the fragmentation of the various policy responses towards SSGIs at the EU level. Thus, it appeared timely that research should be undertaken in the area to chart the EU—and national—responses. This book represents an initiative in this field. It has been an ambitious project, co-ordinating some 21 authors, pulling together common underlying themes and emphasising divergence and difference. We would like to thank all the authors for their stimulating contributions which constitute important first steps in grasping the challenges of the area.

The book is the outcome of an international conference held at the University of Copenhagen in May 2011. We would like to thank the University of Copenhagen, including in particular the Faculty of Law. We are especially grateful to the Dean, Henrik Dam, and the research centre Welma for the generous financial support (granted through the University's research program 'EURECO'). The research centre Welma focuses its research on legal studies in welfare and EU market integration. We would also like to thank the staff at the Faculty of Law, especially

Mona Bundvad and Tina Futtrup Borg, for organisational and administrative support. In addition, we are also very grateful for the financial support from the Danish law firm Kammeradvokaten and in particular our contact person, managing partner Peter Biering. This legal practice is the exclusive legal advisor to the Danish government.

The book was edited mainly during 2011 with a good working relationship between the four editors. As with all edited books the final manuscript can only be delivered when the last chapter is complete. Many authors delivered their manuscripts soon after the conference in May 2011. Where possible we have updated information when necessary to reflect recent developments. We have also discussed how much 'editing' of work written in English when English is not the first language of the author should take place. We have agreed that a light touch should take place to allow each author to express their views from national linguistic perspectives. Grateful thanks are owed to Rasmus Bogetoft, who has been extremely helpful and meticulous in the compilation of indexes, reference checking and transforming chapters into house-style. Thanks are also due to Dr. Jim Davies who also provided editorial assistance.

Finally, we are grateful for the support of the publishing team of *T.M.C. Asser Press*, especially, Philip van Tongeren, Marjolijn Bastiaans and Antoinette Wesels. Their enthusiasm for our project has led to a series of timely publications.

Ulla Neergaard  
Erika Szyszczak  
Johan Willem van de Gronden  
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**Caroline Wehlander** has been serving as a legal expert at the Swedish Association of Local and Regional Authorities, an organisation representing all of the Swedish local and regional authorities in Sweden. She was mostly working with EU law on free movement, procurement, state aid and services of general interest, representing the Association by CEEP (the European Center of Employers and Enterprises providing Public Services) and CEMR (Council of European Municipalities and Regions). Since 2010 she has been researching on a Ph.D. at the Department of Law of Umeå University, Sweden. Her Ph.D. thesis has the preliminary title: *Who is afraid of Services of General Interest? Services of General Interest in A Swedish Local and Regional Perspective*.

# Abbreviations

AEIP	European Association of Paritarian Institutions
AG	Advocate General
BUPA	British United Provident Association
CEEP	Centre européen des entreprises à participation publiques et des entreprises d'intérêt économique général (European Centre of Employers and Enterprises providing Public Services)
CELSIG	European Liaison Committee on Services of General Interest
CESCR	Committee on Economic, Social and Cultural Rights
CFREU	Charter of Fundamental Rights of the EU
CJEU	Court of Justice of the European Union
CPV	Common Procurement Vocabulary
DG	Directorate General
DG SANCO	Directorate General for Health & Consumer
DWP	Department for Work and Pensions
EC	European Community
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
ECR	European Court Reports
ECRI	European Commission against Racism and Intolerance ECSC Treaty establishing the European Coal and Steel Community
EEA	European Economic Area
EEC	European Economic Community
EFTA	European Free Trade Association
ENAR	European Networks Against Racism
EP	European Parliament
EPSU	European Federation of Public Service Union
ESSPROS	The European System of Integrated Social Protection Statistics
ETSGI	Educational and Training Services of General Interest
ETUC	European Trade Union Confederation

EU	European Union
EU 27	The 27 Member States of the EU
FAQ	Frequently Asked Question
GC	General Court (of the EU)
GDP	Gross Domestic Product
GUE/NGL	European United Left/ Nordic Green Left
HLG	High Level Group on Health Services and Medical Care
HSGI	Health Service of General Interest
HM Government	Her Majesty's Government (UK)
HTA	Health technology assessment
ISTAT	Italian Institute for Statistics
IORP	Institutions for Occupational Retirement Provision
ILO	International Labour Organisation
NESGI	Non-Economic Service of General Interest
NGO	Non-Governmental Organisation
NHS	National Health Service
Nyr	Not yet reported
OJ	Official Journal
OMC	Open Method of Coordination
PES	European Socialists
PFI	Public Finance Initiative
PIP	Personal Independence payment
PISA	Programme for International Student Assessment
PPP	Public Private Partnership
PSO	Public Service Obligation
SANCO	Santé et Protection des Consommateurs (Health and Consumer Protection Directorate General of the European Commission)
SGEI	Service of General Economic Interest
SIGI	Service of General Interest
SPC	Social Protection Committee
SSGI	Social Service of General Interest
TEC	Treaty establishing the European Community
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
USO	Universal Service Obligation